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8 **UNITED STATES BANKRUPTCY COURT**
9 **EASTERN DISTRICT OF WASHINGTON, YAKIMA DIVISION**

10
11 In re
12 KEELER'S MEDICAL SUPPLY, INC., a
13 Washington corporation,
14 Debtor in Possession.

Case Number: 17-01849-FLK11
Chapter 11

**REPORT OF CONSUMER PRIVACY
OMBUDSMAN [11 U.S.C. § 332(b)]**

Date: August 28, 2017
Time: 10:00 a.m.
Place: U.S. Courthouse
402 East Yakima Avenue
2nd Floor
Yakima WA 98901

17
18 **TO THE HONORABLE FRANK L. KURTZ, UNITED STATES BANKRUPTCY JUDGE**
19 **AND OTHER PARTIES IN INTEREST:**
20

21 **T**his report (the "CPO Report") is being submitted to assist the Court in its consideration
22 of the facts, circumstances, and conditions of the proposed sale (the "Sale") of personally
23 identifiable information under 11 U.S.C. § ("Section") 363 by Keeler's Medical Supply, Inc., a
24 Washington State corporation, debtor and debtor in possession herein (the "Debtor" or "Keeler's"),
25 in Case No. 17-01849-FLK11 (the "Bankruptcy Case") to Howard's Medical, LLC, a Washington
26 State limited liability company (the "Purchaser"). The Sale will be effectuated through an
27 "Agreement for the Sale and Purchase of Assets" (the "Agreement") that is attached as Exhibit 1 to
28 a Declaration filed in the Bankruptcy Case as docket item number 33 on July 26, 2017 (the

1 “Declaration”).

2 Section 332(b) provides that the CPO Report may include the presentation by the Consumer
3 Privacy Ombudsman (the “CPO”)¹ of (1) the debtor’s privacy policy; (2) the potential losses or
4 gains of privacy to consumers if such sale or such lease is approved by the Court; (3) the potential
5 costs or benefits to consumers if such sale is approved by the Court; and (4) the potential
6 alternatives that would mitigate potential privacy losses or potential costs to consumers. The CPO
7 Report does not include any information required under Section 333(b).

8 I.

9 SUMMARY

10 The assets to be purchased under the Agreement² include *inter alia*, “Seller’s full customer
11 list”³ (the “Customer PII”). The Customer PII includes the names, home addresses, birthdates and
12 Medicare Numbers (from which Social Security Numbers may be derived) of the Debtor’s
13 customers,⁴ which constitutes personally identifiable information (the “PII”) under Section
14 101(41A)(A)(iii). The privacy policy of the Debtor (the “Privacy Policy”), such as it is, was
15 adopted in 2009 and appears to only state as follows: “Keeler’s Medical Supply, Inc. believes that
16 each customer/patient has the right to:....Have all records (except as otherwise provided for by law
17 or third party payer contracts) and all communications, written or oral, between customers and
18 health care providers treated confidentially.”⁵ Significantly, pursuant to an amendment to the
19 Agreement, the Purchaser will also protect PII in accordance with state and federal law.⁶ The
20

21 _____
22 ¹ Wesley H. Avery was appointed as the CPO pursuant to section 332 of the Bankruptcy Code
23 pursuant to an order of the Court entered on August 3, 2017 in the Bankruptcy Case as docket item
24 number 43, and a Notice of Appointment filed in the Bankruptcy Case on August 9, 2017 as
25 docket item number 58.

26 ²All initially capitalized terms not otherwise defined herein shall use those definitions stated in the
27 Agreement.

28 ³See Declaration at page 26.

⁴ See Exhibit A hereto at pages 7 and 10. It is the understanding of the CPO that Exhibit A will
be filed in the Bankruptcy Case contemporaneously with the CPO Report.

⁵ See Exhibit A at 12 and 14. Cf. Exhibit A 2:28-3:8.

⁶Id. at 4:13-5:11.

1 Purchaser also appears to be a “Qualified Buyer”⁷ who is in a position to assume possession of the
2 PII with no loss of privacy to consumers.⁸

3 The CPO concludes that: (a) the Sale is consistent with the Privacy Policy in compliance
4 with section 363(b)(1)(A), and (b) giving due consideration to the facts, circumstances, and
5 conditions of the Sale, the Sale would not violate applicable nonbankruptcy law in compliance with
6 section 363(b)(1)(B). The CPO has no additional reasonable actions to recommend to either the
7 Purchaser or the Debtor as to the Sale.

8 II.

9 ANALYSIS

10 On June 15, 2017, the Debtor filed a voluntary Chapter 11 petition. According to the
11 Declaration:

12 Keeler’s is a Washington corporation engaged in the business of selling and leasing
13 medical supplies and equipment as well as providing services related to such
14 medical supplies and equipment. Keeler’s headquarters and principal place of
business are located at 2001 West Lincoln Avenue in Yakima, Washington.

15 The Sale is permissible under the Bankruptcy Code if the Court finds that the sale of
16 personally identifiable information governed by a debtor’s privacy policy “is consistent with such
17 policy”. 11 U.S.C. § 363(b)(1)(A). The privacy of consumers’ personally identifiable information
18 is primarily regulated by the Federal Trade Commission (“FTC”) under the FTC Act. Section 5 of
19 the FTC Act declares unfair or deceptive practices in commerce as unlawful.⁹ To determine
20 whether Section 5 of the FTC Act’s prohibition against deception has been violated, the FTC will

21 _____
22 ⁷ The Purchaser is in the same business as that of the Debtor, selling and leasing medical
equipment and supplies to consumers in the Yakima Valley. *Id.* at 3:27-4:2.

23 ⁸ For purposes of this CPO Report, and as discussed *infra*, the CPO intends “Qualified Buyer”
24 to mean an entity that is acquiring PII as part of a larger asset sale and (a) agrees to operate
the Purchased Assets as a going concern and that concentrates in the same business or market
25 as the Debtor; (b) expressly agrees to be bound by, and succeed to, the Debtor’s existing
privacy policies; (c) agrees to be responsible for any violation of existing privacy policies;
26 and (d) agrees that prior to making any material change to the Debtor’s existing privacy
policies, affirmative consumer consent will be obtained. *See, e.g.* Stipulation and [Proposed]
27 Order Establishing Conditions on Sale of Customer Information, In re Toysmart.com, LLC,
Civil Action No. 00-13995-CJK (Bankr. E.D. Mass. 2000).

28 ⁹ 15 U.S.C. § 45(a).

1 first identify what “express claims,” and “implied claims,” have been made by a company.¹⁰ An
2 “express claim” refers to a factual assertion made in an advertisement or promotion or other
3 publicly available statement such as a corporate policy. An “implied claim” refers to the net
4 impression conveyed by all elements of a company’s policies or statements “including an
5 evaluation of such factors as the entire document, the juxtaposition of various phrases in the
6 document, the nature of the claim, and the nature of the transactions.”¹¹ Section 5 is violated when
7 an express or implied claim is “likely to affect a consumer’s choice of or conduct regarding a
8 product” and is “likely to mislead reasonable consumers under the circumstances.”¹² In addition,
9 an act or practice may be considered “unfair” if it causes, or is likely to cause, substantial injury to
10 consumers that is not outweighed by countervailing benefits to consumers or competition and is
11 not reasonably avoidable by consumers.¹³

12 The FTC has explicitly applied section 5’s prohibitions against deceptive acts and practices
13 to corporate privacy statements made on the Internet and elsewhere in more than a dozen consent
14 orders. The order issued in the seminal Toysmart.com case is instructive.

15 Toysmart.com (“Toysmart”) was engaged in the advertising, promotion, and sale of toys
16 on the Internet.¹⁴ In the course of doing business, Toysmart collected information from its
17 customers, including, among other things, its customers’ names, addresses, billing information,
18 and shopping preferences.¹⁵

19 On May 22, 2000, Toysmart announced that it had ceased operations, and on June 9, 2000,
20 Toysmart’s creditors filed an involuntary petition in bankruptcy.¹⁶ One of the assets offered for
21 sale during the bankruptcy case was the personal information Toysmart had collected about its

22
23 ¹⁰ FTC Policy Statement On Deception, *appended to Cliffdale Associates, Inc.*, 103 F.T.C. 110,
174 (1984).

24 ¹¹ Id.

25 ¹² Id.

26 ¹³ See generally FTC Policy Statement on Unfairness, *appended to International Harvester Co.*,
104 F.T.C. 949, 1070 (1984).

27 ¹⁴ See First Amended Complaint, Civil Action No. 00-11341 at ¶ 6 (D. Mass. 2000).

28 ¹⁵ Id. at ¶ 9.

¹⁶ Id. at ¶¶ 12, 13.

1 customers.

2 The FTC filed a complaint in the United States District Court for the District of
3 Massachusetts alleging that any sale of Toysmart's customer information would constitute a
4 deceptive act or practice in violation of section 5 of the FTC Act.¹⁷ On July 20, 2000, Toysmart
5 and the FTC entered a stipulation establishing conditions on the sale of Toysmart's customer
6 information.¹⁸ The stipulation provided that Toysmart could *only* sell its customer information to
7 a Qualified Buyer – that is, a company that concentrates its business in the same industry as a
8 debtor, intends to purchase a debtor's goodwill, agrees to become a debtor's successor-in-interest
9 as to the customer information, and agrees to abide by the terms of a debtor's privacy policy.

10 Based on the information provided in the Agreement and in Exhibit A hereto, the
11 Purchaser appears to be a Qualified Buyer. Thus, the CPO believes that this Sale satisfies section
12 5 of the FTC Act.

13 1. **Losses or Gains of Privacy.**

14 Since the PII is being transferred to a Qualified Buyer who will maintain the PII in
15 compliance with federal and state law, there is no loss of privacy to consumers.

16 2. **Costs or Benefits to Consumers.**

17 The potential costs or benefits to consumers if the subject Sale is approved is that they will
18 be given the opportunity to continue to be able to lease medical equipment and purchase medical
19 supplies.

20 3. **Potential Alternatives.**

21 None were identified. As a Qualified Buyer, the Purchaser's agreement to maintain the PII
22 in compliance with federal and state law should satisfy the concerns of the Court.

23

24 No personally identifiable information was disclosed by the CPO as part of this Report.

25

26 ¹⁷ Id.

27 ¹⁸ See Stipulation and [Proposed] Order Establishing Conditions on Sale of Customer Information,
28 Civil Action No. 00-13995 (Bkr. D. Mass. 2000); Stipulated Consent Agreement and Final Order,
Civil Action No. 0011341 (D. Mass. 2000).

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Dated this 25th day of August, 2017, at Pasadena, California.

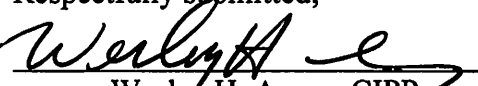
Respectfully submitted,

Wesley H. Avery, CIPP

Exhibit A

1 Roger W. Bailey
2 Joshua J. Busey
3 BAILEY & BUSEY PLLC
4 411 N. 2nd Street
5 Yakima, Washington 98901

6 Phone: 509.248.4282
7 Facsimile: 509.575.5661
8 E-Mail: roger.bailey.attorney@gmail.com
9 joshua.busey.attorney@gmail.com

10 *Attorneys for Debtors*

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13 **UNITED STATES BANKRUPTCY COURT**
14 **EASTERN DISTRICT OF WASHINGTON**
15

16
17 IN RE:

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19 KEELER'S MEDICAL SUPPLY,
20 INC.

21 Debtor.
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Case No. 17-01849-FLK11

**SUPPLEMENTAL
DECLARATION OF CHARLEES
VETSCH IN SUPPORT OF
DEBTOR'S MOTION TO SELL
BUSINESS ASSETS FREE AND
CLEAR OF LIENS,
ENCUMBRANCES, RIGHTS OR
INTERESTS**



411 North 2nd St.
Yakima, Washington, 98901
(509) 248-4282

VETSCH DECLARATION

-1-

1 I, Charles Vetsch do hereby declare under penalty of perjury of the laws
2 of the State of Washington that the following is true and correct:
3

4 1. I am the President of Keeler's Medical Supply, Inc. ("Keeler's"),
5 the Debtor in the above captioned bankruptcy case. I am over the age of
6 eighteen (18) and, except as noted herein, make this Declaration based upon
7 facts of which I have first-hand knowledge.
8

9
10
11 2. Keeler's has filed a motion to sell certain business assets free and
12 clear of liens, encumbrances, rights or interests ("Motion").
13

14
15 3. In connection the Court has appointed a consumer privacy
16 ombudsman to ensure that the transfer of private patient information and
17 records is done in accordance with applicable law.
18

19
20 4. In 2009, Keeler's adopted a consumer privacy policy as well as
21 other related policies in order to comply with both federal and state laws
22 regarding privacy. This policy has been in full force and effect since 2009 and
23 remained in effect on the date Keeler's filed for bankruptcy protection.
24

25
26 5. The privacy policy is actually a collection of related policies, all
27 of which are designed to ensure that Keeler's and other parties who Keeler's
28 deal with are protecting patient privacy. These policies are too voluminous to
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BAILEY B B BUSEY

411 North 2nd St.
Yakima, Washington, 98901
(509) 248-4282

1 attach in full to this Declaration. However, attached hereto as Exhibit 1 is a
2
3 copy of the initial packet that Keeler's provides to its customers when they
4
5 contract with Keeler's to provide services. This packet contains notice of
6
7 Keeler's privacy policy. Patients have the right to obtain the entire collection
8
9 of Keeler's policies upon request.

10 6. Keeler's policy is not to provide client records or information to
11
12 third parties unless: (a) the client has authorized the release (see release form
13
14 attached to Exhibit 1; or (b) the information is released in connection with
15
16 providing services to the client or in receiving payment for the services
17
18 provided to the client.

19 7. The asset purchase agreement which Keeler's seeks approval for
20
21 in the Motion contemplates that Keeler's will transfer patient records to
22
23 Howard's Medical, LLC for any patients who have active accounts (i.e.
24
25 patients who are currently leasing or purchasing equipment from Keeler's or
26
27 who receive services from Keeler's).

28 8. I am familiar with the business of Howard's Medical, LLC, as it
29
30 has been in operation for some time in the Yakima Valley. The business of
31
32
33
34

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Yakima, Washington, 98901
(509) 248-4282

1 Howard's is very similar to that provided by Keeler's. Howard's is in the
2
3 business of selling/leasing medical equipment and supplies to its customers.

4 9. I have had discussions with representatives of Howard's as to the
5
6 logistics of transferring Keeler's customer records to Howard's. As a result of
7
8 those discussions, Keeler's and Howard's have agreed to execute an
9
10 amendment to the asset purchase agreement ("APA") which provides as
11
12 follows:

13 Patient Files and Medical Records. In consideration of
14 Purchaser's agreement to maintain the Patient Files and Medical
15 Records as defined below and in accordance with applicable
16 law, Seller and Purchaser agree that Seller will transfer to
17 Purchaser on the Closing Date possession of any patient files
18 and medical records in Seller's possession for patients receiving
19 services through Seller before the Closing Date. The Patient
20 Files and Medical Records will be transferred to Purchaser in
21 the form as exists as of the Closing Date and the transfer shall
22 be accomplished in accordance with and subject to the Health
23 Insurance Portability and Accountability Act of 1996 and
24 implementing regulations, as amended ("HIPAA"), and the
25 Washington Uniform Healthcare Information Act, RCW Ch.
26 70.02. Seller shall have reasonable access to any Patient Files
27 and Medical Records for purposes of billing, collection and
28 payment activities; response to an audit or other investigation;
29 defense of a lawsuit; or other health care operations. Purchaser
30 shall use, hold, and maintain such Patient Files and Medical
31 Records in accordance with HIPAA and the Washington
32 Uniform Healthcare Information Act, and should Seller require
33 duplicate sets for the purposes described above, Seller shall
34 reimburse Purchaser for any costs or expenses incurred by



411 North 2nd St.
Yakima, Washington, 98901
(509) 248-4282

EXHIBIT 1



2001 W Lincoln Ave
Yakima, WA 98902
(509) 452-6541 or (1-800) 824-9550

Accredited by The Joint Commission
RESNA ATP Certified

CUSTOMER DEMOGRAPHICS VERIFICATION FORM

DATE: _____ TAB COMPUTER ID# _____

NAME: _____

ADDRESS: _____

P.O. BOX: _____

CITY: _____ STATE: _____ ZIP: _____

BIRTHDATE: _____ HEIGHT: _____ WEIGHT: _____

PHONE# _____ WORK# _____ MESSAGE# _____

DOCTOR: _____ DIAGNOSIS: _____

RESPONSIBLE PARTY: _____

ADDRESS: _____ PHONE: _____

EMERGENCY CONTACT: _____ PHONE: _____

PRIMARY INSURANCE: _____ EMPLOYER: _____

ARE YOU BEING SEEN BY HOME HEALTH: YAKIMA REGIONAL, MEMORIAL, KLICKITAT OR
LOWER VALLEY HOME HEALTH AND HOSPICE. (YES) (NO)

RECEIVED BILL OF RIGHTS AND CMS STANDARDS: _____

Revised 5-12-2010 HR



2001 W Lincoln Ave
Yakima, WA 98902
(509) 452-6541 or (1-800) 824-9550

Accredited by The Joint Commission
RESNA ATP Certified

Release of Information

Name _____ Date of Birth _____

In accordance with Federal Regulations, I, _____,
give permission for Keelers Medical Supply, Inc. to release information about me to the
following people:

Name	Relationship	Phone Number

I understand that if anyone that calls on my file other than myself, or my power of attorney; and they are not on this release they will not be given any information. I also understand that by signing this release they then have access to my file and they are able to receive information about my diagnosis, billing, and equipment.

I understand that if for any reason I wish to revoke authorization to anyone on this list to access my information I can do so in writing. I also understand that Keelers Medical Supply, Inc. will be releasing my information to my funding sources and contact my healthcare providers to discuss me and my information.

Creditor or its agents have permission to contact me by cellular telephone for billing or payment activities.

Keelers Medical Supply, Inc. Representative _____

Signature _____ Date _____

Relation To Customer _____

(If not signed by above mentioned party this must include proof of authority to sign for them.)

Revised 5-12-2010 HR



2001 W Lincoln Ave
Yakima, WA 98902
(509) 452-6541 or (1-800) 824-9550

Accredited by The Joint Commission
RESNA ATP Certified

NOTICE OF PRIVACY PRACTICES

We are committed to protecting the confidentiality of your medical information, and are required by law to do so.

I acknowledge receipt of Keeler's Medical Supply's notice of privacy practices. I understand that Keeler's and Keeler's staff will use and disclose my personal health information to provide treatment, to receive treatment, to receive payment for the care provided and for other health care operations.

Patient or person authorized to sign
For patient (Relationship)

Witness Date / Time

State reason patient was unable to sign

Witness Date / Time

Patients printed name

REVISED 5-12-10 HR



2001 W Lincoln Ave
Yakima, WA 98902
(509) 452-6541 or (1-800) 824-9550
After Hours (509) 457-2300

Accredited by The Joint Commission
RESNA ATP Certified

Equipment Questionnaire

Name _____ Date _____

Medicare Number _____

Have you received the same or similar equipment before this date?

(Within the last 10 years) YES NO

IF NO. PLEASE GO TO SIGNATURE LINE BELOW

IF YES PLEASE ANSWER QUESTIONS BELOW:

What was the equipment? _____

Who was the supplier? _____

Was the equipment rented and returned? YES NO

What was your diagnosis at the time? _____

If purchased why a replacement item is needed? _____

What insurance was billed for the equipment either rented or purchased prior to this?

The above information is accurate as far as I can remember. I understand that if Medicare has a record of earlier equipment which I do not remember having I will assist Keeler's Medical Supply in obtaining any necessary information regarding that equipment so a request for payment may be submitted.

Signature _____ Date _____

MEDICARE-TWR 1-877-320-0390

Revised 2-22-2011 HR



2001 W. Lincoln Ave.
Yakima, WA 98902
(509) 452-6541 (1-800) 824-9550

Accredited by The Joint Commission
RESNA ATP Certified

PATIENT NAME _____

DATE _____

WELCOME TO KEELER'S MEDICAL SUPPLY, INC. WE APPRECIATE YOU CHOOSING US TO SUPPLY YOUR DURABLE MEDICAL EQUIPMENT.

As a new client, we want you to know about the services we provide. The following information is designed to help answer your questions that you may have about Keeler's Medical Supply, Inc.

HOURS OF OPERATION: Monday through Friday 8:30 to 5:30, Saturday 9:00 to 12:00; closed on Sunday.

GEOGRAPHICAL AREA SERVED: Central, South Central Washington. Any client requesting service outside our normal geographic area will be addressed on an individual basis.

EMERGENCY ON-CALL: We have staff available at all times to our clients for emergency requests. For any non emergent deliveries after hours there will be a \$35.00 charge to the client. To reach our after hours staff, please call 457-2300. If you have not received a response within 20 minutes, please call again.

ACCREDITATION: Keeler's Medical Supply, Inc. has been accredited by THE JOINT COMMISSION since 1995. For information regarding the accreditation or to contact them regarding our business please visit their website at WWW.JCAHO.ORG.

OWNERSHIP: Keeler's Medical Supply, Inc. is a privately owned for profit corporation. It has no affiliation with any hospital or physician.

EQUIPMENT AVAILABLE: Keeler's Medical Supply, Inc. has over 7000 items of durable medical equipment in our inventory.

Listed below are a few of the frequently ordered items:

- | | | |
|--------------------------------|------------------------|-----------------------|
| Hospital Beds | Patient room equipment | Bathroom equipment |
| Wheelchairs | Power chairs | Scoters |
| Wheelchair seating accessories | Respiratory equipment | Incontinence Supplies |

REVISED 5-12-10 HR.

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2001 W. Lincoln Ave.
Yakima, WA 98902
(509) 452-6541 (1-800) 824-9550

Accredited by The Joint Commission
RESNA ATP Certified

CUSTOMER RESPONSIBILITIES

- Customer agrees that rental equipment will be used with reasonable care, not altered or modified and returned in good condition when the need for such equipment no longer exists.
- Customer agrees to promptly report any malfunctions or defects in the equipment to Keeler's Medical Supply, Inc.
- Customer agrees to use the equipment for the purposes so indicated and in compliance with the physician's prescription.
- Customer agrees to keep the equipment in his/her possession and shall keep the equipment at the address to which it was delivered unless otherwise authorized by Keeler's Medical Supply, Inc.
- Customer agrees to permit authorized company representatives access to all company owned equipment for the purposes of performing service, repair, replacement or retrieval.
- Customer agrees to notify Keeler's Medical Supply, Inc. of any change in customer insurance, address, physician, etc.

CUSTOMER BILL OF RIGHTS

Keeler's Medical Supply, Inc. believes that each customer/patient has the right to:

- Be treated with dignity, courtesy and respect.
- Receive reasonable coordination and continuity of services from referring agencies for home medical equipment services.
- Receive a timely response from the company when home medical equipment is needed or requested.
- Be fully informed of Keeler's Medical Supply, Inc. policies, procedures and charges for services and equipment, including eligibility for third party reimbursement and receive an explanation of all forms that are requested to be signed.
- Receive home medical equipment and services regardless of race, religion, political belief, sex, social status, age or handicap.
- Receive proper identification of name and title from personnel providing services.
- Participate in decisions concerning home medical equipment needs.
- Have all records (except as otherwise provided for by law or third party payer contracts) and all communications, written or oral, between customers and health care providers treated confidentially.
- Access all health records pertaining to the customer and the right to challenge and have the records corrected for accuracy.
- Express dissatisfaction and suggest changes in any service without coercion, discrimination, reprisal or unreasonable interruption in service.
- You have the right to request the Keeler's Medical Supply customer complaint policy which is the mechanism for reviewing and resolving all complaints or concerns.
- Be assured that all rights shall be honored by Keeler's Medical Supply, Inc. staff.
- Be informed of all responsibilities regarding home medical equipment usage and services.
- Refuse all care/services for whatever reason at any time to the extent permitted by law.

Keeler's Medical Supply, Inc. _____ Date

Customer _____ Date

MEDICARE DMEPOS SUPPLIER STANDARDS

Note: This is an abbreviated version of the supplier standards every Medicare DMEPOS supplier must meet in order to obtain and retain their billing privileges. These standards, in their entirety, are listed in 42 C.F.R. 424.57(e).

1. A supplier must be in compliance with all applicable Federal and State licensure and regulatory requirements and cannot contract with an individual or entity to provide licensed services.
2. A supplier must provide complete and accurate information on the DMEPOS supplier application. Any changes to this information must be reported to the National Supplier Clearinghouse within 30 days.
3. An authorized individual (one whose signature is binding) must sign the application for billing privileges.
4. A supplier must fill orders from its own inventory, or must contract with other companies for the purchase of items necessary to fill the order. A supplier may not contract with any entity that is currently excluded from the Medicare program, any State health care programs, or from any other Federal procurement or non-procurement program.
5. A supplier must advise beneficiaries that they may rent or purchase inexpensive or routinely purchased durable medical equipment, and of the purchase option for capped rental equipment.
6. A supplier must notify beneficiaries of warranty coverage and honor all warranties under applicable State law, and repair or replace free of charge Medicare covered items that are under warranty.
7. A supplier must maintain a physical facility on an appropriate site. This standard requires that the location is accessible to the public and staffed during posted hours of business. The location must be at least 200 square feet and contain space for storing records.
8. A supplier must permit CMS, or its agents to conduct on-site inspections to ascertain the supplier's compliance with these standards. The supplier location must be accessible to beneficiaries during reasonable business hours, and must maintain a visible sign and posted hours of operation.
9. A supplier must maintain a primary business telephone listed under the name of the business in a local directory or a toll free number available through directory assistance. The exclusive use of a beeper, answering machine, answering service or cell phone during posted business hours is prohibited.
10. A supplier must have comprehensive liability insurance in the amount of at least \$300,000 that covers both the supplier's place of business and all customers and employees of the supplier. If the supplier manufactures its own items, this insurance must also cover product liability and completed operations.
11. A supplier must agree not to initiate telephone contact with beneficiaries, with a few exceptions allowed. This standard prohibits suppliers from contacting a Medicare beneficiary based on a physician's oral order unless an exception applies.
12. A supplier is responsible for delivery and must instruct beneficiaries on use of Medicare covered items, and maintain proof of delivery.
13. A supplier must answer questions and respond to complaints of beneficiaries, and maintain documentation of such contacts.
14. A supplier must maintain and replace at no charge or repair directly, or through a service contract with another company, Medicare-covered items it has rented to beneficiaries.
15. A supplier must accept returns of substandard (less than full quality for the particular item) or unsuitable items (inappropriate for the beneficiary at the time it was fitted and rented or sold) from beneficiaries.
16. A supplier must disclose these supplier standards to each beneficiary to whom it supplies a Medicare-covered item.
17. A supplier must disclose to the government any person having ownership, financial, or control interest in the supplier.
18. A supplier must not convey or reassign a supplier number, i.e., the supplier may not sell or allow another entity to use its Medicare billing number.
19. A supplier must have a complaint resolution protocol established to address beneficiary complaints that relate to these standards. A record of these complaints must be maintained at the physical facility.
20. Complaint records must include the name, address, telephone number and health insurance claim number of the beneficiary, a summary of the complaint, and any actions taken to resolve it.
21. A supplier must agree to furnish CMS any information required by the Medicare statute and implementing regulations.
22. All suppliers must be accredited by a CMS-approved accreditation organization in order to receive and retain a supplier billing number. The accreditation must indicate the specific products and services, for which the supplier is accredited in order for the supplier to receive payment of those specific products and services (except for certain exempt pharmaceuticals). *Implementation Date - October 1, 2009*
23. All suppliers must notify their accreditation organization when a new DMEPOS location is opened.
24. All supplier locations, whether owned or subcontracted, must meet the DMEPOS quality standards and be separately accredited in order to bill Medicare.
25. All suppliers must disclose upon enrollment all products and services, including the addition of new product lines for which they are seeking accreditation.
26. Must meet the surety bond requirements specified in 42 C.F.R. 424.57(c). *Implementation date- May 4, 2009*
27. A supplier must obtain oxygen from a state-licensed oxygen supplier.
28. A supplier must maintain ordering and referring documentation consistent with provisions found in 42 C.F.R. 424.516(5).
29. DMEPOS suppliers are prohibited from sharing a practice location with certain other Medicare providers and suppliers.
30. DMEPOS suppliers must remain open to the public for a minimum of 30 hours per week with certain exceptions.



KEELERS MEDICAL INC

2001 W LINCOLN AVE
YAKIMA WA 98902

Phone: 509-452-6541
Fax: 509-457-6703
Email: cvetsch@keelersmedical.com
Website: <http://KEELERSMEDICAL.COM>



To whom it may concern

Keelers Medical Supply Inc has adopted our privacy policy since 2009 and has made Hipaa complaiance updates to be in current complaiance with Hipaa and all state and fedrael laws and is in effect and active the Privacy policy can be obtained in our office If any other information is needed please contact me

Chuck Vetsch

CEO
Keelers Medical Supply

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EXHIBIT 2

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MEDICAL RECORD TRANSFER AGREEMENT

This Medical Record Transfer Agreement (“Agreement”) is entered on the ___ day of _____, 2017, by and between _____, a Washington professional limited liability company (“Transferor”), and _____, a Washington non-profit corporation, or its assigns (“Transferee”).

Transferor wishes to arrange for transfer, safekeeping and access to medical records of certain of Transferor’s patients on the terms and conditions of this Agreement.

In consideration of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. TRANSFER OF RECORDS

1.1 Transfer. Effective as of the Closing Date of that certain Asset Purchase and Sale Agreement between the parties, Transferor will transfer the medical records described on Exhibit A (the “Records”) to Transferee. Transferee accepts such transfer and will maintain the Records in good condition and in accordance with applicable law and current standards of practice.

1.2 Access. Following transfer of the Records, Transferee will provide Transferor with timely access to the Records for litigation, billing or other legitimate purposes that relate to services prior to the Closing Date. Transferee will comply with patient requests for transfer of Records to providers other than Transferee, including Transferor, in accordance with applicable legal requirements and subject to any fees or charges that are permissible under such requirements.

2. TERM

This Agreement shall commence on the Closing Date and shall continue in effect for a term as necessary to ensure that the Records are kept and maintained for the minimum periods required either by law or insurance carriers with respect to all such Records. At a minimum, the parties contemplate that Records will be maintained by Transferee for not less than 10 (ten) years from the date of last entry in the Records.

3. INDEMNIFICATION

3.1 Indemnification by Transferor. Transferor shall indemnify and hold harmless Transferee, its managers, directors, officers, agents and employees from and against any and all claims, demands, liabilities, losses, damages, costs and expenses (including reasonable attorneys’ fees), resulting in any manner, directly or indirectly, from Transferor’s breach of this Agreement or from the acts or omissions of Transferor relating to the storage, safe keeping, disclosure or maintenance of the Records prior to the Closing Date.

3.2 Indemnification by Transferee. Transferee shall indemnify and hold harmless Transferor, and its managers, directors, officers, agents and employees from and against any and all claims, demands, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees), resulting in any manner, directly or indirectly, from Transferee's breach of this Agreement or from the acts or omissions of Transferee relating to the storage, safe keeping, disclosure or maintenance of the Records after the Closing Date.

4. GENERAL PROVISIONS.

4.1 Relationship of Parties. The parties are at all times acting and performing as independent contractors. Nothing in this Agreement is intended to create an employer/employee, partnership or joint venture relationship between the parties.

4.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington, and if any provision hereof is held to be invalid or unenforceable, the remaining provisions shall nevertheless continue in full force and effect, unless the provisions held invalid or unenforceable shall substantially impair the benefits of the remaining portions of this Agreement. Any controversies or claims between the parties hereto arising out of or relating to this Agreement shall be settled in Yakima County, Washington.

4.3 Entire Agreement. This Agreement and all exhibits and other documents furnished pursuant to this Agreement and expressly made a part hereof shall constitute the entire agreement between the parties hereto relating to the subject matter hereof. Each party acknowledges that no representation, inducement, promise or agreement has been made, orally or otherwise by the other party, or anyone acting on behalf of the other party, unless such representation, inducement, promise or agreement is embodied in this Agreement, expressly or by incorporation.

4.4 Confidentiality. The parties acknowledge that the Records contain information protected by and subject to numerous laws, rules and regulations regarding privacy, security, confidentiality, consent, access and disclosure. As to the Records, Transferee agrees to comply with all privacy, security, confidentiality, consent, access and disclosure requirements, including all documentation and access requirements, of applicable federal and state laws, rules and regulations, specifically including those laws, rules and regulations applying to protected health information (collectively referred to as "laws"), including, without limitation, the Health Insurance Portability and Accountability Act and the implementing administrative simplification regulations to be codified at 45 CFR Subtitle A, Subchapter C, Part 160 *et seq* ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and RCW 70.02, the Washington Uniform Health Care Information Act.

4.5 No Third Party Rights. This Agreement is for the benefit of the parties hereto and does not and shall not be deemed to create rights for the benefit of any third party.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the latest date set forth below.

SELLER:

PURCHASER:

By: _____

**EXHIBIT A
RECORDS**

All medical records possessed by Transferor relating to the patients of Transferor as of the Closing Date.