

Exhibit 2

Blackline

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

In re:

VYAIRE MEDICAL, INC., *et al.*,¹
Debtors.

)
) Chapter 11
)

)
) Case No. 24-11217 (BLS)
)

) [\(Jointly Administered\)](#)
)

) ~~(Jointly Administered)~~
)

) Re: Docket No. ~~—~~[238](#)
)

**ORDER AUTHORIZING THE RETENTION AND
EMPLOYMENT OF BDO USA P.C. AS TAX ACCOUNTANT FOR THE
DEBTORS AND DEBTORS IN POSSESSION EFFECTIVE AS OF THE
PETITION DATE, ~~AND MODIFYING CERTAIN TIMEKEEPING REQUIREMENTS~~**

Upon the application (the “Application”)² of the Debtors for entry of an order (this “Order”) pursuant to sections 327(a), 328(a) and 330 of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, authorizing the Debtors to employ and retain BDO USA, P.C. (“BDO”) as tax accountant, on the terms set forth in the Services Agreement annexed to the Application; and upon the Wilkes Declaration annexed to the Application; all as more fully set forth in the Application; and the United States District Court for the District of Delaware having jurisdiction to consider this Application under 28 U.S.C. § 1334, which was referred to this Court under 28 U.S.C. § 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated

¹ The last four digits of Debtor Vyaire Medical, Inc.’s federal tax identification number are 6495. A complete list of each of the Debtors in these chapter 11 cases and each such Debtor’s federal tax identification number may be obtained on the website of the Debtors’ claims and noticing agent at <https://omniagentsolutions.com/Vyaire>. The location of Debtor Vyaire Medical, Inc.’s principal place of business and the Debtors’ service address in these chapter 11 cases is 26125 North Riverwoods Boulevard, Mettawa, Illinois, USA 60045.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

February 29, 2012; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Application is in the best interests of the Debtors, their creditors, and other parties in interest; and this Court having found that the Debtors notice of the Application and opportunity for a hearing on the Application were appropriate and that no other notice need be provided; and this Court having reviewed the Application; and this Court having determined that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is APPROVED as set forth herein.

2. The Debtors are hereby authorized to retain BDO as tax accountant to the Debtors, effective as of June 9, 2024, on the terms set forth in the Services Agreement, as modified by this Order; *provided that*, notwithstanding anything in the Services Agreement to the contrary, BDO shall only seek reimbursement of reasonable expenses that BDO actually incurs.

3. BDO shall file fee applications and be compensated in accordance with sections 330 and 331 of the Bankruptcy Code, applicable Bankruptcy Rules, the Local Rules, this Order, and any other applicable orders of this Court; *provided, however, that the requirements of the Bankruptcy Code, the Bankruptcy Rules, and Local Rules are hereby modified such that BDO shall not be required to keep contemporaneous time records of the services performed in one-tenth (0.1) hour increments and by project category, but instead BDO shall provide, as an*

~~exhibit to each fee application that BDO files in these Chapter 11 Cases: (a) a narrative describing in summary detail the services rendered; and (b) time records maintained contemporaneously in one-half (0.5)~~ for the avoidance of doubt, and notwithstanding anything in the Application, the Services Agreement, or any ancillary document thereto to the contrary, BDO's fee applications in these cases shall contained detailed time records in 0.1-hour increments.

4. The indemnification provisions included in the Services Agreement and approved, subject to the following:

- a. No individual entity ("Indemnified Agent") in the BDO Group (as that term is defined in the Services Agreement) shall be entitled to indemnification, contribution, or reimbursement pursuant to the Services Agreement for services, unless such services and the indemnification, contribution, or reimbursement are approved by the Court.
- b. The Debtors shall have no obligation to indemnify any Indemnified Agent, or provide contribution or reimbursement to any Indemnified Agent, for any claim or expense to the extent it is either: (i) judicially determined (the determination having become final and no longer subject to appeal) to have arisen from any Indemnified Agent's gross negligence, willful misconduct or bad faith; (ii) for a contractual dispute in which the Debtors allege breach of BDO's contractual obligations, unless this Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to applicable law; or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing pursuant to

subparagraph (c) hereof to be a claim or expense for which the Indemnified Agent should not receive indemnity, contribution, or reimbursement under the terms of the Services Agreement, as modified by this Order.

- c. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in the Chapter 11 Cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing the Chapter 11 Cases, an Indemnified Agent believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Services Agreement (as modified by this Order), including without limitation, the advancement of defense costs, the Indemnified Agent must file an application therefore in this Court, and the Debtors may not pay any such amounts to the Indemnified Agent before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which this Court shall have jurisdiction over any request for fees and expenses by any Indemnified Agent for indemnification, contribution, and/or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify, or make contributions or reimbursements to, the Indemnified Agents. All parties in interest shall retain the right to object to any demand by any Indemnified Agent for indemnification, contribution, and/or reimbursement.

5. The limitation of liability set forth in paragraph 3 of the Terms and Conditions Letter shall not be applicable with respect to any claim the Debtors have against BDO with

respect to Services performed and provided pursuant to this Order for the Debtors from the Petition Date through the effective date of the Debtors' chapter 11 plan.

6. Any request for compensation under the terms of the Services Agreement shall be subject to the standard of review set forth in section 330 of the Bankruptcy Code by all interested parties.

7. Prior to any increases in BDO's rates, BDO shall provide notice of such increase to the Debtors and the U.S. Trustee. A supplemental affidavit shall explain the basis for the requested rate increases in accordance with section 330(a)(3)(F) of the Bankruptcy Code and state whether the Debtors have consented to the rate increase. The U.S. Trustee retains all rights to object to any rate increase on all grounds including, but not limited to, the reasonableness standard provided for in section 330 of the Bankruptcy Code, and all rates and rate increases are subject to review by the Court.

8. To the extent informed by the Debtors, BDO shall use its best efforts to avoid any duplication of services provided by any of the Debtors' other retained professionals in the Chapter 11 Cases.

9. Notwithstanding any contained in the Application, the Services Agreement, or any documents ancillary thereto, absent a change in controlling law, BDO shall not be compensated or reimbursed for, or in connection with, the defense of its fee applications.

10. Notwithstanding any provision in the Services Agreement, including paragraph 20, BDO shall have whatever obligations applicable law would impose upon it.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

12. To the extent there is inconsistency between the terms of the Services Agreement, the Application, and this Order, the terms of this Order shall govern.

13. Notice of the Application satisfies the requirements of Bankruptcy Rule 6004(a).

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

15. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order. Notwithstanding anything in the Services Agreement to the contrary, this Court shall retain exclusive jurisdiction.

~~15.~~