

SECURITIES & EXCHANGE COMMISSION EDGAR FILING

Apollo Medical Holdings, Inc.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): August 26, 2019

APOLLO MEDICAL HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-37392
(Commission File
Number)

95-4472349
(I.R.S. Employer
Identification Number)

1668 S. Garfield Avenue, 2nd Floor, Alhambra, CA 91801
(Address of principal executive offices) (zip code)

(626) 282-0288
(Registrant's telephone number, including area code)

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock	AMEH	Nasdaq Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2). Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

EXPLANATORY NOTE

On May 13, 2019, Apollo Medical Holdings, Inc., a Delaware corporation (the "Company") filed a Current Report on Form 8-K regarding events triggering disclosure under Items 1.01, 2.03, 3.02 and 3.03 of Form 8-K (the "May 13, 2019 Current Report"). On August 26, 2019, certain of the agreements discussed in the May 13, 2019 Current Report were amended, thereby triggering the requirement to file a new Current Report on Form 8-K. The Form 8-K disclosure below updates information in the May 13, 2019 Current Report as it relates to amendments to the agreements and related changes triggering disclosure under Items 1.01, 2.03, 3.02 and 3.03 of Form 8-K. In addition, this Current Report on Form 8-K provides disclosure regarding the special stockholder meetings in which matters related to the transactions contemplated by the agreements first disclosed in the May 13, 2019 Current Report were considered and approved.

Item 1.01 Entry into a Material Definitive Agreement.

The information contained in Item 8.01 of this Report on Form 8-K is incorporated by reference into this Item 1.01.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant.

The information contained in Item 8.01 of this Report on Form 8-K is incorporated by reference into this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities.

The information contained in Item 8.01 of this Report on Form 8-K is incorporated by reference into this Item 3.02.

Item 3.03 Material Modifications to Rights of Security Holders.

The information contained in Item 8.01 of this Report on Form 8-K is incorporated by reference into this Item 3.03.

Item 5.07 Submission of Matters to a Vote of Security Holders.

As set forth in the definitive proxy statement of its board of directors (the "Board") filed with the Securities and Exchange Commission (the "SEC") on July 31, 2019 (the "Proxy Statement"), on August 27, 2019, the Company held a special meeting of stockholders at its offices located at 1668 S. Garfield Avenue, 3rd Floor, Alhambra, California 91801 (the "Special Meeting") for its stockholders to vote on three proposals:

- Proposal No. 1:** To consider and vote upon a proposal to approve the Company making a loan of \$545,000,000 to AP-AMH Medical Corporation, a Professional Medical Corporation ("AP-AMH"), pursuant to that certain Loan Agreement dated May 10, 2019, the proceeds of which AP-AMH will use to purchase 1,000,000 shares of Series A Preferred Stock of APC. This proposal is referred to as the "AP-AMH Loan Proposal."
- Proposal No. 2:** To consider and vote upon a proposal to approve the issuance of 15,015,015 shares of the Company's common stock to Allied Physicians of California, a California Professional Medical Corporation ("APC"), pursuant to that certain Stock Purchase Agreement dated May 10, 2019, for the purposes of complying with Nasdaq Marketplace Rule 5635(b) pertaining to a change in control. This proposal is referred to as the "APC Stock Issuance Proposal."
- Proposal No. 3:** To consider and vote upon a proposal to adjourn the Special Meeting to a later date or dates, if necessary, to permit the solicitation of additional proxies if, based upon the tabulated vote at the time of the Special Meeting, there are not sufficient votes to approve the APC Stock Issuance Proposal and the AP-AMH Loan Proposal. This proposal is referred to as the "Adjournment Proposal."

The foregoing proposals were the only proposals to be acted upon at the Special Meeting. For additional information regarding such proposals, see the Proxy Statement.

At the close of business on July 18, 2019, the record date for the Special Meeting (the "Record Date"), there were 35,899,684 shares of common stock, par value \$0.001 per share, of the Company, issued and outstanding, each share being entitled to one vote and to be voted together as one class vote at the Special Meeting (collectively, the "Voting Shares"). At the Special Meeting, the holders of 28,599,709 Voting Shares, representing 79.55% of the outstanding Voting Shares, were present in person or represented by proxy, constituting a quorum for the Special Meeting.

The number of votes cast for and against, as well as abstentions and broker non-votes, with respect to each of Proposal No. 1, Proposal No. 2 and Proposal No. 3 are set forth below:

Proposal No. 1 - The AP-AMH Loan Proposal:

For	Against	Abstain	Non-Votes
28,343,003	204,951	11,755	0

Proposal No. 2 - The APC Stock Issuance Proposal:

For	Against	Abstain	Non-Votes
28,346,631	201,324	11,754	0

Proposal No. 3 - The Adjournment Proposal:

For	Against	Abstain	Non-Votes
28,195,755	353,929	10,005	0

Based on these voting results:

- The AP-AMH Loan Proposal was adopted and approved;
- The APC Stock Issuance Proposal was adopted and approved; and
- The Adjournment Proposal was adopted and approved. Because the AP-AMH Loan Proposal and the APC Stock Issuance Proposal were adopted and approved, the Company did not act upon the Adjournment Proposal.

Proposal No. 1 and Proposal No. 2 were each approved by more than 99% of the votes cast, and Proposal No. 3 was approved by more than 98% of the votes cast.

Item 8.01 Other Events.

Amendments to APC Transaction Agreements

As described in the Proxy Statement and the Report on Form 8-K filed by the Company with the SEC on May 13, 2019 (the "May 13, 2019 Form 8-K"), the Company entered into a series of agreements on May 10, 2019 (collectively, the "Transaction Agreements," and the transactions contemplated by such Transaction Agreements, the "Transactions") with AP-AMH and APC (the Company, AP-AMH and APC collectively, the "Parties"). The May 13, 2019 Form 8-K describes the material relationships among the Parties.

The Proxy Statement describes, under the heading "Amendments to APC Transaction Agreements" on page 60, certain amendments that the Parties anticipated making prior to the closing of the Transactions (the "Closing") (the "Proposed Amendments").

On August 26, 2019, the Company entered into certain amendments to the Transaction Agreements, implementing the Proposed Amendments, including the following:

(1) Stock Purchase Agreement. The First Amendment to the Stock Purchase Agreement dated August 26, 2019 by and between APC and the Company (the "Stock Purchase Amendment," which is attached as Exhibit 10.1) amends that certain Stock Purchase Agreement dated May 10, 2019 by and between APC and the Company (the "Stock Purchase Agreement"). Among other things, the Stock Purchase Amendment provides that, rather than an outright prohibition from voting at the Special Meeting, APC and its officers and directors who are also officers or directors of the Company (*i.e.*, the holders of Related Party Votes, as defined in the Stock Purchase Agreement), will instruct the Company proxy holders to vote their shares of the Company common stock in the same proportions as all other votes cast on each proposal at the Special Meeting. The Stock Purchase Amendment further provides that the Company's officers or directors who are also officers or directors of APC will instruct the APC proxy holders to vote their shares of APC common stock in the same proportions as all other votes cast on each proposal that will be brought before the APC special meeting of shareholders that will be called to approve some aspects of the Transactions. Finally, the Stock Purchase Amendment revises the form of the Voting and Registration Rights Agreement, which is attached as an exhibit to the Stock Purchase Agreement, to provide that APC votes in excess of 9.99% will be voted by proxy given to the Company's management, and that those proxy holders will cast the excess votes in the same proportion as all other votes cast on any specific proposal coming before the Company's stockholders.

(2) Preferred Stock Purchase Agreement. The First Amendment to the Series A Preferred Stock Purchase Agreement dated August 26, 2019 by and between APC and AP-AMH (the "Preferred Stock Purchase Amendment," which is attached as Exhibit 10.2) amends that certain Series A Preferred Stock Purchase Agreement dated May 10, 2019 by and between APC and AP-AMH (the "Preferred Stock Purchase Agreement"). Among other things, the Preferred Stock Purchase Amendment provides that APC agrees to retain a sufficient amount of the assets it receives in the Transactions to enable it to fund losses or deficits in that proportion of its business that is not considered its Healthcare Services Business (as defined in the Preferred Stock Purchase Agreement), such that it is not prohibited from paying dividends on the Series A stock it receives through the Preferred Stock Purchase Agreement, as described in the same, pursuant to California Corporations Code sections 500 et seq. on the basis of insolvency. Further, the Preferred Stock Purchase Amendment attaches an updated form of the Certificate of Determination (the "Updated Certificate of Determination") to clarify, in order to avoid any uncertainty or doubt, that the assets received by APC in the Transactions are encompassed under "Excluded Assets" as it is defined in such document, and that any proceeds of Excluded Assets are also deemed Excluded Assets.

In addition, in each instance where the Transaction Agreements indicated that a condition precedent needed to be satisfied by July 9, 2019, the respective agreement was updated to condition Closing upon the satisfaction or waiver of such conditions, along with all other conditions that must be satisfied or waived at the time of Closing. Consequently, there were conforming amendments to certain Transaction Agreements, which amendments include the First Amendment to the Loan Agreement dated August 26, 2019 by and between the Company and AP-AMH, attached as Exhibit 10.3, amending the Loan Agreement dated May 10, 2019 by and between the Company and AP-AMH.

APC Stockholders Meeting

A special meeting of the stockholders of APC was held on August 28, 2019 (the "APC Special Meeting") to consider and vote upon portions of the APC Transactions pertaining directly to APC. Specifically, the APC stockholders were asked to approve two proposals: (i) the issuance of 1,000,000 shares of Series A Preferred Stock to AP-AMH at a price of \$545 per share for total consideration of \$545,000,000 pursuant to the Preferred Stock Purchase Agreement (the "AP-AMH Stock Issuance Proposal"); and (ii) the purchase of 15,015,015 shares of the Company's common stock at a purchase price of \$19.98 per share for total consideration of \$300,000,000 pursuant to the Stock Purchase Agreement (the "ApolloMed Stock Purchase Proposal"). At the APC Special Meeting, the holders of a majority of the outstanding voting shares were present in person or by proxy, and upon declaration that a quorum was present, the stockholders affirmatively voted to adopt and approve the AP-AMH Stock Issuance Proposal and the ApolloMed Stock Purchase Proposal.

As a result of the approvals received at the Company's Special Meeting on August 27, 2019 and the APC Special Meeting on August 28, 2019, all of the stockholder approvals required to close the APC Transactions have been secured. The Company and the other parties to the APC Transactions currently expect to concurrently close the APC Transactions in September 2019, upon satisfaction or waiver of various conditions, including, without limitation, the closing of the pending senior secured credit facilities sufficient to enable the Company to draw down a minimum of \$245,000,000 in partial satisfaction of its obligation to loan AP-AMH an aggregate of \$545,000,000 (Proposal No. 1 approved at the Company's Special Meeting). Further disclosures pertaining to the closing of the APC Transactions and the senior secured credit facility will be made in one or more Current Reports on Form 8-K that will be filed by the Company upon completion of these anticipated transactions.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit</u>	<u>Description</u>
<u>10.1</u>	<u>First Amendment to the Stock Purchase Agreement dated August 26, 2019 by and between Allied Physicians of California, a California Professional Medical Corporation and Apollo Medical Holdings, Inc.</u>
<u>10.2</u>	<u>First Amendment to the Series A Preferred Stock Purchase Agreement dated August 26, 2019 by and between Allied Physicians of California, a California Professional Medical Corporation and AP-AMH Medical Corporation, a Professional Medical Corporation</u>
<u>10.3</u>	<u>First Amendment to the Loan Agreement dated August 26, 2019 by and between Apollo Medical Holdings, Inc. and AP-AMH Medical Corporation, a Professional Medical Corporation</u>

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

APOLLO MEDICAL HOLDINGS, INC.

Dated: August 29, 2019

By: /s/ Thomas S. Lam, M.D.

Name: Thomas S. Lam, M.D.

Title: Chief Executive Officer

**FIRST AMENDMENT TO
STOCK PURCHASE AGREEMENT**

This FIRST AMENDMENT TO STOCK PURCHASE AGREEMENT (the "**Amendment**") is made and entered into as of August 26, 2019, by and between Allied Physicians of California, a Professional Medical Corporation, a California corporation ("**APC**"), and Apollo Medical Holdings, Inc., a Delaware corporation ("**Apollo**").

A. APC and Apollo have previously entered into that certain Stock Purchase Agreement dated as of May 10, 2019 (the "**Stock Purchase Agreement**").

B. APC and Apollo desire to amend the Stock Purchase Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto, each intending to be bound hereby, agree as follows:

1. **Definitions.** Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Stock Purchase Agreement.

2. **Section 1.4.** Section 1.4 of the Stock Purchase Agreement is hereby amended and restated in its entirety as follows:

1 . 4 Voting of Shares. Notwithstanding anything to the contrary in this Agreement or under applicable Law, (i) at any Apollo stockholder meeting called in connection with any or all of the transactions contemplated by or related to this Agreement, the Preferred Stock Purchase Agreement or the Loan Agreement (the "**Transactions**"), APC and any director or officer of APC who is an officer or director of Apollo shall appoint one or more individuals designated by Apollo as their respective proxies and authorize and instruct such proxy holders to vote any shares of Common Stock in the same proportion as all other votes cast on any specific proposal coming before Apollo's stockholders at such meeting, and (ii) at any APC shareholder meeting called in connection with any or all of the Transactions, any director or officer of Apollo who is an officer or director of APC shall appoint one or more individuals designated by APC as their respective proxies and authorize and instruct such proxy holders to vote any shares of APC common stock in the same proportion as all other votes cast on any specific proposal coming before APC's shareholders at such meeting.

3 . **Section 1.5.** Section 1.5 of the Stock Purchase Agreement is hereby amended by deleting in its entirety the definition of "Optional Termination Date."

4. **Section 4.7.** Section 4.7 of the Stock Purchase Agreement is hereby amended and restated in its entirety as follows:

4.7. Fairness Opinion. APC shall have received an opinion from its financial advisor satisfactory to APC in its sole discretion.

5. **Section 5.7.** Section 5.7 of the Stock Purchase Agreement is hereby amended and restated in its entirety as follows:

5.7. Fairness Opinion. Apollo shall have received an opinion from its financial advisor satisfactory to Apollo in its sole discretion.

6. **Section 5.11.** Section 5.11 of the Stock Purchase Agreement is hereby amended and restated in its entirety as follows:

5.11 Loan. Apollo shall have obtained a loan from a commercial financial institution in an amount sufficient to permit Apollo to provide financing to AP-AMH under that certain loan agreement, dated on or about the date of this Agreement, between Apollo and AP-AMH (the "**Loan Agreement**").

7. **Section 5.12.** Section 5.12 of the Stock Purchase Agreement is hereby amended and restated in its entirety as follows:

5.12 Tax Analysis. Apollo and its advisors shall have completed an analysis of the tax consequences of the Transactions the results of which are satisfactory to Apollo in its sole discretion.

8. **Section 7.** Section 7 of the Stock Purchase Agreement is hereby amended by deleting in its entirety Section 7.1(g) and substituting in its place "Intentionally Omitted" and by adding "or" to the end of Section 7.1(f).

9. **Exhibit B.** Section 6 of the form of Voting and Registration Rights Agreement, which is attached as Exhibit B to the Stock Purchase Agreement, is hereby amended as follows:

6 . Restrictions on Voting. Notwithstanding anything to the contrary in the Certificate of Incorporation of the Company or under applicable law, to the extent that Purchaser holds Registrable Securities that, together with any other voting securities of the Company, result in Purchaser having voting power in excess of nine and 99/100 percent (9.99%) of all voting securities of the Company, Purchaser shall appoint one or more individuals designated by the Company as its proxy and authorize and instruct such proxy holders to vote such voting securities with such excess voting power in the same proportion as all other votes cast on any specific proposal coming before the Company's stockholders.

10. **Effect of Amendment.** Except as expressly amended by this Amendment, all of the terms of the Stock Purchase Agreement shall remain unchanged and in full force and effect. The provisions of Section 8 of the Stock Purchase Agreement are incorporated in this Amendment by this reference, *mutatis mutandis*.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

ALLIED PHYSICIANS OF CALIFORNIA, A PROFESSIONAL MEDICAL CORPORATION

By: /s/ Terry Lee, M.D.

Name: Terry Lee, M.D.

Title: Independent Committee Director

APOLLO MEDICAL HOLDINGS, INC.

By: /s/ Mitchell Kitayama

Name: Mitchell Kitayama

Title: Independent Committee Director

By: /s/ Eric Chin

Name: Eric Chin

Title: Chief Financial Officer

**FIRST AMENDMENT TO
SERIES A PREFERRED STOCK PURCHASE AGREEMENT**

This FIRST AMENDMENT TO SERIES A PREFERRED STOCK PURCHASE AGREEMENT (the “**Amendment**”) is made and entered into as of August 26, 2019, by and between Allied Physicians of California, a Professional Medical Corporation, a California corporation (the “**Company**” or “**Seller**”), and AP-AMH Medical Corporation, a California professional medical corporation (“**Buyer**”).

A. Seller and Buyer have previously entered into that certain Series A Preferred Stock Purchase Agreement dated as of May 10, 2019 (the “**Preferred Stock Purchase Agreement**”).

B. Seller and Buyer desire to amend the Preferred Stock Purchase Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto, each intending to be bound hereby, agree as follows:

1 . **Definitions.** Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Preferred Stock Purchase Agreement.

2 . **Section 1.1.** Section 1.1 of the Preferred Stock Purchase Agreement is hereby amended by deleting in its entirety the definition of “Optional Termination Date.”

3. **Section 5.11.** The Preferred Stock Purchase Agreement is hereby amended by adding Section 5.11, which reads in full as follows:

5.11 Funding of Certain Losses. Seller shall retain sufficient amount of the assets received from the sale of the Shares to enable Seller to fund any losses or deficits incurred at any time or from time to time by Seller pertaining to the Excluded Assets.

4. **Section 6.7.** Section 6.7 of the Preferred Stock Purchase Agreement is hereby amended and restated in its entirety as follows:

6.7. Due Diligence. Buyer shall have completed, to its reasonable satisfaction, its due diligence investigation of the Company.

5. **Section 7.6.** Section 7.6 of the Preferred Stock Purchase Agreement is hereby amended and restated in its entirety as follows:

7.6 Fairness Opinion. Seller shall have received an opinion from its financial advisor satisfactory to Seller in its sole discretion.

6. **Section 8.1.** Section 8.1 of the Preferred Stock Purchase Agreement is hereby amended by deleting in its entirety Section 8.1(f) and substituting in its place “Intentionally Omitted” and by adding “or” to the end of Section 8.1(e).

7. **Exhibit A.** Exhibit A to the Preferred Stock Purchase Agreement is hereby amended and restated in its entirety as set forth on Attachment 1 to this Amendment.

8 . **Effect of Amendment.** Except as expressly amended by this Amendment, all of the terms of the Preferred Stock Purchase Agreement shall remain unchanged and in full force and effect. The provisions of Article X of the Preferred Stock Purchase Agreement are incorporated in this Amendment by this reference, *mutatis mutandis*.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

BUYER:

AP-AMH MEDICAL CORPORATION

By: /s/ Thomas Lam, M.D.

Name: Thomas Lam, M.D.

Title: Chief Financial Officer

SELLER:

ALLIED PHYSICIANS OF CALIFORNIA,
A PROFESSIONAL MEDICAL CORPORATION

By: /s/ Terry Lee, M.D.

Name: Terry Lee, M.D.

Title: Independent Committee Director

Attachment 1

Certificate of Determination

**CERTIFICATE OF DETERMINATION
OF PREFERENCES OF
SERIES A PREFERRED STOCK
OF
ALLIED PHYSICIANS OF CALIFORNIA,
A PROFESSIONAL MEDICAL CORPORATION**

Pursuant to Section 401 of the
General Corporation Law of the State of California

The undersigned, Thomas Lam, M.D., and Paul Liu, M.D., hereby certify that:

A. They are the duly elected and acting Chief Executive Officer and the duly elected and acting Secretary, respectively, of Allied Physicians of California, a Professional Medical Corporation, a California corporation (the "Company").

B. The authorized number of shares of the Preferred Stock of the Company is 1,000,000, none of which shares have been issued. The authorized number of shares of the Series A Preferred Stock is 1,000,000, none of which shares have been issued.

C. Pursuant to the authority given by the Company's Articles of Incorporation, the Board of Directors of the Company (the "Board") has duly adopted the following recitals and resolutions:

WHEREAS, the Amended and Restated Articles of Incorporation of the Company authorize a class of Preferred Stock comprising 1,000,000 shares issuable from time to time in one or more series;

WHEREAS, the Board is authorized to fix or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock, including but not limited to the dividend rights, dividend rates, conversion rights, voting rights, liquidation preferences and the number of shares constituting any such series and the designation thereof, or any of them; and

WHEREAS, the Company heretofore has not issued or designated any series of Preferred Stock, and it is the desire of the Board, pursuant to its authority as aforesaid, to fix the rights, preferences, privileges, restrictions and other matters relating to the Series A Preferred Stock and the number of shares constituting such series.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby provides for the issue of the first series of Preferred Stock consisting of 1,000,000 shares designated as "Series A Preferred Stock"; and

RESOLVED FURTHER, that the Board hereby fixes the rights, privileges, preferences and restrictions and other matters relating to the Series A Preferred Stock (the "Series A Preferred") as follows:

1. CERTAIN DEFINITIONS.

"Affiliate" means, with respect to any Person, any other Person that directly, or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with such specified Person. For the avoidance of doubt, APC-LSMA Designated Shareholder Medical Corporation is an Affiliate of the Company.

"Baseline Amount" means, as of the Effective Date, an amount equal to \$54,000,000, which amount shall pro-rated (as reasonably determined by the Board) in connection with the calculation of the Series A Dividend with respect to less than a full fiscal year of the Company, subject to adjustment as follows: Commencing on the first anniversary of the Effective Date, and on each succeeding anniversary of the Effective Date thereafter (each, an "Adjustment Date"), the Baseline Amount shall be increased, if applicable, by the same percentage increase (the "Percentage Increase") as the change in the CPI for the period of January 1 through December 31 of the immediately preceding calendar year, which percentage increase shall be determined by subtracting the CPI effective as of January 1 of the preceding calendar year (the "Base CPI") from the CPI effective as of December 31 of the preceding calendar year (the "Target CPI") to calculate the CPI point change (the "CPI Point Change"), and then dividing the CPI Point Change by the Base CPI and multiplying the result by 100. For the avoidance of doubt, if the Target CPI is the same or less than the Base CPI, then, the Baseline Amount will remain the same for the ensuing one (1) year period. As an illustration only, and not by way of limitation, assume that the Base CPI is 103 and the Target CPI is 106, and that the Baseline Amount prior to the Adjustment Date is \$54,000,000, then, the adjusted Baseline Amount is calculated as follows:

- $\text{CPI Point Change} = 106 [\text{Target CPI}] \text{ minus } 103 [\text{Base CPI}] = 3$
- $3 [\text{CPI Point Change}] / 103 [\text{Base CPI}] = 0.029$
- $0.029 \times 100 = 2.9\%$
- $\text{Adjusted Baseline Amount} = \$54,000,000 \times 1.029 = \$55,566,000$

"Business Day" means any day other than a Saturday, a Sunday or any other day on which commercial banks in Los Angeles, California are required or authorized to close.

"Common Stock" means the shares of common stock, without par value, of the Company.

"Control" means, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise (the terms "Controlled by," "Controlling" and "under common Control with" shall have correlative meanings).

"Cost of Healthcare Services" means the Company's actual costs incurred on an accrual basis of providing Healthcare Services pursuant to the terms and conditions of the Payor Contracts, including the costs of primary care and specialty care providers, ancillary medical services, including setting aside a reasonable reserve for IBNR, management fees paid to management services organizations, professional liability and other insurance costs, professional liability claims (to the extent not covered by insurance), the repayment of indebtedness incurred to fund operating losses with respect to the provision of Healthcare Services, and general and administrative costs and expenses (including legal and accounting fees) allocated to the provision of such services in accordance with industry practice, but expressly excluding (i) discretionary bonuses paid by the Company to providers, (ii) non-cash items (e.g., non-cash allocations from equity method investments, depreciation and amortization expenses), and (iii) costs and expenses relating to or arising from the Excluded Assets.

"CPI" means the Consumer Price Index - All Urban Consumers (Los Angeles-Long Beach-Anaheim, CA area, Medical Care Services only: Base 1982-84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics or the successor index that most closely approximates such index. If such index is no longer published, the Company and the holders of the Series A Preferred shall attempt to agree upon a substitute index or formula, but if they are unable to so agree, then an arbitrator shall determine what substitute index or formula shall be used. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association then prevailing by a single arbitrator in Los Angeles, California. Any decision or award resulting from such arbitration shall be final and binding upon the Company and the holders of the Series A Preferred and judgment thereon may be entered in any court of competent jurisdiction.

"Designated Entities" means any entity in which the Company presently or hereafter holds an equity interest, directly or beneficially, and that provides Healthcare Services or that supports the provision of Healthcare Services by the Company, including, without limitation, (i) APC-LSMA Designated Shareholder Medical Corporation, (ii) Accountable Health Care IPA, (iii) AHMC International Cancer Center, A Medical Corporation, (iv) Concourse Diagnostic Surgery Center, LLC, (v) David C. P. Chen M.D., Inc., (vi) La Salle Medical Associates, (vii) Maverick Medical Group, Inc., (viii) MediPortal LLC, (ix) Pacific Medical Imaging & Oncology Center, Inc., and (x) Pacific Ambulatory Surgery Center, LLC, but excluding any entity the interests of which constitute Excluded Assets.

"Dividend Receivables" means dividends, distributions and similar amounts paid by the Designated Entities to the Company and/or its Affiliates, in the Company's capacity as a direct or beneficial equityholder of the Designated Entities.

"Effective Date" means the date on which any shares of Series A Preferred are first issued by the Company.

"Excluded Assets" means (i) assets received from the sale of shares of the Series A Preferred equal to the Series A Purchase Price, (ii) the assets of the Company that are not Healthcare Services Assets, including the Company's equity interests in Universal Care, Inc., Apollo Medical Holdings, Inc., and any entity that is primarily engaged in the business of owning, leasing, developing or otherwise operating real estate and (iii) any proceeds of the assets described in clauses (i) and (ii).

“Healthcare Services” means any medical or other healthcare-related services that the Company delivers or is responsible for delivering to patients through physicians, professional medical corporations, ancillary service providers, and other contracted providers engaged by the Company to provide such services, including any medical or other healthcare-related services with respect to which the Company is entitled to receive capitation payments, fee-for-service payments, risk pool settlements, incentive payments or other fees.

“Healthcare Services Assets” means (i) the assets of the Company that consist of or are dedicated exclusively to activities that generate Net Income from Healthcare Services or Dividend Receivables and (ii) other assets of the Company, to the extent such assets consist of or are dedicated in part to activities that generate Net Income from Healthcare Services or Dividend Receivables, in each case as reasonably determined by the Board.

“IBNR” means estimated claims for Healthcare Services provided by the Company, which claims have been incurred but not reported.

“IBNR Base Amount” means the Company’s estimated IBNR, as reported on the Company’s most recent financial survey report preceding the Effective Date filed by the Company with the California Department of Managed Health Care.

“IBNR Reconciliation Amount” means an amount equal to the IBNR Base Amount, less the actual amount paid after the Effective Date with respect to IBNR liabilities incurred by the Company on or prior to the Effective Date (based on actual claims paid after the Effective Date for Healthcare Services provided on or prior to the Effective Date), as reasonably determined by the Company as of the 12-month anniversary of the Effective Date.

“Incentive Agreements” means agreements and other arrangements between the Company and Payors providing for incentive, bonus or other payments to the Company based on, among other things, the quality of care or other performance criteria, HEDIS adjustments, enrollment incentives or kick payments.

“Liquidation Event” means any of the following: (i) a liquidation, dissolution or winding up of the affairs of the Company, either voluntary or involuntary, (ii) a Sale of the Company or (iii) the bankruptcy or insolvency of the Company.

“Net Income from Healthcare Services” means, with respect to any period of determination, and subject to Section 2(b), the Payor Contract Receivables for such period, less the corresponding Cost of Healthcare Services incurred, which amount shall be determined net of any taxes applicable to or based on the Payor Contract Receivables, and without the application of any tax benefits generated by or in connection with the Excluded Assets.

“Non-Affiliate” means any Person other than an Affiliate of the Company or of any holder of the Series A Preferred that owns, individually or together with its Affiliates, more than 25% of the issued and outstanding shares of the Series A Preferred.

“Payor Contracts” means agreements, including (i) capitation agreements, (ii) risk pool agreements, risk pool settlements and other shared risk arrangements, (iii) Incentive Agreements and (iv) other agreements and arrangements entered into between the Company and Payors, in each case pursuant to which the Company receives payments in exchange for or in connection with providing or arranging the delivery of Healthcare Services to patients, as specified in such agreements or arrangements.

"Payor Contract Receivables" means the net payments and other amounts received on an accrual basis by the Company for Healthcare Services provided after the Effective Date pursuant to the terms and conditions of the Payor Contracts.

"Payers" means health maintenance organizations, insurance companies, health plan sponsors, governmental programs, licensed health care service plans, hospitals and other providers, entities and organizations that provide payments and/or reimbursements to healthcare providers in connection with the provision of healthcare services to patients.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a government or any branch, department, agency, political subdivision or official thereof.

"Retained Amounts" means, with respect to the calculation of the amount of the Series A Dividend payable in connection with any fiscal year of the Company, fifty percent (50%) of the aggregate amount of Net Income from Healthcare Services (but excluding Dividend Receivables) that exceeds the then-current Baseline Amount.

"Sale of the Company" means (a) the sale of all, or substantially all, of the Company's consolidated assets to a Non-Affiliate in any single transaction or series of related transactions; (b) the sale of at least a majority of the outstanding Common Stock to a Non-Affiliate in any single transaction or series of related transactions; (c) any merger or consolidation of the Company with or into a Non-Affiliate, or (d) any reorganization, recapitalization or other similar transaction (including a stock sale) involving the Company, on the one hand, and a Non-Affiliate, on the other hand, unless, immediately after the completion of such transaction described in clause (c) or (d), Control of the Company is substantially unaffected or remains, directly or indirectly, in the same shareholders (or their Affiliates) that Controlled the Company immediately prior to such transaction.

"Series A Dividend Payment Date" means the last day of the Company's first full fiscal quarter after the Effective Date, and the last day of each subsequent fiscal quarter in which any shares of the Series A Preferred are outstanding (unless such day is not a Business Day, in which event such dividends shall be payable on the next succeeding Business Day).

"Series A Purchase Price" means an amount equal to \$545,000,000.

"Series A Shareholders Agreement" means any agreement entered into at any time or from time to time between the Company and any of the holders of the shares of Series A Preferred in connection with the shares of Series A Preferred and the respective rights of the parties thereunder.

2. DIVIDEND RIGHTS.

(a) **Cumulative Dividend Calculation.** Holders of Series A Preferred shall be entitled to receive preferential, cumulative dividends, which dividends shall accumulate and accrue on a daily basis from and after the date of issuance of any particular share of Series A Preferred, in an amount equal to, with respect to any period of determination, (i) the sum of (A) Net Income from Healthcare Services and (B) Dividend Receivables, less (ii) the sum of any Retained Amounts (the "Series A Dividend"). For the avoidance of doubt, the amount of Net Income from Healthcare Services and the amount of Dividend Receivables, as each shall have been determined as provided herein with respect to any specified fiscal year of the Company, shall be payable in full to the holders of the Series A Preferred until such time as such holders have received an aggregate amount equal to the Baseline Amount, and for the balance of such fiscal year, the Series A Dividend amount determined pursuant to clause (i) of this Section 2(a) shall be reduced by the Retained Amount. Notwithstanding anything to the contrary set forth herein, all calculations hereunder relating to the Series A Preferred shall be made on an accrual basis in accordance with U.S. generally accepted accounting principles (GAAP), including, without limitation, the calculation of the Cost of Healthcare Services, Dividend Receivables, IBNR, IBNR Reconciliation Amount, Net Income from Healthcare Services, Payor Contract Receivables, Retained Amounts, and the Series A Dividend.

(b) Adjustments to Net Income from Healthcare Services. Notwithstanding anything to the contrary herein, Net Income from Healthcare Services shall be subject to the following adjustments:

(i) If a capitation payment under a Payor Contract is adjusted after the Effective Date with respect to Healthcare Services provided before the Effective Date, (A) any additional amounts received by the Company with respect to such adjustment shall be excluded from the calculation of Net Income from Healthcare Services for the period in which amount was received, and (B) any payment the Company is required to make with respect to such adjustment shall not be deemed to constitute a Cost of Healthcare Services or otherwise reduce the amount of Net Income from Healthcare Services for the period in which such amount was paid.

(ii) If, after the Effective Date, the Company receives a payment under an Incentive Agreement, which payment has been calculated in whole or in part with respect to Healthcare Services provided before the Effective Date, such payment, to the extent based on Healthcare Services provided before the Effective Date, shall be excluded from the calculation of Net Income from Healthcare Services.

(iii) If the IBNR Reconciliation Amount is a positive number, such amount shall be excluded from the calculation of Net Income from Healthcare Services for the period in which such amount was determined, and if the IBNR Reconciliation Amount is a negative number, such amount shall not be deemed to constitute a Cost of Healthcare Services or otherwise reduce the amount of Net Income from Healthcare Services for the period in which such amount was determined.

(c) Dividend Payment Dates. The accrued and unpaid portion of the Series A Dividend shall be payable in cash, out of funds legally available for the payment of dividends and whether or not declared by the Board, quarterly in arrears on each Series A Dividend Payment Date. If the full amount of the dividend for a particular period, as computed pursuant to Section 2(a), is not paid on the applicable payment date, then any such unpaid amount shall accrue and be paid as promptly as is legally permissible.

(d) **Restriction on Other Dividends.** The Company shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Company (other than dividends on shares of common stock payable in shares of common stock) unless the holders of Series A Preferred shall have received, immediately prior to or simultaneously with the payment of such other dividend, an amount equal to the aggregate Series A Dividend then accrued and unpaid.

3. VOTING RIGHTS.

(a) **General Limitation.** Except to the extent otherwise provided by law and/or in any Series A Shareholders Agreement, the shares of Series A Preferred shall have the right to vote only with respect to the matters expressly set forth herein. The shares of Series A Preferred shall not be entitled to vote for the election of directors.

(b) **Manner of Voting.** Solely in connection with the matters upon which the shares of Series A Preferred are entitled to vote, the holders thereof shall be entitled to one vote per each share held immediately after the close of business on the record date fixed for a meeting or the effective date of a written consent, and such holders shall have voting rights and powers equal to the voting rights and powers of the Common Stock and shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Company. Except as otherwise provided herein or in any Series A Shareholders Agreement or as required by law, the Series A Preferred shall vote together with the Common Stock at any annual or special meeting of the shareholders and not as a separate class, and may act by written consent together with and in the same manner as the Common Stock.

(c) **Separate Vote of Series A Preferred.** For so long as any shares of Series A Preferred remain outstanding, in addition to any other vote or consent required herein or in any Series A Shareholders Agreement or by law, the vote or written consent of the holders of at least a majority of the outstanding shares of Series A Preferred, voting as a separate class, shall be necessary for effecting or validating the following actions:

(i) Any action that alters or changes the voting powers or other special rights, preferences, privileges, qualifications, limitations or restrictions of the Series A Preferred;

(ii) Any increase or decrease (other than by conversion) in the authorized number of shares of the Series A Preferred;

(iii) Any Liquidation Event; and

(iv) Any authorization or any designation, whether by reclassification or otherwise, of any new class or series of capital stock or any other securities convertible into equity securities of the Company ranking on a parity with or senior to the Series A Preferred in rights of redemption, liquidation preference, voting or dividends, or any increase in the authorized or designated number of any such new class or series.

4. LIQUIDATION RIGHTS.

(a) **Series A Liquidation Preference.** Upon any Liquidation Event, whether voluntary or involuntary, before any other distribution or payment shall be made to the holders of any shares of capital stock of the Company, the holders of the Series A Preferred shall be entitled to be paid, out of the assets or surplus funds of the Company legally available for distribution, their pro rata share of an amount equal to (i) all accrued and unpaid amounts of the Series A Dividend and (ii) the Series A Purchase Price (the "Series A Liquidation Preference").

(b) **Additional Series A Preference Distributions.** After the payment in full of the Series A Liquidation Preference, the remaining assets or surplus funds of the Company legally available for distribution, if any, in amount equal to the positive difference between the then-current fair value of the Healthcare Services Assets, as reasonably determined by the Board, and the Series A Liquidation Preference, shall be distributed ratably 90% to the holders of the Series A Preferred and 10% to the holders of the Common Stock (the "Additional Series A Preference Distribution").

(c) **Common Preference Distributions.** After the payment in full of the Additional Series A Preference Distribution, the remaining assets or surplus funds of the Company legally available for distribution, if any, shall be distributed ratably 90% to the holders of the Common Stock and 10% to the holders of the Series A Preferred, until the holders of the Series A Preferred shall have received under this Section 4(c) an aggregate amount equal to the amount received by the holders of the Common Stock under Section 4(b) (the "Common Preference Distribution").

(d) **Residual Distributions.** After the payment in full of the Series A Liquidation Preference, the Additional Series A Preference Distribution and the Common Preference Distribution, the remaining assets or surplus funds of the Company legally available for distribution, if any, shall be distributed ratably to the holders of the Common Stock.

(e) **Pro Rata Distributions.** If, upon any Liquidation Event, the assets or surplus funds of the Company shall be insufficient to make payment in full of any of the liquidation preferences set forth in Sections 4(a)-4(d) above, then such assets or surplus funds as are available shall be distributed ratably, in partial satisfaction of the applicable liquidation preference, among the holders of the shares of Series A Preferred and/or the shares of Common Stock, as the case may be, then outstanding, in proportion to the full amounts to which they would be otherwise respectively entitled.

5. MISCELLANEOUS.

(a) **Notices of Record Date.** Upon (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company, the Company shall mail to each holder of Series A Preferred at least ten days prior to the record date specified therein (or such shorter period approved by a the holders of a majority of the outstanding Series A Preferred) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date on which any such Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company.

(b) Delivery of Notices. Any notice required by the provisions of this Certificate of Determination shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail, (iii) when sent by facsimile during normal business hours of the recipient (and on the next business day if sent by facsimile outside of such normal business hours), (iv) seven days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (v) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Company.

(c) No Dilution or Impairment. The Company will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of the Series A Preferred set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the holders of the Series A Preferred against dilution or other impairment.

(d) No Reissuance of Series A Preferred. No share or shares of Series A Preferred acquired by the Company by reason of redemption, purchase or otherwise shall be reissued.

RESOLVED FURTHER, that the President and Chief Executive Officer and the Secretary of the Company are hereby authorized and directed to execute, acknowledge, file and record a Certificate of Determination of Preferences of Series A Preferred Stock in accordance with the foregoing resolutions and provisions of the General Corporation Law of California.

* * *

IN WITNESS WHEREOF, the undersigned President and Chief Executive Officer of the Company and Secretary of the Company each declares under penalty of perjury under the laws of the State of California that the matters set out in the foregoing Certificate are true and correct of his own knowledge.

Dated: _____, 2019.

Thomas Lam, M.D.,
Chief Executive Officer

Paul Liu, M.D.,
Secretary

**FIRST AMENDMENT TO
LOAN AGREEMENT**

This FIRST AMENDMENT TO LOAN AGREEMENT (the "**Amendment**") is made and entered into as of August 26, 2019, by and between Apollo Medical Holdings, Inc., a Delaware corporation ("**Lender**"), and AP-AMH Medical Corporation, a California professional medical corporation ("**Borrower**").

- A. Lender and Borrower have previously entered into that certain Loan Agreement dated as of May 10, 2019 (the "**Loan Agreement**").
- B. Lender and Borrower desire to amend the Loan Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto, each intending to be bound hereby, agree as follows:

- 1. **Definitions.** Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Loan Agreement.
- 2. **Exhibit B.** Exhibit B to the Loan Agreement is hereby amended and restated in its entirety as set forth on Attachment 1 to this Amendment.
- 3. **Exhibit E.** Exhibit E to the Loan Agreement is hereby amended as follows:
 - a. Paragraph (f) of Exhibit E is hereby amended and restated in its entirety as follows:
 - (f) Lender shall have received proceeds of its loan from a commercial financial institution in an amount sufficient to fund the Loan on the Funding Date;
 - b. Paragraph (o) of Exhibit E is hereby amended and restated in its entirety as follows:
 - (o) Lender shall have completed its business, legal, and collateral due diligence, including a collateral examination and review of Borrower and verification of Borrower's representations and warranties to Lender, the results of which must be satisfactory to Lender in its sole discretion;
 - c. Paragraph (r) of Exhibit E is hereby amended and restated in its entirety as follows:
 - (r) Lender shall have received an opinion from its financial advisor satisfactory to Lender in its sole discretion;

d. Paragraph (s) of Exhibit E is hereby amended and restated in its entirety as follows:

(s) Lender and its advisors shall have completed an analysis of the tax consequences of the transactions contemplated by this Agreement, the Apollo Stock Purchase Agreement and related transactions the results of which are satisfactory to Apollo in its sole discretion;

4. **Effect of Amendment.** Except as expressly amended by this Amendment, all of the terms of the Loan Agreement shall remain unchanged and in full force and effect. The provisions of Sections 6 through 15 of the Loan Agreement are incorporated in this Amendment by this reference, *mutatis mutandis*.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

Borrower:

Lender:

AP-AMH MEDICAL CORPORATION

APOLLO MEDICAL HOLDINGS, INC.

By: /s/ Thomas S. Lam, M.D.
Thomas S. Lam, M.D.,
Chief Executive Officer

By: /s/ Mitchell Kitayama
Name: Mitchell Kitayama
Title: Independent Committee Director

Address:
1668 S. Garfield Ave., 2nd Floor
Alhambra, CA 91801

By: /s/ Eric Chin
Name: Eric Chin
Title: Chief Financial Officer

Address:
1668 S. Garfield Avenue, 2nd Floor
Alhambra, CA 91801

Attachment 1

Certificate of Determination

**CERTIFICATE OF DETERMINATION
OF PREFERENCES OF
SERIES A PREFERRED STOCK
OF
ALLIED PHYSICIANS OF CALIFORNIA,
A PROFESSIONAL MEDICAL CORPORATION**

Pursuant to Section 401 of the
General Corporation Law of the State of California

The undersigned, Thomas Lam, M.D., and Paul Liu, M.D., hereby certify that:

A. They are the duly elected and acting Chief Executive Officer and the duly elected and acting Secretary, respectively, of Allied Physicians of California, a Professional Medical Corporation, a California corporation (the "Company").

B. The authorized number of shares of the Preferred Stock of the Company is 1,000,000, none of which shares have been issued. The authorized number of shares of the Series A Preferred Stock is 1,000,000, none of which shares have been issued.

C. Pursuant to the authority given by the Company's Articles of Incorporation, the Board of Directors of the Company (the "Board") has duly adopted the following recitals and resolutions:

WHEREAS, the Amended and Restated Articles of Incorporation of the Company authorize a class of Preferred Stock comprising 1,000,000 shares issuable from time to time in one or more series;

WHEREAS, the Board is authorized to fix or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock, including but not limited to the dividend rights, dividend rates, conversion rights, voting rights, liquidation preferences and the number of shares constituting any such series and the designation thereof, or any of them; and

WHEREAS, the Company heretofore has not issued or designated any series of Preferred Stock, and it is the desire of the Board, pursuant to its authority as aforesaid, to fix the rights, preferences, privileges, restrictions and other matters relating to the Series A Preferred Stock and the number of shares constituting such series.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby provides for the issue of the first series of Preferred Stock consisting of 1,000,000 shares designated as "Series A Preferred Stock"; and

RESOLVED FURTHER, that the Board hereby fixes the rights, privileges, preferences and restrictions and other matters relating to the Series A Preferred Stock (the "Series A Preferred") as follows:

1. CERTAIN DEFINITIONS.

"Affiliate" means, with respect to any Person, any other Person that directly, or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with such specified Person. For the avoidance of doubt, APC-LSMA Designated Shareholder Medical Corporation is an Affiliate of the Company.

"Baseline Amount" means, as of the Effective Date, an amount equal to \$54,000,000, which amount shall pro-rated (as reasonably determined by the Board) in connection with the calculation of the Series A Dividend with respect to less than a full fiscal year of the Company, subject to adjustment as follows: Commencing on the first anniversary of the Effective Date, and on each succeeding anniversary of the Effective Date thereafter (each, an "Adjustment Date"), the Baseline Amount shall be increased, if applicable, by the same percentage increase (the "Percentage Increase") as the change in the CPI for the period of January 1 through December 31 of the immediately preceding calendar year, which percentage increase shall be determined by subtracting the CPI effective as of January 1 of the preceding calendar year (the "Base CPI") from the CPI effective as of December 31 of the preceding calendar year (the "Target CPI") to calculate the CPI point change (the "CPI Point Change"), and then dividing the CPI Point Change by the Base CPI and multiplying the result by 100. For the avoidance of doubt, if the Target CPI is the same or less than the Base CPI, then, the Baseline Amount will remain the same for the ensuing one (1) year period. As an illustration only, and not by way of limitation, assume that the Base CPI is 103 and the Target CPI is 106, and that the Baseline Amount prior to the Adjustment Date is \$54,000,000, then, the adjusted Baseline Amount is calculated as follows:

- $\text{CPI Point Change} = 106 [\text{Target CPI}] \text{ minus } 103 [\text{Base CPI}] = 3$
- $3 [\text{CPI Point Change}] / 103 [\text{Base CPI}] = 0.029$
- $0.029 \times 100 = 2.9\%$
- $\text{Adjusted Baseline Amount} = \$54,000,000 \times 1.029 = \$55,566,000$

"Business Day" means any day other than a Saturday, a Sunday or any other day on which commercial banks in Los Angeles, California are required or authorized to close.

"Common Stock" means the shares of common stock, without par value, of the Company.

"Control" means, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise (the terms "Controlled by," "Controlling" and "under common Control with" shall have correlative meanings).

"Cost of Healthcare Services" means the Company's actual costs incurred on an accrual basis of providing Healthcare Services pursuant to the terms and conditions of the Payor Contracts, including the costs of primary care and specialty care providers, ancillary medical services, including setting aside a reasonable reserve for IBNR, management fees paid to management services organizations, professional liability and other insurance costs, professional liability claims (to the extent not covered by insurance), the repayment of indebtedness incurred to fund operating losses with respect to the provision of Healthcare Services, and general and administrative costs and expenses (including legal and accounting fees) allocated to the provision of such services in accordance with industry practice, but expressly excluding (i) discretionary bonuses paid by the Company to providers, (ii) non-cash items (e.g., non-cash allocations from equity method investments, depreciation and amortization expenses), and (iii) costs and expenses relating to or arising from the Excluded Assets.

"CPI" means the Consumer Price Index - All Urban Consumers (Los Angeles-Long Beach-Anaheim, CA area, Medical Care Services only: Base 1982-84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics or the successor index that most closely approximates such index. If such index is no longer published, the Company and the holders of the Series A Preferred shall attempt to agree upon a substitute index or formula, but if they are unable to so agree, then an arbitrator shall determine what substitute index or formula shall be used. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association then prevailing by a single arbitrator in Los Angeles, California. Any decision or award resulting from such arbitration shall be final and binding upon the Company and the holders of the Series A Preferred and judgment thereon may be entered in any court of competent jurisdiction.

"Designated Entities" means any entity in which the Company presently or hereafter holds an equity interest, directly or beneficially, and that provides Healthcare Services or that supports the provision of Healthcare Services by the Company, including, without limitation, (i) APC-LSMA Designated Shareholder Medical Corporation, (ii) Accountable Health Care IPA, (iii) AHMC International Cancer Center, A Medical Corporation, (iv) Concourse Diagnostic Surgery Center, LLC, (v) David C. P. Chen M.D., Inc., (vi) La Salle Medical Associates, (vii) Maverick Medical Group, Inc., (viii) MediPortal LLC, (ix) Pacific Medical Imaging & Oncology Center, Inc., and (x) Pacific Ambulatory Surgery Center, LLC, but excluding any entity the interests of which constitute Excluded Assets.

"Dividend Receivables" means dividends, distributions and similar amounts paid by the Designated Entities to the Company and/or its Affiliates, in the Company's capacity as a direct or beneficial equityholder of the Designated Entities.

"Effective Date" means the date on which any shares of Series A Preferred are first issued by the Company.

"Excluded Assets" means (i) assets received from the sale of shares of the Series A Preferred equal to the Series A Purchase Price, (ii) the assets of the Company that are not Healthcare Services Assets, including the Company's equity interests in Universal Care, Inc., Apollo Medical Holdings, Inc., and any entity that is primarily engaged in the business of owning, leasing, developing or otherwise operating real estate and (iii) any proceeds of the assets described in clauses (i) and (ii).

“Healthcare Services” means any medical or other healthcare-related services that the Company delivers or is responsible for delivering to patients through physicians, professional medical corporations, ancillary service providers, and other contracted providers engaged by the Company to provide such services, including any medical or other healthcare-related services with respect to which the Company is entitled to receive capitation payments, fee-for-service payments, risk pool settlements, incentive payments or other fees.

“Healthcare Services Assets” means (i) the assets of the Company that consist of or are dedicated exclusively to activities that generate Net Income from Healthcare Services or Dividend Receivables and (ii) other assets of the Company, to the extent such assets consist of or are dedicated in part to activities that generate Net Income from Healthcare Services or Dividend Receivables, in each case as reasonably determined by the Board.

“IBNR” means estimated claims for Healthcare Services provided by the Company, which claims have been incurred but not reported.

“IBNR Base Amount” means the Company’s estimated IBNR, as reported on the Company’s most recent financial survey report preceding the Effective Date filed by the Company with the California Department of Managed Health Care.

“IBNR Reconciliation Amount” means an amount equal to the IBNR Base Amount, less the actual amount paid after the Effective Date with respect to IBNR liabilities incurred by the Company on or prior to the Effective Date (based on actual claims paid after the Effective Date for Healthcare Services provided on or prior to the Effective Date), as reasonably determined by the Company as of the 12-month anniversary of the Effective Date.

“Incentive Agreements” means agreements and other arrangements between the Company and Payors providing for incentive, bonus or other payments to the Company based on, among other things, the quality of care or other performance criteria, HEDIS adjustments, enrollment incentives or kick payments.

“Liquidation Event” means any of the following: (i) a liquidation, dissolution or winding up of the affairs of the Company, either voluntary or involuntary, (ii) a Sale of the Company or (iii) the bankruptcy or insolvency of the Company.

“Net Income from Healthcare Services” means, with respect to any period of determination, and subject to Section 2(b), the Payor Contract Receivables for such period, less the corresponding Cost of Healthcare Services incurred, which amount shall be determined net of any taxes applicable to or based on the Payor Contract Receivables, and without the application of any tax benefits generated by or in connection with the Excluded Assets.

“Non-Affiliate” means any Person other than an Affiliate of the Company or of any holder of the Series A Preferred that owns, individually or together with its Affiliates, more than 25% of the issued and outstanding shares of the Series A Preferred.

“Payor Contracts” means agreements, including (i) capitation agreements, (ii) risk pool agreements, risk pool settlements and other shared risk arrangements, (iii) Incentive Agreements and (iv) other agreements and arrangements entered into between the Company and Payors, in each case pursuant to which the Company receives payments in exchange for or in connection with providing or arranging the delivery of Healthcare Services to patients, as specified in such agreements or arrangements.

“Payor Contract Receivables” means the net payments and other amounts received on an accrual basis by the Company for Healthcare Services provided after the Effective Date pursuant to the terms and conditions of the Payor Contracts.

“Payors” means health maintenance organizations, insurance companies, health plan sponsors, governmental programs, licensed health care service plans, hospitals and other providers, entities and organizations that provide payments and/or reimbursements to healthcare providers in connection with the provision of healthcare services to patients.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a government or any branch, department, agency, political subdivision or official thereof.

“Retained Amounts” means, with respect to the calculation of the amount of the Series A Dividend payable in connection with any fiscal year of the Company, fifty percent (50%) of the aggregate amount of Net Income from Healthcare Services (but excluding Dividend Receivables) that exceeds the then-current Baseline Amount.

“Sale of the Company” means (a) the sale of all, or substantially all, of the Company’s consolidated assets to a Non-Affiliate in any single transaction or series of related transactions; (b) the sale of at least a majority of the outstanding Common Stock to a Non-Affiliate in any single transaction or series of related transactions; (c) any merger or consolidation of the Company with or into a Non-Affiliate, or (d) any reorganization, recapitalization or other similar transaction (including a stock sale) involving the Company, on the one hand, and a Non-Affiliate, on the other hand, unless, immediately after the completion of such transaction described in clause (c) or (d), Control of the Company is substantially unaffected or remains, directly or indirectly, in the same shareholders (or their Affiliates) that Controlled the Company immediately prior to such transaction.

“Series A Dividend Payment Date” means the last day of the Company’s first full fiscal quarter after the Effective Date, and the last day of each subsequent fiscal quarter in which any shares of the Series A Preferred are outstanding (unless such day is not a Business Day, in which event such dividends shall be payable on the next succeeding Business Day).

“Series A Purchase Price” means an amount equal to \$545,000,000.

“Series A Shareholders Agreement” means any agreement entered into at any time or from time to time between the Company and any of the holders of the shares of Series A Preferred in connection with the shares of Series A Preferred and the respective rights of the parties thereunder.

2. DIVIDEND RIGHTS.

(a) **Cumulative Dividend Calculation.** Holders of Series A Preferred shall be entitled to receive preferential, cumulative dividends, which dividends shall accumulate and accrue on a daily basis from and after the date of issuance of any particular share of Series A Preferred, in an amount equal to, with respect to any period of determination, (i) the sum of (A) Net Income from Healthcare Services and (B) Dividend Receivables, less (ii) the sum of any Retained Amounts (the “Series A Dividend”). For the avoidance of doubt, the amount of Net Income from Healthcare Services and the amount of Dividend Receivables, as each shall have been determined as provided herein with respect to any specified fiscal year of the Company, shall be payable in full to the holders of the Series A Preferred until such time as such holders have received an aggregate amount equal to the Baseline Amount, and for the balance of such fiscal year, the Series A Dividend amount determined pursuant to clause (i) of this Section 2(a) shall be reduced by the Retained Amount. Notwithstanding anything to the contrary set forth herein, all calculations hereunder relating to the Series A Preferred shall be made on an accrual basis in accordance with U.S. generally accepted accounting principles (GAAP), including, without limitation, the calculation of the Cost of Healthcare Services, Dividend Receivables, IBNR, IBNR Reconciliation Amount, Net Income from Healthcare Services, Payor Contract Receivables, Retained Amounts, and the Series A Dividend.

(b) Adjustments to Net Income from Healthcare Services. Notwithstanding anything to the contrary herein, Net Income from Healthcare Services shall be subject to the following adjustments:

(i) If a capitation payment under a Payor Contract is adjusted after the Effective Date with respect to Healthcare Services provided before the Effective Date, (A) any additional amounts received by the Company with respect to such adjustment shall be excluded from the calculation of Net Income from Healthcare Services for the period in which amount was received, and (B) any payment the Company is required to make with respect to such adjustment shall not be deemed to constitute a Cost of Healthcare Services or otherwise reduce the amount of Net Income from Healthcare Services for the period in which such amount was paid.

(ii) If, after the Effective Date, the Company receives a payment under an Incentive Agreement, which payment has been calculated in whole or in part with respect to Healthcare Services provided before the Effective Date, such payment, to the extent based on Healthcare Services provided before the Effective Date, shall be excluded from the calculation of Net Income from Healthcare Services.

(iii) If the IBNR Reconciliation Amount is a positive number, such amount shall be excluded from the calculation of Net Income from Healthcare Services for the period in which such amount was determined, and if the IBNR Reconciliation Amount is a negative number, such amount shall not be deemed to constitute a Cost of Healthcare Services or otherwise reduce the amount of Net Income from Healthcare Services for the period in which such amount was determined.

(c) Dividend Payment Dates. The accrued and unpaid portion of the Series A Dividend shall be payable in cash, out of funds legally available for the payment of dividends and whether or not declared by the Board, quarterly in arrears on each Series A Dividend Payment Date. If the full amount of the dividend for a particular period, as computed pursuant to Section 2(a), is not paid on the applicable payment date, then any such unpaid amount shall accrue and be paid as promptly as is legally permissible.

(d) **Restriction on Other Dividends.** The Company shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Company (other than dividends on shares of common stock payable in shares of common stock) unless the holders of Series A Preferred shall have received, immediately prior to or simultaneously with the payment of such other dividend, an amount equal to the aggregate Series A Dividend then accrued and unpaid.

3. VOTING RIGHTS.

(a) **General Limitation.** Except to the extent otherwise provided by law and/or in any Series A Shareholders Agreement, the shares of Series A Preferred shall have the right to vote only with respect to the matters expressly set forth herein. The shares of Series A Preferred shall not be entitled to vote for the election of directors.

(b) **Manner of Voting.** Solely in connection with the matters upon which the shares of Series A Preferred are entitled to vote, the holders thereof shall be entitled to one vote per each share held immediately after the close of business on the record date fixed for a meeting or the effective date of a written consent, and such holders shall have voting rights and powers equal to the voting rights and powers of the Common Stock and shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Company. Except as otherwise provided herein or in any Series A Shareholders Agreement or as required by law, the Series A Preferred shall vote together with the Common Stock at any annual or special meeting of the shareholders and not as a separate class, and may act by written consent together with and in the same manner as the Common Stock.

(c) **Separate Vote of Series A Preferred.** For so long as any shares of Series A Preferred remain outstanding, in addition to any other vote or consent required herein or in any Series A Shareholders Agreement or by law, the vote or written consent of the holders of at least a majority of the outstanding shares of Series A Preferred, voting as a separate class, shall be necessary for effecting or validating the following actions:

(i) Any action that alters or changes the voting powers or other special rights, preferences, privileges, qualifications, limitations or restrictions of the Series A Preferred;

(ii) Any increase or decrease (other than by conversion) in the authorized number of shares of the Series A Preferred;

(iii) Any Liquidation Event; and

(iv) Any authorization or any designation, whether by reclassification or otherwise, of any new class or series of capital stock or any other securities convertible into equity securities of the Company ranking on a parity with or senior to the Series A Preferred in rights of redemption, liquidation preference, voting or dividends, or any increase in the authorized or designated number of any such new class or series.

4. LIQUIDATION RIGHTS.

(a) **Series A Liquidation Preference.** Upon any Liquidation Event, whether voluntary or involuntary, before any other distribution or payment shall be made to the holders of any shares of capital stock of the Company, the holders of the Series A Preferred shall be entitled to be paid, out of the assets or surplus funds of the Company legally available for distribution, their pro rata share of an amount equal to (i) all accrued and unpaid amounts of the Series A Dividend and (ii) the Series A Purchase Price (the "Series A Liquidation Preference").

(b) **Additional Series A Preference Distributions.** After the payment in full of the Series A Liquidation Preference, the remaining assets or surplus funds of the Company legally available for distribution, if any, in amount equal to the positive difference between the then-current fair value of the Healthcare Services Assets, as reasonably determined by the Board, and the Series A Liquidation Preference, shall be distributed ratably 90% to the holders of the Series A Preferred and 10% to the holders of the Common Stock (the "Additional Series A Preference Distribution").

(c) **Common Preference Distributions.** After the payment in full of the Additional Series A Preference Distribution, the remaining assets or surplus funds of the Company legally available for distribution, if any, shall be distributed ratably 90% to the holders of the Common Stock and 10% to the holders of the Series A Preferred, until the holders of the Series A Preferred shall have received under this Section 4(c) an aggregate amount equal to the amount received by the holders of the Common Stock under Section 4(b) (the "Common Preference Distribution").

(d) **Residual Distributions.** After the payment in full of the Series A Liquidation Preference, the Additional Series A Preference Distribution and the Common Preference Distribution, the remaining assets or surplus funds of the Company legally available for distribution, if any, shall be distributed ratably to the holders of the Common Stock.

(e) **Pro Rata Distributions.** If, upon any Liquidation Event, the assets or surplus funds of the Company shall be insufficient to make payment in full of any of the liquidation preferences set forth in Sections 4(a)-4(d) above, then such assets or surplus funds as are available shall be distributed ratably, in partial satisfaction of the applicable liquidation preference, among the holders of the shares of Series A Preferred and/or the shares of Common Stock, as the case may be, then outstanding, in proportion to the full amounts to which they would be otherwise respectively entitled.

5. MISCELLANEOUS.

(a) **Notices of Record Date.** Upon (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company, the Company shall mail to each holder of Series A Preferred at least ten days prior to the record date specified therein (or such shorter period approved by a the holders of a majority of the outstanding Series A Preferred) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date on which any such Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company.

(b) Delivery of Notices. Any notice required by the provisions of this Certificate of Determination shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail, (iii) when sent by facsimile during normal business hours of the recipient (and on the next business day if sent by facsimile outside of such normal business hours), (iv) seven days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (v) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Company.

(c) No Dilution or Impairment. The Company will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of the Series A Preferred set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the holders of the Series A Preferred against dilution or other impairment.

(d) No Reissuance of Series A Preferred. No share or shares of Series A Preferred acquired by the Company by reason of redemption, purchase or otherwise shall be reissued.

RESOLVED FURTHER, that the President and Chief Executive Officer and the Secretary of the Company are hereby authorized and directed to execute, acknowledge, file and record a Certificate of Determination of Preferences of Series A Preferred Stock in accordance with the foregoing resolutions and provisions of the General Corporation Law of California.

* * *

IN WITNESS WHEREOF, the undersigned President and Chief Executive Officer of the Company and Secretary of the Company each declares under penalty of perjury under the laws of the State of California that the matters set out in the foregoing Certificate are true and correct of his own knowledge.

Dated: _____, 2019.

Thomas Lam, M.D.,
Chief Executive Officer

Paul Liu, M.D.,
Secretary
