

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

In re:

LUCIRA HEALTH, INC.,¹

Debtor.

Chapter 11

Case No. 23-10242 (MFW)

Docket Ref. No. 361

ORDER (I) APPROVING THE DISCLOSURE STATEMENT ON AN INTERIM BASIS; (II) ESTABLISHING SOLICITATION AND TABULATION PROCEDURES; (III) APPROVING THE FORM OF BALLOT AND SOLICITATION MATERIALS; (IV) ESTABLISHING THE VOTING RECORD DATE; (V) FIXING THE DATE, TIME, AND PLACE FOR THE COMBINED HEARING AND THE DEADLINE FOR FILING OBJECTIONS THERETO; AND (VI) GRANTING RELATED RELIEF

Upon consideration of the motion (the “Motion”)² of the Debtor for entry of an order: (i) approving the Disclosure Statement on an interim basis for solicitation purposes only; (ii) establishing procedures for the solicitation and tabulation of votes to accept or reject the Plan; (iii) approving the form of ballot and solicitation materials; (iv) establishing a voting record date; (v) fixing the date, time, and place for the Combined Hearing and establishing the deadline for filing objections related thereto; and (vi) granting related relief; and after due deliberation and sufficient cause appearing therefor,

THIS COURT HEREBY FINDS AS FOLLOWS:

A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference*, dated as of February 29, 2012.

¹ The Debtor and the last four digits of its taxpayer identification number are: Lucira Health, Inc. (1037). The Debtor’s mailing address is 1315 63rd St., Emeryville, CA 94608.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the Plan, as applicable.

B. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

C. This Court may, consistent with Article III of the United States Constitution, issue a final order in connection with the Motion.

D. Venue of the proceeding and the Motion in this District is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

E. The relief requested in the Motion is in the best interests of the Debtor's estates, its creditors, and other parties in interest.

F. The notice of the Motion was served as set forth in the Motion, and such notice constitutes good and sufficient notice to all interested parties and complies with Bankruptcy Rules 2002 and 3017, and no other or further notice need be provided.

G. The form of ballot attached hereto as **Exhibit 1** (the "Ballot"): (i) is consistent with Official Form No. 314; (ii) adequately addresses the particular needs of the Chapter 11 Case; (iii) is appropriate for the Voting Class; and (iv) complies with Bankruptcy Rule 3017(d).

H. The Ballot need not be provided to Holders of Claims or Interests in the Non-Voting Classes, as such Non-Voting Classes are either (i) unimpaired and are conclusively presumed to have accepted the Plan in accordance with section 1126(f) of the Bankruptcy Code or (ii) impaired but will neither retain nor receive any property under the Plan and, thus, are conclusively deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code:

Class	Type	Status Under Plan	Voting Status
1	Secured Claims	Unimpaired	Deemed to Accept Plan
2	Other Priority Claims	Unimpaired	Deemed to Accept Plan

3	General Unsecured Claims	Impaired	Entitled to Vote on Plan
4	Section 510(b) Claims	Impaired	Deemed to Reject Plan
5	Debtor's Interests	Impaired	Deemed to Reject Plan

I. The period during which the Debtor may solicit votes to accept or reject the Plan, as established by this Order, provides sufficient time for the Holders of Claims in the Voting Class to make an informed decision to accept or reject the Plan and submit a Ballot in a timely fashion, and the solicitation provided by this Order is consistent with section 1126 of the Bankruptcy Code.

J. The Tabulation Procedures for the solicitation and tabulation of votes to accept or reject the Plan, as approved herein, provide a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code.

K. The contents of the Solicitation Package and the procedures for providing notice of the Combined Hearing and the other matters set forth in the Combined Hearing Notice, under the circumstances, constitute sufficient notice to all interested parties in accordance with Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The relief requested in the Motion is granted as set forth herein.

CONDITIONAL APPROVAL OF THE DISCLOSURE STATEMENT

2. The Disclosure Statement is approved on an interim basis as containing adequate information for solicitation purposes under sections 105 and 1125 of the Bankruptcy Code, Bankruptcy Rule 3017, and Local Rule 3017-2.

APPROVAL OF THE CONFIRMATION TIMELINE

3. This Court shall conduct the Combined Hearing for (i) final approval of the Disclosure Statement as containing adequate information and (ii) confirmation of the Plan. The Combined Hearing is hereby scheduled for **September 19, 2023 at 10:30 a.m. (prevailing Eastern Time)**. The Combined Hearing may be continued from time to time without further notice other than by (a) announcing any adjourned date at the Combined Hearing (or any continued hearing) or (b) filing a notice on the docket of the Chapter 11 Case.

4. The following dates and deadlines, are hereby approved:

Event	Proposed Date
Voting Record Date	July 25, 2023
Date by Which Solicitation Will be Mailed	Within 3 business days after entry of this Order
Deadline to File Rule 3018 Motions	August 14, 2023 at 4:00 p.m. (ET)
Deadline to File Plan Supplement	September 1, 2023
Voting Deadline	September 8, 2023 at 4:00 p.m. (ET)
Deadline to Object to Confirmation and Final Approval of Adequacy of Disclosures	September 12, 2023 at 4:00 p.m. (ET)
Deadline to Reply to Objections to Confirmation and Final Approval of Adequacy of Disclosures	September 15, 2023 at 11:00 a.m. (ET)
Combined Hearing	September 19, 2023 at 10:30 a.m. (ET)

APPROVAL OF THE SOLICITATION PROCEDURES

5. The Ballot, substantially in the form attached hereto as **Exhibit 1**, is approved.

6. The Combined Hearing Notice, in substantially the form attached hereto as **Exhibit 2**, is approved.

7. Pursuant to Bankruptcy Rule 3017(d), **July 25, 2023 at 4:00 p.m. (prevailing Eastern Time)** shall be the record date for purposes of determining which Holders of Claims are entitled to receive Solicitation Package and vote on the Plan (the “Record Date”).

8. With respect to any transferred Claim, the transferee shall only be entitled to receive and cast a Ballot on account of such transferred Claim if: (i) all actions necessary to effect the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) have been completed by the Record Date (including, without limitation, the passage of any applicable objection period) or (ii) the transferee files, no later than the Record Date, (a) the documentation required by Bankruptcy Rule 3001(e) to evidence the transfer, and (b) a sworn statement of the transferor supporting the validity of the transfer.

9. On or prior to the date that is three (3) business days following entry of this Order (the “Service Date”), the Voting Agent shall mail the Solicitation Package to Holders of Claims in the Voting Class containing copies of: (i) the Combined Hearing Notice; (ii) either a paper copy or a copy in “pdf” format on CD-ROM or flash drive of the Disclosure Statement and the Plan; (iii) the Ballot; and (iv) a pre-paid, pre-addressed return envelope. The Debtor shall be excused from distributing Solicitation Package to those persons or entities listed at addresses for which previous mailings have been returned as undeliverable, unless the Debtor receives written notice of accurate addresses for such persons or entities prior to the Voting Record Date. The Debtor and Voting Agent are also not required to conduct any additional research for updated addresses based on undeliverable Solicitation Packages (including undeliverable Ballots) or Combined Hearing Notices.

10. On or prior to the Service Date, the Voting Agent shall mail the Combined Hearing Notice to the following parties, to the extent such parties are not otherwise entitled to

receive a Solicitation Package: (i) all persons or entities that have filed or are deemed to have filed a proof of claim or request for allowance of Claim as of the Record Date; (ii) all persons or entities listed on the Schedules as holding a Claim or potential Claim; (iii) the Securities and Exchange Commission and any regulatory agencies with oversight authority of the Debtor; (iv) the Internal Revenue Service; (v) the United States Attorney's Office for the District of Delaware; (vi) other known Holders of Claims (or potential Claims) and Interests; (vii) all entities known by the Debtor to hold or assert a lien or other interest in the Debtor's property; and (viii) any other parties that have requested notice pursuant to Bankruptcy Rule 2002.

11. The Debtor is authorized, but not directed, to publish the Publication Notice, substantially in the form attached hereto as **Exhibit 3**, in *USA Today National Edition* or other similar national publication at least twenty-eight (28) days prior to the Combined Hearing.

12. To be counted as a vote to accept or reject the Plan, a Ballot must be properly executed, completed, and delivered to the Voting Agent in accordance with the instructions on the Ballot so that it is actually received no later than **4:00 p.m. (prevailing Eastern Time) on September 8, 2023** (the "Voting Deadline").

13. The Debtor proposes that the following procedures in the subsequent paragraph be utilized in tabulating the votes to accept or reject the Plan (the "Tabulation Procedures"). Solely for purposes of voting to accept or reject the Plan, and not for the purpose of the allowance of, or distribution on account of, any Claim, and without prejudice to the rights of the Debtor and its estate in any other context, the Debtor proposes that each Claim within the Voting Class vote in an amount determined by the following procedures:

Class 3 (General Unsecured Claims)

- If a Claim is deemed allowed under the Plan, an order of this Court, or a stipulated agreement between the parties, such Claim will be temporarily allowed for voting purposes in the deemed allowed amount set forth therein;

- If a Claim for which a proof of claim has been timely filed for unknown or undetermined amounts, or is wholly unliquidated or wholly contingent (as determined on the face of the Claim or after a reasonable review of the supporting documentation by the Voting Agent), and such Claim has not been allowed, such Claim shall be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00;
- If a Claim for which a proof of claim has been timely filed is partially unliquidated or partially contingent (as determined on the face of the Claim or after a reasonable review of the supporting documentation by the Voting Agent), such Claim is temporarily allowed in the amount that is liquidated and non-contingent for voting purposes only, and not for purposes of allowance or distribution;
- If a Claim for which a proof of claim was timely filed and is liquidated and non-contingent, or was listed in the Debtor's schedules of assets and liabilities (the "Schedules") in an amount that is liquidated, non-contingent, and undisputed, such Claim is allowed for voting purposes in the amount set forth on the proof of claim, or if no proof of claim was timely filed, the Debtor's filed Schedules;
- If a Claim has been estimated or otherwise allowed for voting purposes by order of this Court, such Claim is temporarily allowed in the amount so estimated or allowed by this Court for voting purposes only, and not for purposes of allowance or distribution;
- If a Claim is listed on the Schedules as contingent, unliquidated, or disputed and a proof of claim was not (i) filed by the applicable bar date for the filing of proofs of claim established by this Court, or (ii) deemed timely filed by an order of this Court prior to the Voting Deadline, such Claim shall be disallowed for voting purposes; *provided, however*, if the applicable bar date has not yet passed, such Claim shall be entitled to vote at \$1.00;
- Proofs of claim filed for \$0.00 are not entitled to vote;
- If the Debtor or other party in interest has served an objection or request for estimation as to a Claim at least ten (10) days before the Voting Deadline, such Claim is temporarily disallowed for voting purposes only, and not for purposes of allowance or distribution, except to the extent and in the manner as may be set forth in such objection, or as ordered by this Court before the Voting Deadline;
- For purposes of the numerosity requirement of section 1126(c) of the Bankruptcy Code, separate Claims held by a single creditor in a particular Class shall be aggregated as if such creditor held one (1) Claim against the Debtor in such Class, and the votes related to such Claims shall be treated as a single vote to accept or reject the Plan;

- Notwithstanding anything to the contrary contained herein, any creditor who has filed or purchased duplicate Claims within the same Voting Class shall be provided with only one (1) Solicitation Package and one (1) Ballot for voting a single Claim in such Class, regardless of whether the Debtor has objected to such duplicate Claims; and
- If a proof of claim has been amended by a later proof of claim that is filed on or prior to the Voting Record Date, the later filed amending proof of claim shall be entitled to vote in a manner consistent with these Tabulation Procedures, and the earlier filed proof of claim shall be disallowed for voting purposes, regardless of whether the Debtor has objected to such amended proof of claim. Except as otherwise ordered by this Court, any amendments to proofs of claim after the Voting Record Date shall not be considered for purposes of these Tabulation Procedures.

Voting Rules

- Except as otherwise ordered by this Court, any Ballot received after the Voting Deadline will not be counted absent the consent of the Debtor, in its discretion;
- Any Ballot that is illegible or contains insufficient information to permit the identification of the claimant will not be counted;
- Any Ballot cast by a person or entity that does not hold a Claim in the Voting Class as of the Voting Record Date will not be counted;
- Any unsigned Ballot will not be counted, provided that Ballots validly submitted through the E-Balloting Portal will be deemed signed;
- Except in the Debtor's discretion, any Ballot transmitted to the Voting Agent by facsimile or other electronic means (other than through the E-Balloting Portal) will not be counted;
- Any Ballot that does not indicate an acceptance or rejection of the Plan, or that indicates both an acceptance and rejection of the Plan, will not be counted;
- Whenever a claimant casts more than one (1) Ballot voting the same Claim prior to the Voting Deadline, only the latest-dated valid Ballot timely received will be deemed to reflect the voter's intent and, thus, will supersede any prior Ballots;
- If a claimant casts simultaneous duplicative Ballots that are voted inconsistently, such Ballots will not be counted;

- Subject to the other Tabulation Procedures, each claimant will be deemed to have voted the full amount of its Claim as set forth on the Ballot;
- Claimants may not split their vote within a Class; thus, each claimant will be required to vote all of its Claims within the Class either to accept or reject the Plan, and any votes that are split will not be counted; and
- Subject to any contrary order of this Court, the Debtor further reserves the right to waive any defects, irregularities, or conditions of delivery as to any particular Ballot.

14. Upon completion of the balloting, the Voting Agent shall certify the amount and number of allowed claims of the Voting Class accepting or rejecting the Plan, including all votes not counted and the reason for not counting such votes. The Debtor shall cause such certification to be filed with this Court prior to the Combined Hearing.

15. If any Holder of a Claim seeks to challenge the allowance of its Claim for voting purposes in accordance with the Tabulation Procedures, such Holder must file a motion, pursuant to Bankruptcy Rule 3018(a), for an order temporarily allowing its claim in a different amount or classification for purposes of voting to accept or reject the Plan (a “Rule 3018 Motion”) no later than **August 14, 2023 at 4:00 p.m. (prevailing Eastern Time)** and serve the Rule 3018 Motion on the Debtor. The Debtor (and, with respect to filing a response, any other party in interest) shall then (i) have until August 21, 2023 to file and serve any responses to such Rule 3018 Motions, and (ii) coordinate with this Court to adjudicate and resolve all pending Rule 3018 Motions prior to the Combined Hearing. Any Ballot submitted by a Holder of a Claim that files a Rule 3018 Motion shall be counted solely in accordance with the Tabulation Procedures and the other applicable provisions of this Order unless and until the underlying claim or interest is temporarily allowed by this Court for voting purposes in a different amount, after notice and a hearing.

16. Objections to confirmation of the Plan or final approval of the adequacy of the disclosures contained in the Disclosure Statement, if any, must (i) be in writing; (ii) state the name and address of the objecting party and the nature of the Claim or Interest of such party; (iii) comply with the Bankruptcy Rules and the Local Rules; and (iv) be filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, with a copy served upon the following: (a) counsel to the Debtor, (i) Cooley LLP, 3 Embarcadero Center, 20th Floor, San Francisco, CA 94111-4004, Attn: Robert L. Eisenbach III (reisenbach@cooley.com), and 1299 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004-2400, Attn: Cullen Drescher Speckhart (cspeckhart@cooley.com) and Olya Antle (oantle@cooley.com), and (ii) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Sean M. Beach (sbeach@ycst.com), Ashley E. Jacobs, Esq. (ajacobs@ycst.com) and Timothy R. Powell, Esq. (tpowell@ycst.com); and (b) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware, 19801, Attn: Joseph Cudia, Esq. (Joseph.Cudia@usdoj.gov) by no later than **4:00 p.m. (prevailing Eastern Time) on September 12, 2023** (the “Confirmation Objection Deadline”).

17. The Debtor shall, if it deems necessary in its discretion, and any other party in interest may, file a reply to any such objections or brief in support of confirmation of the Plan, or final approval of the Disclosure Statement, by no later than **11:00 a.m. (prevailing Eastern Time) on September 15, 2023** (or two (2) business days prior to the date of any adjourned Combined Hearing).

18. The Debtor is authorized to make non-substantive and ministerial changes to the Disclosure Statement, the Plan, Combined Hearing Notice, Ballot, Publication Notice, and related documents without further approval of this Court, including, without limitation, changes to

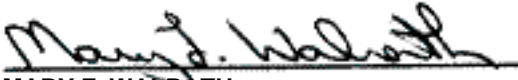
correct typographical and grammatical errors and to make conforming changes to any materials included in the Solicitation Package prior to their distribution.

19. The Debtor is authorized to take or refrain from taking any action necessary or appropriate to implement the terms of, and the relief granted in, this Order.

20. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

21. This Court shall retain jurisdiction to hear and determined all matters arising from or related to the interpretation, implementation, and enforcement of this Order.

Dated: July 28th, 2023
Wilmington, Delaware


MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

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