

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

In re:

Chapter 11 Cases

DELPHI BEHAVIORAL HEALTH
GROUP, LLC, *et al.*,¹

Case No. 23-_____

(Joint Administration Pending)

Debtors.

**DEBTORS' EMERGENCY MOTION FOR AUTHORIZATION TO (I) CONTINUE
TO ADMINISTER INSURANCE POLICIES AND RELATED AGREEMENTS
AND (II) HONOR CERTAIN OBLIGATIONS IN RESPECT THEREOF
(Emergency Hearing Requested)**

Statement of Exigent Circumstances

The Debtors respectfully request that the Court conduct an emergency hearing on this Motion. In the operation of their business, the Debtors maintain many insurance policies. By this Motion, the Debtors seek authority to continue to administer these insurance policies and agreements relating thereto, including an insurance premium financing agreement, and, in their discretion, to honor certain obligations in respect thereof. The Debtors reasonably believe that a hearing to consider the relief requested must be held on an emergency basis as soon as the Court's calendar will permit. The Debtors respectfully request that the Court waive the provisions of Local Rule 9075-1(B) which requires an affirmative statement that a bona fide effort was made in order to resolve the issues raised in this motion, as the relief requested herein is urgent in nature and does not lend itself to advance resolution.

¹ The address of the Debtors is 1901 West Cypress Creek Road, Suite 500, Fort Lauderdale, FL 33309. The last four digits of the Debtors' federal tax identification numbers are: (i) Delphi Behavioral Health Group, LLC (2076), (ii) 61 Brown Street Holdings, LLC (0007), (iii) Aloft Recovery LLC (6674), (iv) Banyan Recovery Institute, LLC (6998), (v) Breakthrough Living Recovery Community, LLC (5966), (vi) California Addiction Treatment Center LLC (7655), (vii) California Vistas Addiction Treatment LLC (8272), (viii) DBHG Holding Company, LLC (6574), (ix) Defining Moment Recovery Community, LLC (3532), (x) Delphi Health BuyerCo, LLC (2325), (xi) Delphi Health Group, LLC (0570), (xii) Delphi Intermediate HealthCo, LLC (6378), (xiii) Delphi Management LLC (6474), (xiv) Desert View Recovery Community, LLC (7437), (xv) DR Parent, LLC (2700), (xvi) DR Sub, LLC (8183), (xvii) Las Olas Recovery LLC (9082), (xviii) Maryland House Detox, LLC (1626), (xix) New Perspectives, LLC (0508), (xx) Next Step Housing LLC (6975), (xxi) Ocean Breeze Detox, LLC (7019), (xxii) Ocean Breeze Recovery, LLC (9621), (xxiii) Onward Living Recovery Community, LLC (4735), (xxiv) Palm Beach Recovery, LLC (4459), (xxv) Peak Health NJ, LLC (7286), (xxvi) QBR Diagnostics, LLC (7835), (xxvii) Rogers Learning, LLC (1699), (xxviii) SBH Haverhill, LLC (0971), (xxix) SBH Union IOP LLC (4139), (xxx) Summit at Florham Park, LLC (8226), (xxxi) Summit Behavioral Health Limited Liability Company (3337), (xxxii) Summit Health BuyerCo, LLC (2762), (xxxiii) Summit IOP Limited (4567), and (xxxiv) Union Fresh Start LLC (6841).

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) by and through their proposed undersigned counsel, pursuant to 11 U.S.C. §§ 105(a) and 363(c), file this *Emergency Motion for Authorization to (I) Continue to Administer Insurance Policies and Related Agreements; and (II) Honor Certain Obligations in Respect Thereof* (the “Motion”). The Motion seeks entry of an order, substantially in the form attached hereto, authorizing the Debtors to continue administering insurance policies and agreements relating thereto, including an insurance premium financing agreement, and pay certain claims, in the Debtors’ discretion, to the extent they become due and payable during the pendency of the Debtors’ chapter 11 cases. In support of this Motion, the Debtors rely upon the *Declaration of Edward A. Phillips in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”), which has been filed with the Court on the date hereof and is incorporated herein and respectfully represents as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief sought herein are sections 105(a), 363(c) and 507(a)(5) of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 6003 and 6004 of the Federal Rule of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule 9075-1.

Background

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

5. The Debtors are operating their businesses and managing their affairs as a debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. For a detailed description of the Debtors and their operations, the Debtors respectfully refer the Court and parties in interest to the First Day Declaration.

Summary of Insurance Policies

A. Workers Compensation/Employers Liability Insurance

7. As reflected in the *Debtor's Emergency Motion For Order (I) Authorizing Debtors to Pay (A) Certain Prepetition Employee Obligations and (B) Prepetition Withholding Obligations, (II) Authorizing the Debtors to Maintain Employee Benefit Programs, And (III) Directing Banks to Honor Related Prepetition Transfers* (the "Employee Wage/Benefits Motion"), which is filed simultaneously with this Motion, Service American Indemnity Company administers Workers Compensation ("WC") and Employers Liability ("EL"), Policy No. SAACWC0007602. As further reflected in the Employee Wage/Benefits Motion, Paylocity handles payroll for the Debtor Employers (as defined in the Employee Wage/Benefits Motion). In exchange for handling payroll and benefits for the Debtor Employers, Paylocity is paid approximately \$8.62 per employee per payroll.

8. The workers compensation coverage, in the amount of \$1,000,000 for each accident, \$1,000,000 for each disease, was in effect in the locations at which the Employer Debtors maintain employees as of the Petition Date (each a "Property," and collectively, the "Properties"). The term of WC and EL coverages is July 1, 2022 through July 1, 2023. The combined \$274,654 premium for the Employers Liability Policy has been paid in full.

9. The Employee Wage/Benefits Motion seeks the Court's authority for Paylocity to continue to administer the Employer Debtors' payroll and benefits in the ordinary course and for

the Employer Debtors to honor and pay all prepetition and post-petition fees, costs, and other obligations to Paylocity for its services in the ordinary course of business. By way of this Motion, the Debtors seek the same relief because the WC and EL policies and other coverages are also considered to be commercial insurance policies, and for Lockton Companies, LLC, the Debtors' commercial insurance broker, to be paid for any prepetition and post-petition fees, costs or other obligations to administer all coverages in the ordinary course.

B. Professional and General Liability

10. Delphi Behavioral Health Group, LLC maintains a Professional and General Liability Insurance Policy with Allied World Assurance Company (U.S.) Inc., Policy No. 0310-9685. The Professional and General Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit "A."** The Professional and General Liability Insurance Policy provides coverage for, among other things, bodily injury or property damage, products completed operations hazard or fire damage, and personal and advertising injury. The term of the Professional and General Liability Insurance policy is October 3, 2022 through October 3, 2023, and the total premium is \$449,400, inclusive of taxes and surcharges. The premium has been paid in full.

C. Property Liability Insurance Policies

(i) Westchester Surplus Lines Insurance Company

11. Delphi Behavioral Health Group, LLC maintains a Property Liability Insurance Policy with Westchester Surplus Lines Insurance Company, Policy No. D38064277006. The Property Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit "A."** The Property Insurance Policy provides coverage for, among other things, damages to the Properties, business income, and personal property. The term of the

Property Liability Insurance policy is October 3, 2022 through October 3, 2023, and the total premium is \$298,617.70, inclusive of taxes and surcharges. The premium has been paid in full.

(ii) Endurance American Specialty Insurance Company

12. Delphi Behavioral Health Group, LLC maintains a Property Liability Insurance Policy with Endurance American Specialty Insurance Company, Policy No. ESP30002050002. The Property Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Property Liability Insurance Policy provides coverage for, among other things, personal and advertising injury, damages to the Property and employee benefits. The term of the Property Liability Insurance policy is October 3, 2022 through October 3, 2023, and the total premium is \$336,582.55, inclusive of taxes and surcharges. The premium has been paid in full.

(iii) Homeland Insurance Company of New York

13. Delphi Behavioral Health Group, LLC maintains an Excess Property Liability Insurance Policy with Homeland Insurance Company of New York, Policy No. 795-01-99-53-0000. The Excess Property Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Excess Property Liability Insurance Policy provides excess coverage for the Insurance Policies identified in ¶¶ 12 and 13, above. The term of the Excess Property Liability Insurance policy is October 3, 2022 through October 3, 2023, and the total premium is \$26,254, inclusive of taxes and surcharges. The premium has been paid in full.

D. Commercial Automobile Liability Insurance

14. Delphi Behavioral Health Group, LLC maintains Automobile Liability Insurance Policies with (i) National Liability & Fire Insurance Company, Policy No. 73APB0050805 (for Automobiles in FL, CA and MD); (ii) Progressive Casualty Insurance

Company, (a) Policy No. 01022176-0 (for Automobiles in MA-Named Insured is Enterprise FM Trust) and (b) Policy No. 01023060-0 (for Automobiles in MA-Named Insured is SBH Haverhill, LLC); (iii) Drive New Jersey Insurance Company, (a) Policy No. 962122640 (for Automobiles in NJ-Named Insured is Union Fresh Start, LLC) and (b) Policy No. 96213333 (for Automobiles in NJ-Named Insured is Enterprise FM Trust). The Commercial Automobile Liability Insurance Policies were in effect as of the Petition Date and is listed on the attached **Exhibit "A."** The Commercial Automobile Liability Insurance Policies provide coverage for personal injury and physical damage arising from the use of motor vehicles. The term of each of the Commercial Automobile Liability Insurance Policies is October 3, 2022 through October 3, 2023 and the estimated annual premium for each Commercial Automobile Liability Insurance Policy is as follows: (i) National Liability & Fire Insurance Company, Policy No. 73APB0050805 - \$312,885; (ii) Progressive Casualty Insurance Company, (a) Policy No. 01022176-0 - \$1,558, and Policy No. 01023060-0 - \$2,953; and (iii) Drive New Jersey Insurance Company, (a) Policy No. 962122640 - \$4,470, and (b) Policy No. 96213333 - \$5,999. The premiums have been paid in full.

E. Crime Insurance Policy

15. Delphi Behavioral Health Group, LLC maintains a Crime Insurance Policy with Travelers Casualty & Surety Co. America, Policy No. 107325955. The Crime Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit "A."** The Crime Insurance Policy provides coverage for employee theft and third party's property. The term of the Crime Insurance policy is October 3, 2020 through October 3, 2023, and the total premium is \$4,964, inclusive of taxes and surcharges. The premium has been paid in full.

F. Cyber Liability Insurance

16. DR Parent, LLC maintains a Cyber Insurance Policy with Indian Harbor Insurance Company, Policy No. MTP903969103. The Cyber Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Cyber Insurance Policy provides coverage for, among other things, cyber incidents, business interruption and extra expenses, digital data recovery and network extortion. The term of the Cyber Insurance Policy is October 1, 2022 through October 1, 2023, and the total premium is \$52,500, inclusive of taxes and surcharges. The premium has been paid in full.

G. Terrorism Risk Insurance

17. Delphi Behavioral Health Group, LLC maintains a Terrorism Risk Insurance Policy with Lloyds of London, Policy No. PRPNA2102693/1080. The Terrorism Risk Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Terrorism Risk Insurance Policy provides coverage for acts of terrorism. The term of the Terrorism Risk Insurance Policy is June 25, 2022 through June 25, 2023 and the total premium is \$819, inclusive of taxes and surcharges. The premium has been paid in full.

H. Directors and Officers Liability / Employment Practices Liability and Fiduciary Liability Insurance

18. DR Parent, LLC maintains a Directors and Officers / Employment Practices and Third-Party Discrimination/Fiduciary Liability Insurance policy with Markel American Insurance Company, Policy No. MKLM1MML000850. The Directors and Officers / Employment Practices and Third-Party Discrimination / Fiduciary Liability Insurance policy is in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Directors and Officers / Employment Practices and Third-Party Discrimination/Fiduciary Liability Insurance policy provides coverage for claims against directors and officers based on employment practices

and fiduciary liability. The total annual premium for the Directors and Officers/Employment Practices and Third-Party Discrimination/Fiduciary Liability Insurance policy is \$70,000. The term of the Directors and Officers/Employment Practices/Fiduciary Liability Insurance policy is April 8, 2022 to April 8, 2023. The premium has been paid in full.

I. Property Deductible BuyBack Liability Insurance

19. Delphi Behavioral Health Group, LLC maintains a Property Deductible Buyback Liability Insurance Policy with National Liability & Fire Marine Insurance Company, Policy No. 42-ADB-220690-01 and Certain Underwriters at Lloyds, Policy No. AOP-220690. The Property Deductible Buyback Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Property Deductible Buyback Liability Insurance Policy shall pay the difference between the deductible of the Property Liability Insurance Policy identified in ¶ 12, above, and the self-Insured Retention in the Property Deductible Buyback Liability Insurance Policy. The term of the Property Deductible Buyback Liability Insurance Policy is October 3, 2022 through October 3, 2023, and the total premium is \$23,633, inclusive of taxes and surcharges. The premium has been paid in full.

J. Umbrella Liability Insurance

20. Delphi Behavioral Health Group, LLC maintains an Umbrella Liability Insurance Policy with Allied World Assurance Company (U.S.), Inc., Policy No. 0310-9686. The Umbrella Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Umbrella Liability Insurance Policy provides excess coverage for the Insurance Policies identified in ¶¶ 7, 10, and 14, above. The term of the Umbrella Liability Insurance Policy is October 3, 2022 through October 3, 2023, and the total premium is \$262,500, inclusive of taxes and surcharges. The premium has been paid in full.

K. Excess Liability Insurance

(i) Endurance American Specialty Insurance Company

21. Delphi Behavioral Health Group, LLC maintains an Excess General Liability Insurance Policy with Endurance American Specialty Insurance Company, Policy No. HLC10015066202. The Excess General Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Excess General Liability Insurance Policy provides excess general liability coverage for the Insurance Policies identified in ¶¶ 7, 10, and 14, above. The term of the Excess General Liability Insurance Policy is October 3, 2022 to October 3, 2023. The annual premium totals \$110,250. This premium has been paid in full.

(ii) Coverys Specialty Insurance Company

22. Delphi Behavioral Health Group, LLC maintains an Excess General Liability Insurance Policy with Coverys Specialty Insurance Company, Policy No. 005FL000027910. The Excess General Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Excess General Liability Insurance Policy provides excess general liability coverage for the Insurance Policies identified in ¶¶ 7, 10, 14, 20 and 21 above. The term of the Excess General Liability Insurance Policy is October 3, 2022 to October 3, 2022. The annual premium totals \$119,253. This premium has been paid in full.

(iii) Argonaut Insurance Company

23. DR Parent, LLC maintains an Excess Directors and Officers Liability Insurance Policy with Argonaut Insurance Company, Policy No. MLX4262481-1. The Excess Directors and Officers Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Excess Directors and Officers Insurance Policy provides excess Directors and Officers liability coverage for the Insurance Policy identified in ¶ 18, above. The

term of the Excess Directors and Officers Liability Insurance Policy is April 8, 2022 to April 8, 2023. The annual premium totals \$43,000. This premium has been paid in full.

(iv) Hudson Insurance Company

24. Delphi Behavioral Health Group, LLC maintains an Excess Directors and Officers Liability Insurance Policy with Hudson Insurance Company, Policy No. HN-0303-8417. The Excess Directors and Officers Liability Insurance Policy was in effect as of the Petition Date and is listed on the attached **Exhibit “A.”** The Excess Directors and Officers Insurance Policy provides excess Directors and Officers liability coverage for the Insurance Policies identified in ¶¶ 18 and 23, above. The term of the Excess Directors and Officers Liability Insurance Policy is April 8, 2022 to April 8, 2023. The annual premium totals \$13,594. This premium has been paid in full.

L. Northeast Series of Lockton Companies, LLC– Commercial Insurance Broker; BankDirect Capital Finance Premium Finance Agreement for General Liability Policy

25. Northeast Series of Lockton Companies, LLC (“Lockton”) serves as the Debtors’ commercial insurance broker, procuring the policies and providing related assistance with regard to all of the insurance policies listed on attached **Exhibit “A.”** Delphi Behavioral Health Group, LLC and DR Parent, LLC are parties to that certain *Commercial Insurance Premium Finance and Security Agreement* (the “PFA”) with BankDirect Capital Finance entered into on or about October 25, 2022 in respect of the foregoing policies except (i) Progressive Casualty Insurance Company, (a) Policy No. 01022176-0 and (b) Policy No. 01023060-0; (ii) Drive New Jersey Insurance Company, (a) Policy No. 962122640 and (b) Policy No. 96213333; (iii) Crime Insurance Policy with Travelers Casualty & Surety Co. America, Policy No. 107325955; (iv) Directors and Officers / Employment Practices and Third-Party Discrimination/Fiduciary

Liability Insurance policy with Markel American Insurance Company, Policy No. MKLM1MML000850; (v) Excess Directors and Officers Liability Insurance Policy with Argonaut Insurance Company, Policy No. MLX4262481-1; and (vi) Excess Directors and Officers Liability Insurance Policy with Hudson Insurance Company, Policy No. HN-0303-8417. Under the PFA, Delphi Behavioral Health Group, LLC and DR Parent, LLC made a down payment of \$166,708.65 and a 1st installment in that same amount, after which an addendum in November 2022 changed the monthly payment to \$170,526.74. Three payments of \$170,526.74 each were made for December 2022 through February 2023 and 7 monthly installments of \$170,526.74 remain. The amount originally financed was \$1,790,536.15, a down-payment of \$166,708.65 was made (as stated above), the annual interest rate was set at 4.8%, and the total amount of premiums was \$1,954,795.01. Through the November 2022 addendum, the additional amount financed was \$37,210.85, and the annual interest rate was set at 4.8%.

Relief Requested and Basis Therefor

26. The Debtors seek authority, in their reasonable business judgment, to (i) continue to administer the insurance policies described herein (collectively, the “Insurance Policies”); and (ii) continue to pay certain claims, deductibles and/or premiums if and to the extent any may become due and payable according to the terms of the Insurance Policies. The Debtors further request authority to pay certain amounts as they come due under the Insurance Policies, including the PFA, in the ordinary course of its business, if and to the extent such amounts become due. For the reasons set forth below, the Debtors believe that the relief requested is necessary and appropriate under the circumstances.

27. Section 105(a) of the Bankruptcy Code provides, in relevant part:

The court may 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).

28. Section 363(c) of the Bankruptcy Code provides, in relevant part:

If the business of the debtor is authorized to be operated under section...1108... of this title [title 11] and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

11 U.S.C. § 363(c).

29. It is essential for the Debtors to maintain the Insurance Policies, which provide a comprehensive range of coverage for the Debtors, as well as the PFA which finances payments for the Commercial General Liability Policy. If the Insurance Policies are allowed to lapse, the Debtors will be exposed to substantial liability for any damages resulting to persons or property of the Debtors and others, and the Debtors would have to bear the costs and expenses of defense litigation. Moreover, maintenance of the Insurance Policies is mandatory under the United States Trustee guidelines and various state and federal laws.

30. The Debtors' continued operations and sale efforts require that the Insurance Policies be maintained on an ongoing and uninterrupted basis. In maintaining those obligations, it is crucial that the administrative fees paid to providers and the premiums paid for the Insurance Policies, to the extent applicable, are continued and maintained by the Debtors. For example, the risk that eligible claimants will not receive payments with respect to employment-related injuries may have a devastating effect on the financial well-being and morale of the employees, and their willingness to remain in the Debtors' employ. Departures by the Debtors' remaining employees

at this critical time may result in a severe disruption of the Debtors' businesses to the detriment of all parties in interest.

31. For all the reasons stated in this Motion, maintenance of the Insurance Policies, payment of all premiums and other amounts due, if and to the extent such payments are due from the Debtors, and continuance of the various administration programs serve the best interests of the Debtors' bankruptcy estates and is required by the United States Trustee's guidelines, Item No. 5 (*Proof of Insurance*) and federal and/or state law as a condition of operations. Consequently, the Court should approve the relief requested in this Motion, which relief has been granted in other chapter 11 cases in this District. *See, e.g., In re Vital Pharmaceuticals, Inc., et al.*, Case No. 22-17842-PDR (Bankr. S.D. Fla. Oct. 14, 2022); *In re American Purchasing Services, LLC d/b/a American Medical Depot, et al.*, Case No. 20-23495-SMG (Bankr. S.D. Fla. Dec. 16, 2020); *In Re Tamarac 10200, LLC, et al.*, Case No. 20-23346-PDR (Bankr. S.D. Fla. Dec. 10, 2020); *In re It'Sugar FL I LLC, et al.*, Case No. 20-20259-RAM (Bankr. S.D. Fla. Sept. 29, 2020); *In re Magnum Construction Management, LLC f/k/a Munilla Construction Management, LLC*, Case No. 19-12821-AJC (Bankr. S.D. Fla. Mar. 7, 2019); *In re Adinath Corp., et al.*, Case No. 15-16885-LMI (Bankr. S.D. Fla. April 21, 2015); *In re Ruden McClosky, P.A.*, Case No. 11-40603-RBR (Bankr. S.D. Fla. Dec. 5, 2011); *In re Maguire Group Holdings, Inc. et al.*, Case No. 11-39347-RAM (Bankr. S.D. Fla. Nov. 30, 2011); *In re HearUSA, Inc.*, Case No. 11-23341-EPK (Bankr. S.D. Fla. May 20, 2011); *In re Gulfstream Intern. Group, Inc., et al.*, Case No. 10-44131-JKO (Bankr. S.D. Fla. Nov. 8, 2010); *In re DM Indus., Ltd.*, Case No. 09-15533-LMI (Bankr. S.D. Fla. April 10, 2009).

Expedited Consideration and Waiver of any Applicable Stay

32. The Debtors respectfully request expedited consideration of this Motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the commencement of a Chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm. Here, the Debtors believe an immediate and orderly transition into Chapter 11 is critical to the viability of its operations and that any delay in granting the relief requested could hinder the Debtors’ operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these Chapter 11 cases would severely disrupt the Debtors’ operations at this critical juncture. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this Motion on an expedited basis.

33. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

34. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors’ rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under Bankruptcy Code section 365. The Debtors expressly reserve their right to contest any claim related to the relief sought herein. Likewise, if the Court grants the relief sought herein, any payment made pursuant

to an order of the Court is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

WHEREFORE, the Debtors respectfully request that the Court hear this Motion on an emergency basis and enter an order in the form attached hereto as **Exhibit "B."** (i) granting the relief requested in this Motion, and (ii) granting such other relief as the Court deems just and proper.

Dated: February 6, 2023

Respectfully submitted,

BERGER SINGERMAN LLP
*Proposed Counsel for the Debtors and
Debtors-in-Possession*
1450 Brickell Avenue, Ste. 1900
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: /s/ Paul Steven Singerman
Paul Steven Singerman
Florida Bar No. 378860
singerman@bergersingerman.com
Paul A. Avron
Florida Bar No. 50814
pavron@bergersingerman.com
Robin J. Rubens
Florida Bar No. 959413
rrubens@bergersingerman.com

EXHIBIT "A"

(List of Insurance Policies)

Insurance Carrier	Policy Type	Policy Number	Policy Period	Approximate Annual Premium
Service American Indemnity Company	Workers Compensation Employment Practices Liability	SAACWC0007602	7/1/2022 - 7/1/2023	\$274,654.00
Markel American Insurance Company	Directors and Officers Liability / EPL / FID	MKLM1MML000850	04/08/2022 - 04/08/2023	\$70,000.00
Argonaut Insurance Company	Excess Directors and Officers Liability	MLX4262481-1	04/08/2022 - 04/08/2023	\$43,000.00
Hudson Insurance Company	Excess Directors and Officers Liability	HN-0303-8417	04/08/2022 - 04/08/2023	\$13,594.50
Travelers Casualty & Surety Co. America	Crime	107325955	10/03/2020 - 10/03/2023	\$4,964.00
Westchester Surplus Lines Insurance Company	Property Liability	D38064277006	10/03/2022 - 10/03/2023	\$298,617.70
Endurance American Specialty Insurance Company	Property Liability	ESP30002050002	10/03/2022 - 10/03/2023	\$336,582.55
Homeland Insurance Company of New York	Excess Property Liability	795-01-99-53-0000	10/03/2022 - 10/03/2023	\$26,254.00
National Fire & Marine Insurance Company	Property Deductible Buyback	42-ADB-220690-01	10/03/2022 - 10/03/2023	\$20,088.05
Certain Underwriters at Lloyds	Property Deductible Buyback	AOP-220690	10/03/2022 - 10/03/2023	\$3,544.95
National Liability & Fire Insurance Company	Automobile Liability	73 APB 0050805	10/03/2022 - 10/03/2023	\$312,885.00
Progressive Casualty Insurance Co.	Automobile Liability (MA)	01022176-0	10/03/2022 - 10/03/2023	\$1,558.00
Progressive Casualty Insurance Co.	Automobile Liability (MA)	01023060-0	10/03/2022 - 10/03/2023	\$2,953.00
Drive New Jersey Insurance Company (Progressive)	Automobile Liability (NJ)	962123333	10/03/2022 - 10/03/2023	\$5,999.00
Drive New Jersey Insurance Company (Progressive)	Automobile Liability (NJ)	962122640	10/03/2022 - 10/03/2023	\$4,470.00

Insurance Carrier	Policy Type	Policy Number	Policy Period	Approximate Annual Premium
Allied World Assurance Company (U.S.), Inc.	Umbrella Liability	0310-9686	10/03/2022 - 10/03/2023	\$262,500.00
Allied World Surplus Lines Insurance Company	Professional and General Liability	0310-9685	10/03/2022 - 10/03/2023	\$449,400.00
Endurance American Specialty Insurance Company	Excess General Liability	HLC10015066201	10/03/2022 - 10/03/2023	\$110,250.00
Coverys Specialty Insurance Company	Excess General Liability	005FLO00027910	10/03/2022 - 10/03/2023	\$119,253.76
Indian Harbor Insurance Company	Cyber Liability	MTP903969103	10/01/2022 - 10/01/2023	\$52,500.00
Certain Underwriters at Lloyds	Terrorism Risk	PRPNA2102693/1080	06/25/2022 - 06/25/2023	\$819.00

EXHIBIT “B”

(Proposed Order)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

In re:

Chapter 11 Cases

DELPHI BEHAVIORAL HEALTH
GROUP, LLC, *et al.*,¹

Case No. 23-_____

Debtors.

(Joint Administration Pending)

**ORDER GRANTING DEBTORS' EMERGENCY MOTION FOR
AUTHORIZATION TO (I) CONTINUE TO ADMINISTER INSURANCE**

¹ The address of the Debtors is 1901 West Cypress Creek Road, Suite 500, Fort Lauderdale, FL 33309. The last four digits of the Debtors' federal tax identification numbers are: (i) Delphi Behavioral Health Group, LLC (2076), (ii) 61 Brown Street Holdings, LLC (0007), (iii) Aloft Recovery LLC (6674), (iv) Banyan Recovery Institute, LLC (6998), (v) Breakthrough Living Recovery Community, LLC (5966), (vi) California Addiction Treatment Center LLC (7655), (vii) California Vistas Addiction Treatment LLC (8272), (viii) DBHG Holding Company, LLC (6574), (ix) Defining Moment Recovery Community, LLC (3532), (x) Delphi Health BuyerCo, LLC (2325), (xi) Delphi Health Group, LLC (0570), (xii) Delphi Intermediate HealthCo, LLC (6378), (xiii) Delphi Management LLC (6474), (xiv) Desert View Recovery Community, LLC (7437), (xv) DR Parent, LLC (2700), (xvi) DR Sub, LLC (8183), (xvii) Las Olas Recovery LLC (9082), (xviii) Maryland House Detox, LLC (1626), (xix) New Perspectives, LLC (0508), (xx) Next Step Housing LLC (6975), (xxi) Ocean Breeze Detox, LLC (7019), (xxii) Ocean Breeze Recovery, LLC (9621), (xxiii) Onward Living Recovery Community, LLC (4735), (xxiv) Palm Beach Recovery, LLC (4459), (xxv) Peak Health NJ, LLC (7286), (xxvi) QBR Diagnostics, LLC (7835), (xxvii) Rogers Learning, LLC (1699), (xxviii) SBH Haverhill, LLC (0971), (xxix) SBH Union IOP LLC (4139), (xxx) Summit at Florham Park, LLC (8226), (xxxi) Summit Behavioral Health Limited Liability Company (3337), (xxxii) Summit Health BuyerCo, LLC (2762), (xxxiii) Summit IOP Limited (4567), and (xxxiv) Union Fresh Start LLC (6841).

POLICIES AND RELATED AGREEMENTS; AND (II) HONOR CERTAIN OBLIGATIONS IN RESPECT THEREOF

THIS MATTER having come before the Court for a hearing on _____, 2023 at _____ .m. in Fort Lauderdale, Florida upon the *Debtors' Emergency Motion for Authorization to (I) Continue to Administer Insurance Policies and Related Agreements; and (II) Honor Certain Obligations in Respect Thereof* [ECF No. ___] (the "Motion") filed by the above-captioned debtors-in-possession (the "Debtors"). The Court finds that: (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), and that this Court may enter a final order consistent with Article III of the Constitution; (iii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (iv) the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; (v) notice of the Motion and the hearing were appropriate under the circumstances and no other notice need be provided; and (vi) upon review of the record before the Court, including the legal and factual bases set forth in the Motion and the First Day Declaration² and the statements made by counsel at the hearing, good and sufficient cause exists to grant the relief requested. Accordingly, it is

ORDERED as follows:

1. The Motion is **GRANTED** effective as of the Petition Date.
2. The Debtors may, in their reasonable business judgment, continue to administer and maintain the Insurance Policies (as described in Exhibit "A" to the Motion) post-petition in the ordinary course of their business, including obligations for the payment of (i) premiums, if any; and (ii) certain claims or deductibles if and to the extent they may become due and payable according to the terms of the Insurance Policies.

² All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.
11758391-1

3. The Debtors are authorized, but not directed, to pay any outstanding premiums as of the Petition Date to the extent set forth on Exhibit A with respect to any of the Insurance Policies.

4. To the extent that the Insurance Policies may be deemed executory contracts to which the Debtors are a party, entry of this Order shall not constitute an assumption of those Insurance Policies pursuant to 11 U.S.C. § 365(a).

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 Order.

6. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors' right to subsequently dispute such claim or lien, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

7. The Debtors are authorized to issue post-petition checks, or to effect post-petition 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 pre-petition amounts owed in connection with any Insurance Policies.

8. Notwithstanding the relief granted in this Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any interim or final order entered by the Court approving the Debtors' entry into any post-petition debtor in possession financing facility (the "DIP Financing Order"). To the extent that there is any inconsistency between the terms of this Order and the DIP Financing Order, the terms of the DIP Financing Order shall control.

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

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

#

Submitted by:

Paul Steven Singerman, Esq.
BERGER SINGERMAN LLP
1450 Brickell Avenue, Ste. 1900
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340
Email: singerman@bergersingerman.com

(Attorney Singerman is directed to serve this order upon all non-registered users who have yet to appear electronically in this case and file a conforming certificate of service.)