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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re: SAN BENITO HEALTH CARE DISTRICT DBA HAZEL HAWKINS MEMORIAL HOSPITAL, Debtor.	Chapter 9 Case No. 23-50544 SLJ **PCO'S FIRST INTERIM REPORT**

Jerry Seelig, in his capacity as Patient Care Ombudsman (the "**PCO**") [1] and under 11 U.S.C. section 333(a)(1), files this First Interim Report (the "**Report**"). Pursuant to Bankruptcy Code section 333, the PCO is monitoring the quality of patient care for any significant decline or material compromise. To complete to the best of their ability an in-depth monitoring effort, the PCO has prior to filing this Report visited all the Debtor's facilities and operating units and worked in a cooperative manner with Debtor's managers to obtain needed documents, materials, and financial reports.

These visits, interviews, and the PCO's experience and qualifications have enabled the

[1] *Unless otherwise indicated, use of the term "**PCO**" will collectively refer to Mr. Seelig, his firm* Seelig+Cussigh HCO LLC ("**S+C**"), and the consultants retained by S+C. In conjunction with discharging his duties and preparing this report, the PCO has directed and supervised professionals from S+C. Mr. Seelig and the consultants' resumes are attached hereto as Exhibit A. In summary, Richard Cussigh focused on Medical Records, Health Insurance Portability and Accountability Act ("HIPAA") and subsequent rules-regulations issues, Lisa Grod Ph.D. focused on the skilled nursing facilities ("SNFs"), Jody Knox R.N. focused on all units of the Hospital and Clinics, and Sean Drake focused on supplies, facilities, and patient life and safety regulatory compliance and quality.

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PCO to provide the Court with an accurate assessment of patient care at the Debtor's facilities. Should the Court so desire, the PCO will notice and schedule a hearing and be available to answer any questions and report in greater detail.

This Report contains the following categories of information:

I. THE PCO's MONITORING METHODOLOGY and SCOPE
II. EXECUTIVE SUMMARY
III. THE PCO'S MONITORING BY OPERATING UNIT
IV. THE POTENTIAL FOR COMPROMISE TO CARE
V. NEXT STEPS FOR THE PCO

I. THE PCO's MONITORING METHODOLOGY and SCOPE

A. Methodology

Following Mr. Seelig's appointment, the PCO implemented a cost-effective plan to visit and monitor the Debtor's patient care and safety at the Debtor's dispersed facilities. The PCO received strong support from the Debtor's management, the corporate senior executives engaged in supporting the facilities, and facility-level administrators and caregivers. Among other things, the PCO:

1. Interviewed the following: (i) the Debtor's CEO, (ii)the CFO, (iii) the Director of Provider Services & Clinic Operations; (iv) the interim corporate Chief Nursing Officer ("**CNO**"); (v) the Clinic Operations Manager; (vi) the Director of Nursing ("**DON**") at each facility; (vii) key corporate managers, including for all facilities; (vii) the system-wide Quality Assurance Director, (v) physicians; (vi) the Quality Assurance-Performance Improvement Director at each facility visited by the PCO; (vii) the Director of Quality Assurance, Risk Management, Accreditation, and Regulatory Compliance; (vii) the key administrator and senior managers at each facility visited; (viii) the comptroller; (ix) the revenue cycle manager who is in billing and collection activities; (x) nurses; (xi) other caregivers; (xii) Department Managers responsible for key care components including but not limited to Infection Control, Medical Records-Health Information Systems, Physical Plant-Facilities, (xii) the Directors of Laboratory, Radiology, Physical Therapy; and (xiii) other knowledgeable parties. Importantly, at each facility the PCO attended clinical care and revenue cycle meetings.

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2. Reviewed each facility's internally prepared documentation of patient care and incidents ("incident reports") to identify patients harmed and then research specific patient charts and care components. Concurrent with review of the specific incident reports, the PCO critically examined both the specific-facility and system-wide efforts regarding peer review and performance improvement programs.

3. Reviewed liability-risk, staffing, compliance, and contracting for clinical and nonclinical materials/supplies/temporary staffing documents at the facility and corporate level.

4. Conducted a comprehensive examination of reported state and federal quality measures, including each facility's Joint Commission Surveys[2] and any federal or state agency Statements of Deficiencies and Plans of Corrections for the past two-years.[3]

5. Took extensive notes documenting interviews and in-depth review of relevant documents, prepared, and analyzed facility-specific reports, and distilled all that into the PCO's reports to the Court.

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[2] All hospitals, nursing homes, and certain other health care providers that receive funds from Centers for Medicare and Medicaid Services ("**CMS**") are surveyed and the deficiencies and then the corrections are reported using Form 2567; definitions are found at: www.altsa.dshs.wa.gov/professional/nh/documents/Definitions.pdf In all states the JOINT COMMISSION, the State and the CMS share all survey and accrediting information. The JOINT COMMISSION conducts "surprise survey visits" no less than every three years to investigate all aspects of patient care and safety. At the conclusion of the survey, the JOINT COMMISSION provides the Hospital with a detailed report on deficiencies and demand for correction for each deficiency found. In all federal and state surveys, deficiencies are illustrated on a two-column form (CMS FORM 2567) with deficiencies cited on the left column and the right-hand column left blank for the respondent to provide within ten working days a plan of correction for each deficiency. All submitted forms "Post submission and acceptance of plans of corrections, both the JOINT COMMISSION survey documents and Statements of Deficiency and Plans of Correction" are public and will be provided to the Court if requested.

[3] On-Site Survey Process: a Joint Commission Fact Sheet" at https://www.jointcommission.org/assets/1/18/Onsite_Survey_Process_8_13_18.pdf The JOINT COMMISSION ACCREDITATION CATEGORIES relevant to the Debtors is; "**Accredited** is awarded to a health care organization that is in compliance with all standards at the time of the on-site survey or has successfully addressed requirements for improvement in an Evidence of Standards Compliance within 60 days following the posting of the Accreditation Summary Findings Report and does not meet any other rules for other accreditation decisions.

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6. Most recently, the PCO gained access to reports and memorandum prepared by the corporate quality assurance, compliance, and other senior facilities' directors. The PCO has been able to initially assess and report on these reports, materials, and data. The PCO will continue off and on site to review and analyze this and other requested reports/materials/data over the coming weeks. Please refer to Section IV for further discussion of this topic; this activity is also cited as "a PCO next step" in this Report's conclusion.

II. EXECUTIVE SUMMARY

The Executive Summary Section offers the Court in summary form a review of each of the Debtor's operating units, which are: the Hospital; the Rural and Specialty Clinics; and the Skilled Nursing Facilities. In concluding this section, the PCO employed the standards set by 11 USC section 333 to:

- Determine the security and availability of medical records and supporting materials, ***which in summary the PCO assessed as being maintained as required by their respective policies and available for patients' continuity of care.***
- Determine whether there has been a post-petition decline in or material compromise to care, ***which in summary the PCO has assessed that there was no post-petition decline or compromise to care.***
- Determine the potential compromises to care, ***which in summary the PCO has identified specific instances where there is potential for compromise to care.***

A. The Debtor's Health Care and Long Term Care Facilities

The Debtor provides a wide range of integrated health care, social welfare, and long-term care services across multiple sites on and off the main "Hospital campus." To support the Court's understanding of a complex care provider, we quote with supplemental supporting materials, descriptive information found in the "DECLARATION OF MARY CASILLAS IN SUPPORT OF EMERGENCY FIRST DAY MOTIONS"[4] ("Casillas Declaration").

The Hospital: "The District operates the 25-bed acute care Hospital at the District's main

[4] DECLARATION OF MARY CASILLAS IN SUPPORT OF EMERGENCY FIRST DAY MOTIONS Doc 10, para 28 pp 8-10.

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campus, located at 911 Sunset Drive, Hollister, California. The Hospital is licensed for 6 perinatal, 4 intensive care, and 15 general acute care beds. The emergency department includes 3 large trauma bays, 16 private rooms, and helipad access. The Hospital is currently designated as a "Critical Access Hospital" ("CAH")[5] by the Centers for Medicare and Medicaid Services ("CMS")[6]. Limited to 25-beds and mandated to provide certain key health and social welfare services, "The CAH designation is designed to **reduce the financial vulnerability** of rural hospitals and **improve access to healthcare** by keeping essential services in rural communities." Notably, the average Emergency Room census of 65-80 patients is well above the average for hospitals serving a similar size Primary Service Area. The PCO believes this is indication of both the community's need for and a willingness to use local Emergency Services; additionally, a census of the size financially supports other services and serves as a viable and vital referral to the Hospital, Clinics, and SNFs.

The Rural and Specialty Clinics: "The District operates five rural health clinics commonly known as Hazel Hawkins Health Clinic, San Benito Community Health Clinic, Barragan Family Health Care and Diabetes Center, Mabie First Street Healthcare Center, and Mabie San Juan Road Healthcare Center (collectively, the "Rural Health Clinics"). The Rural Health Clinics offer primary and specialty care, diabetes services, and laboratory services. The Rural Health Clinics saw 51,140 patient visits in Fiscal Year 2022[7]. The following quote from the leading Rural Health policy/programming publication accurately describes the Rural Health Clinics' value to its community: "The Rural Health Clinic (RHC) program is intended to increase access to primary care services for patients in rural communities. RHCs can be public, nonprofit, or for-profit healthcare facilities….RHCs are required to provide outpatient primary care services, basic laboratory services, and be able to provide "first response" services to common life-threatening injuries and acute illnesses. The main advantage of RHC status for rural providers is

[5] Rural Health Information Hub: https://www.ruralhealthinfo.org/topics/critical-access-hospitals
[6] Casillas Declaration para 29 pp 8-10.
[7] Casillas Declaration para 31 pp 8-10.

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enhanced reimbursement rates for providing Medicare and Medicaid services[8]."

The Skilled Nursing Facilities ("SNF"): "The District operates two skilled nursing facilities, commonly known as Mabie Northside Skilled Nursing Facility ("Northside") and William & Inez Mabie Skilled Nursing Facility ("Southside" and, together with Northside, the "Skilled Nursing Facilities"). Collectively, the Skilled Nursing Facilities are licensed for 119 beds. In Fiscal Year 2022, Northside had an average daily census of 38.36 equaling a total of 14,002 patient days and Southside had an average daily census of 43.95 equaling a total of 16,042 patient days. This represented an annual increase in average daily census in each facility as compared to fiscal year 2021." [9] Maintaining access to quality long term care close to the resident's family and friends is an issue that the PCO has been closely engaged in both as program director, consultant, and policy expert; the following quote from the leading Rural Health policy/programming publication accurately describes the Debtor's SNF's value to its community: "A scarcity of long-term care facilities and healthcare providers in rural communities can cause hardship and difficult choices for individuals and their families. In such cases, people who need long-term care must decide, in consultation with their families and other caregivers, if home care is possible or if relocation to a facility outside of their community is necessary. A move to another community can be stressful, and family members might not be able to visit as often as they would like. Communities also experience economic loss and diminished social connections when people leave."[10]

B. The PCO Assessment

1. Health Insurance Portability and Accountability Act ("HIPAA") Compliance:

The patient's medical record is a means of communication between providers as to health status, preventive health services, treatment, planning, and delivery of care and are an indicator of the ongoing quality of care. Patient medical records were sampled to test for the existence and

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[8] Rural Health Information Hub: https://www.ruralhealthinfo.org/topics/rural-health-clinics.
[9] Casillas Declaration para 30 pp 8-10.
[10] Rural Health Information Hub: https://www.ruralhealthinfo.org/topics/long-term-care.

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timeliness of required medical records, forms, and statements. The purpose of this review was to determine whether patient record documentation was being maintained at the time of our review to support quality and continuity of care. These tests included a review of the Debtors' internal medical record policies, and those internal requirements were used to structure elements included in our test samples.

Medical records were selected from all three of the Debtor facilities to include the hospital, clinics, and nursing homes. A contemporaneous review was conducted to test the current maintenance of the medical record requirements at each of these operations. The hospital's Meditech system was tested for patients admitted between September 7th and September 11th, 2023, and all tested reports were filed and timely. Resident medical records kept in the nursing home PointClickCare, and all resident records requirements selected were found in the system and timely. Finally, clinic records were tested in their eClinicalWorks system for patients scheduled the morning of September 18, 2024, the date of the test. All progress notes were found for patients scheduled for that morning. The Debtor's use of electronic health information systems is being used effectively and it appears that they have good compliance of their medical record maintenance obligations. Patient medical records from all facilities and units visited by the PCO were sampled to test for the existence and timeliness of required medical records, forms, and statements.

These tests, further chart review, and observation by the PCO indicated ***that the Hospital, SNFs, and Clinics both maintained medical records as required by their respective policies on a timely basis; and that the Debtors are meeting the requirements for providing information/documents needed for patient continuity of care.***

2. Assessment the Key Factors Preventing Compromises to Care

a) The Debtor's Interim CEO and Chief Responsible Officer is ***qualified and an experienced professional*** who has served in that role for approximately six months. She has been actively involved in the hospital in various paid and volunteer roles for many years. The Hospital Board and key community parties in interest requested that she take on

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this role due to her extensive knowledge of the hospital and her professional expertise for less than two years prior to the filing of the bankruptcy. Importantly, the Chief Financial Officer, The Director of Provider Services & Clinic Operations, the SNF operations director, Medical Director, Emergency Department ("ED" or "ER") Director and other key leaders have been at the Debtor for no less than 15 years; we believe based on interviews and materials review that the bring to the Debtor both the required knowledge of the Managing Entity and/or their operating unit/department's operations and strong professional credentials. Over the past year, the Debtor expanded its team of needed and in some instance required professionals to provide support to the Hospital, the SNFs, and Clinics in critical roles including Chief Nursing Officer, Director of Quality Assurance, Risk Management, Accreditation, and Regulatory Compliance; Comptroller; Revenue Cycle Director; Infection Control/Disaster Preparedness Director; Director of Facilities; and others professionals whose work has based on our initial review and research supports the Debtor's patient care and safety. ***b) Medicare certification, accreditation by Joint Commission, and other regulatory bodies*** established standards of patient care and safety and conduct frequent on-site surveys[11] [12] Jointly, the Debtor's Hospital and Clinics, and separately its laboratories have in the past twelve months had their in-depth Joint Commission survey ("JOINT COMMISSION Unannounced Full Event Report"). In summary:

- The Debtor's hospital and Clinics have maintained their accreditation with comparatively few deficiencies to correct. The Debtor's Laboratories have maintained their accreditation with comparatively few deficiencies to correct.
- With the full cooperation of the Debtor, the POC to the best of their ability and given the time an available have reviewed and discussed with the Debtor the Medicare certification and any Statements of Deficiency and Plans of Corrections,

[11] Op cite at note 2.
[12] Op cite at note 3.

accreditation by Joint Commission documents, and other regulatory bodies established standards of patient care and safety on-site surveys[13] [14] .

- All Hospitals, SNFs, and Rural Clinics are required to attempt to complete a ***Standardized Patient Satisfaction Survey*** at the time of the patient's discharge.[15] The PCO has initiated the process of reviewing survey results at each of the Debtor's operation units and will report to the Court in their next 60-Day Report.

b) Based on the PCO's interviews and an extensive on-site review, the PCO believes that the Debtor's leadership have acted to maintain required levels of staffing, supplies, drug, and equipment.

3. Summary

The PCO reports, based on monitoring and analysis provided above *and* in the Sections

[13] All hospitals, nursing homes, and certain other health care providers that receive funds from Centers for Medicare and Medicaid Services ("**CMS**") are surveyed and the deficiencies and then the corrections are reported using Form 2567; definitions are found at: www.altsa.dshs.wa.gov/professional/nh/documents/Definitions.pdf In all states the JOINT COMMISSION, the State and the CMS share all survey and accrediting information. The JOINT COMMISSION conducts "surprise survey visits" no less than every three years to investigate all aspects of patient care and safety. At the conclusion of the survey, the JOINT COMMISSION provides the Hospital with a detailed report on deficiencies and demand for correction for each deficiency found. In all federal and state surveys, deficiencies are illustrated on a two-column form (CMS FORM 2567) with deficiencies cited on the left column and the right-hand column left blank for the respondent to provide within ten working days a plan of correction for each deficiency. All submitted forms "Post submission and acceptance of plans of corrections, both the JOINT COMMISSION survey documents and Statements of Deficiency and Plans of Correction" are public and will be provided to the Court if requested.

[14] On-Site Survey Process: a Joint Commission Fact Sheet" at https://www.jointcommission.org/assets/1/18/Onsite_Survey_Process_8_13_18.pdf The JOINT COMMISSION ACCREDITATION CATEGORIES relevant to the Debtors is; "**Accredited** is awarded to a health care organization that is in compliance with all standards at the time of the on-site survey or has successfully addressed requirements for improvement in an Evidence of Standards Compliance within 60 days following the posting of the Accreditation Summary Findings Report and does not meet any other rules for other accreditation decisions.

[15] The HCAHPS (Hospital Consumer Assessment of Healthcare Providers and Systems) survey is the first national, standardized, publicly reported survey of patients' perspectives of hospital care. HCAHPS (pronounced "H-caps"), also known as the CAHPS Hospital Survey, is a survey instrument and data collection methodology for measuring patients' perceptions of their hospital experience. AT: https://www.cms.gov/medicare/quality-initiatives-patient-assessment-instruments/hospitalqualityinits/hospitalhcahps.htmle.

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below, that:

- ***Medical Record and support materials are being maintained as required by their respective policies and available for patients' continuity of care.***
- ***No decline in care post-petition and no* material compromise to care has occurred .**
- ***The PCO has identified and reviews in the Sections below, specific instances in each operating unit that offer the potential for compromise to care that need remediation.***

III. REVIEW OF THE PCO'S MONITORING BY OPERATING UNIT

A. THE HOSPITAL AND ITS KEY OPERATING UNITS' SYSTEM REVIEW

The Hospital's System Review, which included its key operating units effort, was led by Jody Knox MHA, BS, RN, who is a highly skilled health care administrator who has served as a hospital CEO, senior manager in large health care provider organizations, and who has extensive experience in clinic operations.

Upon appointment, the PCO requested and received key documents from the Hospital's Leadership. After reviewing the documents, the PCO conducted initial zoom interviews with the Hospital's leadership team with the purpose of reviewing key indicators to determine if there is any significant decline in the quality of care. The participants were provided a preliminary agenda from which to prepare and provide initial responses that were reviewed during the meeting.

1. Methodology Employed and Review of the Hospital and its Operating Unit

a) The PCO conducted a campus tour that included all patient care areas as well as many, not all areas needed to support patient care. These appeared to be clean, free from debris, hallways clear, ceiling tiles were clean and fire extinguishers that were randomly checked were tagged appropriately.

b) Prior to being on-site the PCO reviewed several policies: Infection Prevention (2023-2024) and Control and Quality Improvement (2022). These are current; however, the Quality Improvement Plan is dated 4/5/2022 and contained therein is to be updated and approved by the District Board annually. Both Plans appear to address the needed regulatory components. The hospital uses the MIDAS system for reporting of occurrence reports and all staff

have access and are encouraged to input information as appropriate. The PCO will be delving further into this as well as validating the Plan against what is communicated to leadership and the Board at the next on-site visit.

c) The PCO attended the morning safety round where department directors and leadership reported out statistics that included but was not limited to census, admissions, expected surgical cases, expected discharges, unusual occurrences, known hospital acquired occurrences (CAUTI, HAI, CLABSI, etc.). During this time they also speak toward any equipment issues, which is a good practice. This daily meeting is a good communication mechanism.

d) While rounding in the various hospital departments, the PCO randomly reviewed medical and patient care equipment for current biomedical checks and appropriate tags. Those reviewed were found to be compliant.

e) The PCO randomly reviewed patient care supplies and medications for expiration dates and those reviewed were found to be compliant.

f) The PCO made rounds in the following departments:

- OB/Women's Health

  Review of this OB unit and a cursory review of the C-Section room demonstrated an LDRP suite fully operational, including neonatal recitative equipment appropriate for a CAH. There is a pediatric hospitalist available 24/7 and they have appropriate OB call coverage.

- Dietary

  Review of the dietary department demonstrated a clean and orderly department. The PCO interviewed staff regarding patient diet needs and how they managed the differing supplements, types of diets and various diet restrictions – all were answered without hesitation. The lead dietary person was interviewed about the interaction between the department and

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the clinical dietician and there appears to be a high level of interaction to meet the needs of the patients.

- Materials Management

The PCO walked the department and had a lengthy discussion with the leader regarding any difficulty obtaining supplies either during COVID crisis time or under the organization's current financial concern. The leader discussed how they have managed to work their vendors to negotiate payment terms when needed. The leader also discussed how they have used other sourcing methods, other than their GPO, i.e. Amazon, to obtain supplies, when their backs were against the wall. Further review in this department demonstrated a robust *first in - first out* ("FIFO") and rotation method to be sure that stock does not expire and that expired supplies/materials are checked regularly.

- Environmental Services

The PCO met with the lead of the EVS department who is proud of the team she leads as well as the service her team provides. The lead was able to fully describe the method by which each area the team is responsible for is validated for cleanliness. The EVS department has adopted the EcoLab system for environmental cleaning, using the Fluorescent Marker Assessment Tool, a best practice among health care organizations.

- Medical/Surgical Unit

The PCO rounded in this area and did a cursory review of the area to see that the organization uses an OmniCell for supply control and distribution

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and a Pyxis system for medication control and distribution. The PCO also reviewed one unoccupied patient room.

- Pharmacy/IV Admixture Room

  The PCO met with the pharmacist on duty at the time of the visit, who explained this is a contracted service through Cardinal Health. All employees in this department are employed through Cardinal, including the director. It was explained that this is a unit dose department, that the hospital/organization is a 340b[16] program recipient. Medications and supplies are ordered via McKesson via the hospital under the direction of the pharmacy department. Controlled substances are in order; the IV admixture hood meets compliance standards. The pharmacist stated that the hood is rarely used as most items in the pharmacy are in “admixture” containers that are premixed by and then come directly from the supplier.

- Laboratory

  An in-depth tour with the lab director occurred. The director stated that they have recently received some new equipment and that they are expecting new equipment. The director was detailed in the accounting of how validations occur prior to putting any new equipment or reagents into use. A random review of biomedical tags found these to be compliant. It was interesting to note that most of the laboratory tests run, are outpatient

[16] ***CMS. Gov Newsroom*** “ Section 340B of the Public Health Service Act (340B) allows participating hospitals and other providers to purchase certain covered outpatient drugs or biologicals (hereinafter referred to collectively as “drugs”) from manufacturers at discounted prices.” at:https://www.cms.gov/newsroom/fact-sheets/hospital-outpatient-prospective-payment-system-remedy-340b-acquired-drug-payment-policy-calendar.

in nature. They are College of Pathologist accredited and have a physician on-site medical director several times a week. Clinician licenses were posted.

- Radiology

The PCO reviewed the radiology department with the director and working manager. Clinician licenses were posted. MRI signage was visible. They have a fully functional PACS[17] system that is accessible in the clinics.

a. The PCO will make rounds to the following departments on the next on-site and will include but not limited to:

- Surgery
- Sterile Processing
- GI and Scope Processing
- Registration
- Case Management

Based on the PCO's interviews before, during, and on their September site visit; pre-visit, on site, and post-visit requests documents/materials, prior and on-going review of documents/materials; the PCO assessment is that ***the Hospital is providing high quality patient care and safety with staff and leadership exhibiting a strong commitment to provide cost efficient and effective care. The PCO, in this Report and in meetings with Hospital Leadership and Managers, identified specific clinical practice and procedures, Data collection and***

[17] Intelerad "In medical terms, PACS stands for Picture Archiving and Communication System. A PACS system is an efficient way to securely transport private patient medical imaging information, in contrast, to manually filing, retrieving, or physically transporting film jackets. With PACS, medical professionals can store and digitally transmit images and clinical reports for immediate use at their discretion- a significant improvement over older film-based systems. In addition, medical documents and images can be housed locally or offsite on secure servers and accessed using PACS software, workstations, or mobile devices." at:https://www.intelerad.com/en/2022/01/24/what-is-pacs/.

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sharing, QAPI system issues, as well as other potential for compromise to care that need remediation. We believe that the Debtor will engage in a strong remediation effort, which will be monitored by the PCO and reported to the Court in a timely manner.

B. THE RURAL CLINICS' SYSTEM REVIEW

The Clinics' System Review effort was led by Jody Knox MHA, BS, RN, who is a highly skilled health care administrator who has served as a hospital CEO, senior manager in large health care provider organizations, and who has extensive experience in clinic operations.

Upon appointment, the PCO requested and received key documents from the Clinic Leadership. After reviewing the documents the PCO conducted initial zoom interviews with the clinic leadership team of the Rural Health & Specialty Clinic operations with the purpose of reviewing key indicators to determine if there is any significant decline in the quality of care. The participants were provided a preliminary agenda from which to prepare and provide initial responses that were reviewed during the meeting.

1. Assessment Made from Document Review of the Rural Clinics

a) Prior to the initial zoom meeting, the PCO reviewed the most recent Joint Commission accreditation report (June 2021), the July 2023 Lab Joint Commission accreditation report, and the July 2023 Radiology MQSA inspection, however neither the Quality Assurance Performance Improvement nor the Infection Prevention plan were available prior to the interview. At the initial and subsequent meetings on and off premises, attendees were very pleasant, cooperative, and engaged. Key tasks completed were, but not limited to:

b) Along with the reviewing that responses provided by the interviewees to the questions and delving further into those, the PCO asked about staffing, education of staff, patient care, other directors making rounds i.e., ICP, EOC, Pharmacy.

c) The PCO inquired as to how language barriers are addressed.

d) Remote Chart review occurred during the interview, specifically looking at immunization, chart documentation, chart completion, interpreter documentation, medication reconciliation and administration.

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e) The PCO sought information as to the Debtor's performance during the COVID-19 outbreak. Key issues, such as the screening process, how they transitioned to tele/video visits, and how they remain on telehealth/video visits today were addressed.

f) Based on interviews and on-site independent and in-depth review, the PCO believes that the Debtor's Clinics are not having any issues obtaining supplies or medications. They have a functioning and inspected Vaccine For Children Program ('VFC"), which provides many of the needed vaccines for pediatric patients.

2. Assessment Gained From Rounding at the Clinics:

Based on the PCO's site in-depth review by the PCO with the support of caregivers (rounding")' and our on and off-site review of documents/materials, our assessment of key indicators of patients care and safety is as follows:

a) All the clinics to be in good repair, medications and sharps were locked, and there was no pattern of expired medications found. Sharps containers were at the appropriate level, hazardous waste was contained, and supplies/medications were adequate per site visited.

b) The Clinics have a state funded Vaccines for Children program and they are in compliance and regularly inspected.

c) Interviews with staff were found that they could articulate infection prevention and patient safety practices in compliance with regulatory standards.

d) Discussions with leadership regarding their quality indicators involved how they identified items to monitor. There is a mechanism to report these through the quality improvement committee and it is done once per year.

e) There is a mechanism to review policies on an ongoing basis. For the most part they adhere to the hospital-wide policies with clinic specific additions as needed.

f) The clinics use MIDAS system for reporting of occurrence reports and all staff have access and are encouraged to input information as appropriate.

Based on the PCO's interviews before, during, and on their September site visit; pre-visit,

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on site, and post-visit requests documents/materials, prior and on-going review of documents/materials; the PCO assessment is that ***the Clinics are providing high quality patient care and safety with staff and leadership exhibiting a strong commitment to provide cost efficient and effective care. The PCO, in this Report and in meetings with the Hospital and the Clinics' Leadership and Managers, identified specific deficiencies that offer a potential for compromise to care that need remediation. We believe that the Debtor will engage in a strong remediation effort, which will be monitored by the PCO and reported to the Court in a timely manner.***

C. THE SKILLED NURSING FACILITIES' SYSTEM REVIEW

The Debtor operates two Skilled Nursing Facilities (SNFs), Mabie Northside Skilled Nursing Facility ("Northside") and William & Inez Mabie Skilled Nursing Facility ("Southside"), which are in separate buildings on the north and south side of the Hospital main campus. Although they have separate state and federal licenses, they are led by the Hospital's key executives and the Hospital revenue cycle department provides key financial, billing and collecting, and other management services. The SNFs employ their own EMR, yet staff can readily access the other operation units EMRs and databases. We in this section and throughout the Report refer to the facilities as the "SNFs."

Upon appointment, the PCO requested and received key documents from the Skilled Nursing Leadership. The SNF assessment effort was led by Lisa Grod Ph.D. a licensed nursing home administrator with extensive experience in skilled nursing operations.

After reviewing the documents the PCO conducted initial zoom interviews with the leadership team of the SNF operations with the purpose of reviewing key indicators to determine if there is any significant decline in the quality of care. The participants were provided a preliminary agenda from which to prepare and provide initial responses that were reviewed during the meeting. For the three days that the PCO spent at the SNF in September, meetings were held with the executive and senior leadership teams daily.

1. On Site Interviews and Expert Observations

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a) **Resident Rounds:** In depth interviews with residents "Resident Rounds" were conducted at Mabie Northside Skilled Nursing Facility ("Northside") and William & Inez Mabie Skilled Nursing Facility ("Southside") and followed by Interdisciplinary Team Meetings (IDT) providing daily reports and updates on every resident residing in both SNF's during the onsite visit.

b) **Facility Rounds** were made with The Infection Preventionist that included resident rooms & bathrooms, laundry, dietary during tray pass, reviewed random sanitation of kitchen: calibration of thermometers, temperature logs for refrigerators and freezers, labeling and dating of open food items, and disaster supplies.

c) **The PCO observed as to Resident Care** that The Northside and Southside facilities were free of odors and the residents were observed to be in activities, participating in Rehab, up in their wheelchairs (in and out of rooms), or resting in bed depending on the time of day.

d) The PCO met with the SNF IP (infection Preventionist) and The Debtor's Director for Infection Prevention and Disaster Preparedness. The PCO conducted in depth reviews with those individuals and has recently received a copy of the June 2022 CDPH survey to review.

e) **Meetings** were held with Interim DON, staff, and Registered Dietician. Meetings included discussions of MDS and documentation, Quality Measure Reports, Weight Variance Meetings, Dining Program, Pressure Ulcer Reports, Pharmacy review including Antipsychotics, Antidepressants, and Antianxiety/Hypnotics and Medication Errors, Incident

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reports - Falls, grievance and theft and loss, NHPPD[18], QAPI, Care Plans, catheters, and a Prospective Payment System/Payment Driven Payment Model ("PPS/PDPM")[19] billing review.

f) **Billing and Financial Review:** P & Ls were reviewed along with collections. The PCOs attended a billing meeting with the Northside and Southside SNF team consisting of Physical therapy, Assistant Administrator for each building individual, Director of Billing and other billing department members.

g) **Policies on** theft and loss, grievances, sanitation rounds of Kitchen, and incidents were provided to the PCO along with Internet Quality Improvement & Evaluation System ("iQIES") Reports on Quality Measures for the SNF. [20]

h) **Electronic Medical Record:** The Debtor employs several EMR systems within the SNFs' organization. Point Click Care (PCC) is utilized by the SNF's to document Resident care and create reports related to resident care. Incident reports, Care Plans, MDS, medication management, treatment, dietary plans, and monitor quality measures affecting the residents. Midas another EMR is used by staff members to document incidents - currently staff are being provided education on how to enter an incident into the system. One issue remains

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[18] CALIFORNIA DEPARTMENT OF PUBLIC HEALTH; GUIDELINES "NHPPD means the actual nursing hours performed by direct caregivers per patient day. (o) NHPPD Calculation is the calculation of the NHPPD by dividing the actual nursing hours performed by direct caregivers per patient day by the Average Census" at https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/AFL-11-19.aspx#:~:text=(n)%20NHPPD%20means%20the%20actual,day%20by%20the%20Average%20Census.

[19] CMS.Gov "The Balanced Budget Act of 1997 mandates the implementation of a per diem prospective payment system (PPS) for skilled nursing facilities (SNFs) covering all costs (routine, ancillary and capital) related to the services furnished to beneficiaries under Part A of the Medicare program. at https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf#:~:text=The%20Balanced%20Budget%20Act%20of,A%20of%20the%20Medicare%20program.

[20] Beginning in May 2021, State Survey Agencies (SAs) and CMS locations began a phased transition to the Internet Quality Improvement and Evaluation System (iQIES), which is an internet-based system that includes survey and certification functions. iQIES consolidated and replaced functionality from the prior surveying/assessment systems: QIES, CASPER, and ASPEN; at https://www.cms.gov/medicare/health-safety-standards/quality-safety-oversight-general-information/iqies.

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that there is no interoperability between systems and not all of the necessary information is communicated as determined by which system the information is entered into and in what detail. The outpatient Rehab department is on Web PT, an EMR system to capture Therapy minutes.

i) **Rehabilitation: A** meeting with the Rehab Director took place in the Outpatient Clinic to discuss the staffing needs of qualified therapists, the increased cancellation rates of patients post discharge from hospital for therapy, and an improved EMR to capture Inpatient, Outpatient and SNF rehab minutes independently.

j) **Staffing:** As with many health providers nationally and locally, staffing continues to be an issue in the SNF and the **Hazel Hawkins Physical Therapy & Rehabilitation Service** ("OutPatient Rehab") Center. In the SNF, the preference is to provide overtime to working staff and to minimize using registry unless necessary. The OutPatient Rehab Center currently uses traveling ("registry") nurses. At the time of this meeting. The PCO was unable to review the annual staffing audit done by CDPH.

k) **Covid Testing** Procedures for covid testing in the SNF is based on symptoms only at this time and Return to Work policy follows the CDC guidelines as "may return to work after five days and be masked if no symptoms or fevers. The visitor policy is to wear a mask, take temperature and document in the logbook.

l) **QAPI:** The PCO received a document for QAPI in the SNF that addresses the monthly required committee meetings quarterly: QAPI, Infection Control & Antimicrobial Stewardship Program, and the Pharmaceutical Service Committee. Annual meeting to review Patient Care Policy and Pharm Committee. The PCO received a copy of a July QAPI meeting, yet those notes did not meet the standards of reporting whether the action plan was working or needed to be modified to attain QAPI goals.

m) **Infection Prevention and Disaster Preparedness:** The PCO met with MH the Director to discuss the IP program and training of the newly hired IP LVN for the SNF's. The Emergency Disaster Preparedness Program is being updated and is a work in progress. There are 10 generators on the HHMH site. A discussion was held on shelter in place

versus transfer to outlier facilities. Unable to review transfer agreements at this time, however there were transfer agreements for transportation in place.

At the time of this report, the PCO was unable to contact the Medical Director and the Pharmacy Consultant.

2. Summary

Based on the PCO's interviews before, during, and on their September site visit; pre visit on site, and post visit requests documents/materials, prior and on-going review of documents/materials; the PCO assessment is that ***the SNFs are providing high quality resident care and safety with staff and leadership exhibiting a strong commitment to provide cost efficient and effective care. The PCO, in this Report and in meetings with both the Hospital and the SNF Leadership and Managers, identified specific practice and procedures, Data collection and sharing, QAPI system issues, coding and billing process, as well as other potentials for compromise to care that need remediation. We believe that the Debtor will engage in a strong remediation effort, which will be monitored by the PCO and reported to the Court in a timely manner.***

IV. SYSTEMIC POTENTIAL FOR COMPROMISE TO CARE

The PCO concludes a review of those factors that threaten daily patient care and safety by reporting on what the PCO believes based on their monitoring and experience are the systemic challenges the Debtor faces in preventing compromises to care.

A. Financial Factors Shaping the Debtor's Operations

B. Community Involvement and Support

C. Implementing a Viable and Vital Quality Assurance and Performance Improvement Program

D. Interoperability: The Appropriate and Safe Sharing of Patient Information

A. <u>Financial Factors Shaping The Debtor's Operations</u>

The factors that lead to a health care provider bankruptcy are a concern for the PCO if

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they impact Debtor's patient care and safety. As to this Debtor, the Declaration of its CEO stated two key factors leading to Debtor's lack of liquidity:

- "The District's limited access to working capital also presents significant challenges when addressing short-term fluctuations in cash flow.[21]
- The District experienced a significant and unanticipated decrease in revenue and a concurrent increase in expenses that rapidly eroded the District's limited working capital."[22]

Both above can negatively impact patient care by affecting the Debtor's ability to obtain supplies and adequate staffing. Accordingly, these factors are a component in the PCO's ongoing monitoring and reporting efforts.

B. <u>Community Involvement and Support</u>

The PCO has managed and monitored hospitals urban and rural and small and large community long term care facilities, which offers the PCO insights into the issues that are addressed in this section. The Interim CEO and her senior leaderships' need to engage in the time consuming and complex effort to maintain financial support from multiple boards and funding authorities. The Debtor's leadership must also, through communication and quality care, satisfy those who use the hospital, the clinics, and the SNF. They must also convince a significant share of the 65,000 residents of the Debtor's primary health care service area to go to the Debtor's Hospital, Clinics and SNF when they or a child need urgent care; when a fall at little league, an accident at work, in the car, at home demands an Emergency room, and so many other immediate or non-urgent health and long term care needs arise.

The PCO is also no stranger to the turmoil, confusion, and at times anger created when a needed health and long-term care provider in and out of bankruptcy dips into a financial crisis. In our prior work, for everyone who criticized our interim management efforts, there were 10-20 more who said to us at the supermarket, high school football game, house of worship, or in a coffee shop, "thank you for the great job you are doing." Unfortunately, today the Debtor's

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[21] Casillas Declaration page 5, para 19-20.
[22] Casillas Declaration page 6, para 21-22.

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interaction with the community is more difficult because of the power of social media and other tools, which empower a minority to use public meetings and everyday encounters in the community to promote unsupported allegations, make claims that are in ignorance of rules and regulations and offer personal insults; all of which makes more difficult the work of caregivers and leadership.

Based on the PCO's interviews, review of data/documents/material; and analysis of Emergency Room, Hospital, Clinics, the SNFs' and other Debtor services' data *the PCO has determined that the Debtor's* ***staff and leadership are exhibiting a strong commitment to provide cost efficient and effective care and are making a time consuming effort to communicate their care and financial resources to the community.*** The PCO will continue to monitor risk to care created by the great increase we see in time that the Debtor's leadership and even caregivers give to responding to unfounded allegations and anger fueled by social media.

C. Assuring Quality Assurance and Improving Performance

The PCO quotes from The National Institutes of Health ("NIH") to respectfully remind the Court that "the healthcare system is made up of individual players, but its ultimate goals of patient care and safety are accomplished through teamwork. Likewise, when medical errors occur, though they may result from an individual's actions, the appropriate next steps fall on the institution to identify, learn from, and improve on the prevention of such events."[23] Therefore, at each Debtor's facility and system-wide there must be a viable and vital on-going quality assurance and performance improvement programs.

1. Quality Assurance-Performance Improvement ("QAPI") Program

QAPI is a process whereby information is gathered, tracked, analyzed and reported to the governing board and leadership to develop performance improvement projects. Quality Assurance and Performance Improvement is a key tool for each person involved in care, to find, assess, and fix deficiencies in patient care and safety. As part of the PCO's review of the care delivery

[23] Joel McGowan; Amanda Wojahn; Joseph R. Nicolini "Risk Management Event Evaluation and Responsibilities"; HIH: National Library of Medicine; at: https://www.ncbi.nlm.nih.gov/books/NBK559326/#:~:text=Risk%20management%20in%20healthcare%20is,and%20prevent%20risks%20to%20patients

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processes, an important component is implementation and operation of all components of the Debtor's QAPI program.[24]

The key components needed to support an effective QAPI program are the following:

- ***Both Federal and State Rule and Regulations demand monthly or quarterly meetings*** be held by nursing, medical staff, QAPI, infection control, facilities (to include disaster preparedness and other emergency situations). The Hospital and Rural Clinics are Joint Commission accredited and the SNFs are state licensed separately and have their own rules and regulations as well as mandates to provide services to and coordinate with the Hospital.
- ***All Facilities and their Directors must maintain and update policies and procedures*** for their departments/services and all must participate with the Debtor's leadership in developing, implementing, training for, and assessing protocols that facilitate their specific contribution to patient care and services. In addition to all the above efforts at compliance with rules and regulations and licensing, all the Debtor's operating units are a Medicare certified facility with accreditations by The Joint Commission, the College of American Pathologists, the California Department of Public Health Licensing and Certification Division, and other department or service-specific accrediting bodies.
- ***The demand for specific senior managers/directors to comply*** with the required rules, regulations, and protocols, and the need to comply with patient care/services reimbursement rules and procedures means that the PCO monitors both the Debtors corporate operations as well as each Hospital. The Debtors' constant compliance efforts within and across the Hospitals offers the PCO a road map of the quality of

[24] "The core functions of an incident reporting system are twofold. One is to use incidents to identify and prioritize which aspects of a healthcare system and its underlying risks need to be examined more closely (citation omitted). The other is to organize broader investigation and improvement activities to understand and address those risks. These active processes of investigation, inquiry and improvement underpin learning." Macrae, C. "The problem with incident reporting," *BMJ Qual Saf*, 25: 74 (2016).

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patient care and safety. Thereby through interviews, observation, and review of documentation the PCO accurately assess the quality of patient care and safety and any decline or compromise in that care.

- ***Meeting the demand and requirement for clinical care meetings.*** The PCO's observations of clinical care meetings, "rounding" with caregivers, chart review, and our own professional experiences revealed both the complexity of the Debtors' patient care, and the key role psycho-social and family support services play during care. The Hospital and the SNFs each utilize daily "stand-up" or "flash-meetings" to effectively review specific clinical events, care and safety incidents, case management, and revenue cycle issues. The PCO observed at the Hospital and the SNFs these meetings; the meetings were well-run with all departments participating. Additionally, the meetings allowed the PCO to identify patients or events that merited further attention.

Based on the PCO's interviews and review of documents/materials; the *PCO has determined that there are deficiencies in the aforementioned program, which are for the most part systemic and dating to prior to the Bankruptcy,* ***yet currently limit the effectiveness of the Debtor's QAPI program***. **A most recent meeting between the Debtor's leadership and the PCO responded to the PCO's questions and documented for the PCO the steps the Debtor is taking to improve the Debtor's QAPI program.**

2. Incident Reporting

As stated above, be it a hospital, clinic, or SNF, quality patient care is achieved through documenting every care component. Maintaining, and improving patient care and safety demands that the provider and their organization closely examine ***"adverse events'*** (e.g., a medical error, patient injury, or equipment failure) that harms or has the potential to harm a patient, caregiver, or visitor. The collecting and documenting of these adverse events data is ***"Incident Reporting or Occurrence."*** "Done well, it (*the incident report*) both identifies safety hazards and guides. Incident reports help staff identify and change the individual or system-level factors contributing

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to medical errors."[25]

All three of the Debtor's care units use a computer system (MIDAS) to input information into the system to document all facets of the incident. The facility or care unit's EMR is then employed for analysis and corrective action.

Based on the PCO's interviews and review of documents/materials; the *PCO has determined that there are deficiencies in Incident Reporting, which are for the most part systemic and dating to prior to the Bankruptcy, **yet currently limit the effectiveness of the Debtor's Incident Reporting and therein the QAPI program***. **A most recent meeting between the Debtor's leadership and the PCO responded to the PCO's questions and documented for the PCO the steps the Debtor is taking to improve the Debtor's Incident Reporting and the QAPI program.**

3. Risk Management

The NIH defines risk management in healthcare as "a complex set of clinical and administrative systems, processes, procedures, and reporting structures designed to detect, monitor, assess, mitigate, and prevent risks to patients."[26] As a key component of QAPI, at most health care providers including the Debtor, Risk Management is headed by the QAPI Director. The Risk Management Department:

- **CERTIFIES PATIENT SAFETY ORGANIZATIONS ("PSOS"), WHICH ARE MANDATED PROVIDER ORGANIZATIONS THAT COLLECT AND ANALYZE DATA AS PART OF THE QAPI EFFORT.**
- **COLLECTS AND DISSEMINATES INFORMATION RELATED TO PATIENT SAFETY, WHILE MAINTAINING A PATIENT SAFETY DATABASE.**
- **WORK TO EDUCATE AND INVOLVE HEALTH CARE PROVIDERS, PATIENTS, AND OTHER INTERESTED PARTIES ON THE PROVIDERS' PATIENT SAFETY EFFORTS.**

The Risk Management department increases patient safety by encouraging confidential

[25] "Why is incident reporting important for healthcare organizations?" **THE Patient Safety Company-Topics**; at https://www.patientsafety.com/en/blog/why-incident-reporting.

[26] Joel McGowan; Amanda Wojahn; Joseph R. Nicolini "Risk Management Event Evaluation and Responsibilities"; HIH: National Library of Medicine; at: **https://www.ncbi.nlm.nih.gov/books/NBK559326/#:~:text=Risk%20management%20in%20healthcare%20is,and%20prevent%20risks%20to%20patients.**

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and voluntary reporting of adverse events, which can lead to the prevention and recurrence of medical errors.[27]

Based on the PCO's interviews and review of documents/materials; *the PCO has determined that there are deficiencies in the Risk Management Department, which are for the most part systemic and dating to prior to the Bankruptcy,* ***yet currently limit the effectiveness of the Debtor's Risk Management Department and therein the QAPI program***. **A most recent meeting between the Debtor's leadership and the PCO responded to the PCO's questions and documented for the PCO the steps the Debtor is taking to improve the Debtor's Risk Management Department and the QAPI program.**

4. Compliance-Ethics Program[28]

As mandated by the 2010 Affordable Care Act ("ACA") as a recipient of Medicare, Medicaid, and Children's Health Insurance Program ("CHIP") funds, the Debtor's Hospital, Clinics, and SNF must establish a compliance-ethics program. Although we refer in this Report as to this key mandated program as "Compliance," most providers now refer to this as the "Compliance-Ethics program or department. Best practices has the Compliance-Ethics department and its director separate from the QAPI program. Most importantly, the Compliance program interacts with and supports the Debtor quality assurance, training, and performance improvement effort. In summary, a Compliance-Ethics program:

- Establishes policies, procedures, and controls for all your providers and support staff.
- Exercises effective compliance and ethics oversight at both the highest levels (compliance and ethics officer, CEO, CFO and Board)
- Trains and continuously communicates in an effective manner with all employees, board members and vendors on compliance and ethics rules, regulations, and standards.

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[27] Paine LA, Baker DR, Rosenstein B, Pronovost PJ. The Johns Hopkins Hospital: identifying and addressing risks and safety issues. Jt Comm J Qual Saf. 2004 Oct;30(10):543-50. [PubMed] ; at: https://www.ncbi.nlm.nih.gov/books/NBK559326/#

[28] "Why Compliance and Ethics Programs in Healthcare Are Mandatory for Quality Care" *The Compliance & Ethics Blog* at https://www.complianceandethics.org/compliance-ethics-programs-healthcare-mandatory-quality-care/#:~:text=What%20is%20key%20is%20that,is%20driven%20by%20the%20government.

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- Transparent, viable and vital monitoring and enforcement of all components of the compliance and ethics program
- Respond appropriately to detected offenses and develop corrective action to prevent future offenses.

Based on the PCO's interviews and review of documents/materials; **the *PCO has determined that there are deficiencies in the Debtor's Compliance Ethics Department, which are for the most part systemic and dating to prior to the Bankruptcy, yet currently limit the effectiveness of the Debtor's Compliance Ethics Department and therein the QAPI program*. A most recent meeting between the Debtor's leadership and the PCO responded to the PCO's questions and documented for the PCO the steps the Debtor is taking to improve the Debtor's Compliance Ethics Department and the QAPI program.**

D. Interoperability: The Appropriate and Safe Sharing of Patient Information

The Debtor must share, as do all complex health and long-term care providers, patient information in a safe and accessible form. **HealthIT.gov**, which is the official website for the federal Office of the National Coordinator for Health Information Technology ("ONC") states that as a complex health system, the Debtor "requires diverse electronic health record (EHR) products. One size does not fit all. To realize their full potential, EHR products must be able to share information seamlessly."[29] "Interoperability" is the term used for linking systems within each of the Debtor's facilities, between the Debtor's facilities, and between the Debtor and other care and financial parties.[30]

At the Debtor, interoperability is demanded of their Electronic Medical Record Systems as well as, special applications and reporting systems. In summary, the Hospital employs the "**Meditech**" EMR; the Clinics employ the "**EClinicalWorks**" EMR; and the SNFs employ

[29] HealthIT.gov – FAQ's at: https://www.healthit.gov/faq/what-ehr-interoperability-and-why-it-important

[30] The PCO highly recommends "Interoperability Challenges Have Real-World Effects on Patients", which is posted on the secure exchange of health information accreditation and training organization DIRECT TRUST's *Blog* at: https://directtrust.org/blog/interoperability-challenges-have-real-world-effects-on-patients/%E2%80%8BDirectTrust

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the"**PointClickCare**" EMR. All three must be interoperable with the other EMRs, as well as with the **Midas Incident Reporting** program, the **Lightworks** toolset for Training, **PIXYS** system for pharmacy, **Web Pt** for the outpatient Rehab Center, and multiple other laboratory, radiology, and data integration systems.

Establishing, maintaining, and monitoring the Debtor's EMRs and supporting applications is supported by national standards that defines how:

- Each EMR and applications interact with users,
- Systems including emailing and messaging communicate with each other,
- Information is processed and managed at the Debtor and in required exchanges with outside vendors, providers, payers, and governmental-regulatory agencies,
- The Debtor's various systems integrate with consumers. [31]

The PCO has assessed and will continue to assess and report on the Debtor's interoperability issues.

V. THE PCO'S NEXT STEPS

The PCO has identified the need to continue to monitor quality of patient care and any impact on care. In compliance with his obligations under Bankruptcy Code section 333, the PCO and his team will continue their interviews with management, caregivers, and patients and will ***continue the monitoring function by focusing on the following areas*:**

1. The security and availability to authorized persons of patient medical records and information. Continued sampling of medical records to determine if the charts all required documents and consent forms. Medical Records and Information Interoperability.

2. QAPI, Incident Reporting, Risk, and Compliance Departments and monitor the Debtor's effort to remediate any deficiencies in those programs.

3. SNF patient falls, use of restraints, timely response to patient demands, care delivery processes and outcomes, and other critical data points.

[31] Op cite at 28 page 33

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4. Discharge planning and the incidence of readmissions at the Hospital and SNFs.

5. At all facilities and units, the key indicators of Patient Life and Safety Measures, including but not limited to infection rates and infection control, Life Safety and Facilities management efforts, availability of drugs and supplies, and other demanded interviews and document/materials review.

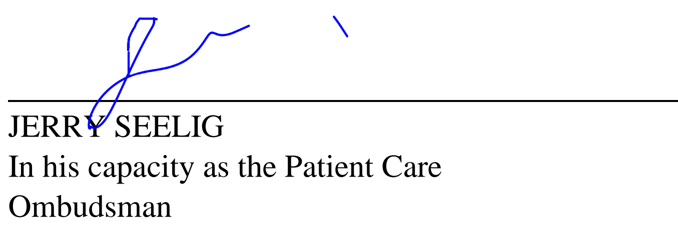
6. Continued review of clinical care and supplies/warranties contracts.

7. Specific practice areas and procedures identified above that pose a potential risk to patient care and safety.

The PCO will report to the Court and parties in interest anything else as warranted.

Dated: October 11, 2023

By:



JERRY SEELIG
In his capacity as the Patient Care Ombudsman

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EXHIBIT A:
QUALIFICATIONS OF THE PCO AND HIS CONSULTANTS

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Jerry Seelig

Jerry Seelig is Founder and CEO of **Seelig+Cussigh HCO LLC (S+C),** which provides a wide range of management, evaluation, and monitoring services to health care providers and governmental agencies. Jerry Seelig has been appointed as **Patient Care Ombudsman** in 26 cases and as **Consumer Privacy Ombudsman** in six health care cases. Most recently, Seelig was appointed PCO for **the SAN BENITO HEALTH CARE DISTRICT DBA HAZEL HAWKINS MEMORIAL HOSPITAL,** Chapter 9 case in Hollister, CA. Hazel Hawkins is a Critical Access Hospital with a full range of acute and ambulatory services including Labor and Delivery-Women's Health program, six primary care and two specialty care services, hospital-owned skilled nursing facilities, an Emergency Room with 80 visits a day, laboratory services, radiology, and other most need patient care and welfare services. Other notable cases include serving as PCO in the **LifeCare Health Partners**, an operator of 17 long-term acute care hospitals based in Plano, Texas [**Hospital Acquisitions LLC**] **and in the Plaza Healthcare Center LLC,** commonly referred to as *Country Villa* is a licensed operator of 19 skilled nursing facilities (including three facilities that provide sub-acute services) is primarily located in the greater Los Angeles metropolitan area. In the **Arizona District**, Jerry was appointed as PCO for the **Douglas Hospital** case and then as PCO in both the **FLORENCE HOSPITAL AT ANTHEM, LLC,** *and* **Gilbert Hospital, LLC** cases [including being *reappointed post confirmation as PCO* and then employed as Special Patient Care and Safety Consultant for the Jeremiah Foster, as State Court In four health care bankruptcy cases the Firm and Jerry have completed the tasks demanded under 11 U.S.C. § 351 and have to date been responsible for the cataloging, distribution and when appropriate the destruction of over 200,000 patients' medical records. **S+C** has been appointed on multiple occasions by the Federal and State Courts to implement cost effective and timely programs to manage medical records programs for providers who have either ceased operations or are transitioning to new ownership.

Carbon Health, a leading innovator in primary and urgent care with over 120 clinics nationwide employed Jerry *to design a contract/provider agreement with leading public Medicaid Managed care plans.* Working with key leadership, Jerry is using his experience and insight to implement an effort that will add risk bearing contracting to Carbon's innovative programs, while expanding its efforts into safety net health and social welfare care. Jerry serves as consultant to **the CEO of LA Care** (the Largest Medicaid Managed Care Plan in the U.S.) and is a member of the **Safety Net Coalition,** which a collaborative effort initiated by California Managed Plans, trade associations, hospitals, medical group, and other parties in interest to raise **MediCal** rates**.**

Jerry Seelig works closely with the **California Long Term Care Ombudsman, the LA County Long Term Care Ombudsman** and local **Ombudsman Programs** pro bono support on specific statewide and local issues, as well as support/intervention in troubled provider situations.

On February 4, 2020, the Firm with Jerry as lead partner, was appointed by the California Department of Public Health as Temporary Managers for two skilled nursing facilities in Pasadena, CA. This case was the first effort by the State to use "State Health Facilities Citation Penalties" Funds to take over needed facilities to both ensure quality resident care. [For more information: https://calmatters.org/health/coronavirus/2020/07/coronavirus-california-nursing-homes-pasadena/]

S+C was employed as a monitor by the LA City District Attorney's Office to provide oversight and quality improvement to a skilled nursing facility. With this and other cases, Jerry is engaged in an effort to coordinate funding and programming to improve the quality of hospitals, clinics, skilled care and assisted living providers while concurrently expanding the shelter and health care resources for the mentally ill and homeless.

Jerry has served in a variety of interim management-fiduciary roles both in and out of the Bankruptcy Court including Chapter 11 Trustee, Receiver, Chief Responsible Officer and California Health Care Temporary Manager. Jerry served as "Responsible Officer" [CEO-Administrator] for Primecare **Nevada Inc. Dba Nye Regional Medical Center**, which is the only hospital in the 150-mile primary service area and a sole trauma care response unit located halfway between Las Vegas and Reno, Nevada. At Nye, Jerry immediately built a sustainable medical campus that provided highest quality health care services to Tonopah, Round Mountain, and all the small towns and mining communities in Nye and Esmeralda Counties.

Jerry is a member of the **Central District of California Bankruptcy Court Mediator Panel** and has appeared on multiple state and local bar association panels and continuing education programs. Jerry has been interviewed on *NPR,* in the *Wall Street Journal, Skilled Nursing News, LTC Heroes Podcast,* and has published "op eds" in leading newspapers and has been interviewed in a wide range of local newspapers and industry publications.

In June 2020 Jerry initiated the health care email Newsletter ***"Revitalize"***. [issues can be found at https://thepcos.com/home/news/] Jerry's recent Publications include "Nursing homes still deserve better, a year into the pandemic", Opinion, Feb 22, 2021, ***Philadelphia Inquirer***; "Painful Impact of COVID-19 on the Troubled Skilled-Nursing Industry, XXXIX **ABI Journal** 9, 28, 64-65, September 2020;" "Operating Nursing Homes: Is the Worst Behind Us?", XLI ***ABI Journa***l 4, 22-23, 39, April 2022; and The Skilled Nursing Facility Crisis and the Temporary Manager Solution: A Case Study, Dec 30, 2020, *CALIFORNIA BANKRUPTCY JOURNAL* Vol. 35 Cal Bankr. J. No. 3 (2020).

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Jerry previously worked with Rick Cussigh at **Transolutions** where he defined and built a strategic alliance with a large publicly traded healthcare information systems vendor to work with hospitals and doctors' clinics to design and implement new medical records systems. He negotiated and completed a marketing and technology alliance with the leading hospital software company, **Cerner Corporation** (NASDAQ:CERN). Jerry also worked with Cussigh to manage and complete a management buyout financed by five sub debt funds.

Jerry received a Bachelor of Urban Planning Degree from **University of Illinois, Urbana** in 1971, a Master's degree with studies in Education, Economics and Social Policy from **Harvard University** in 1972 and Doctoral Studies in Social Work and Public Policy at the **University of Chicago** from 1977-80.

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Rick Cussigh

Rick Cussigh has been employed as consultant in the ten cases where Seelig served as PCO or Consumer Privacy Ombudsman (CPO) and was appointed jointly as CPO in one Case. Cussigh has worked with all levels of management and staff at hospitals and numerous doctors' clinics nationwide and has relevant experience in the management of medical records, Federal and State privacy regulations, and patient care monitoring systems. Rick served as lead professional in both the Horisons Clinics and Justice cases, reviewing and then cataloging in each case over 1,500 boxes of medical records, which documented each provider's treatment of over-50,000 patients.

Based on his extensive experience as an executive and entrepreneur, Rick is often called on to consult on cost accounting, operations management, and strategic planning issues. Rick was the co-author of " Vital Considerations in the Ombudsman Debate", XXVII *ABI Journal* 8, 32-33, 66 October 2008.

Rick founded and led **Transolutions Inc.,** Lake Bluff, IL one of America's largest and most innovative medical transcription companies. Within the Company, at the client hospitals, and working with the largest hospital software company, he was intimately involved in all aspects of analyzing, building and using management tools to record, evaluate and simplify health care delivery. **Transolutions** has provided transcription services to over 70 hospitals and has a US-based workforce in 45 states, which includes over 300 medical transcriptionists, clinicians, and technical staff. In January 2011, Rick successfully exited his investment in Transolutions, Inc. when Accentus, a portfolio company of High Road Capital Partners acquired it.

Prior to that, Rick was Vice President, Chief Financial Officer, **DonTech**, Chicago, IL a $550 million partnership between **Dunn and Bradstreet** (now **RH Donnelly**) and **Ameritech** (now **AT&T**), serving Ameritech Yellow Page Customers in Illinois and Northwest Indiana) where *he* led finance, administrative and information technology organizations. At DonTech, he negotiated million dollar plus contracts while meeting the

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owners' demands for performance and financial results.

Rick received a Bachelor of Science, Business Administration in 1979 from **Wayne State University**, Detroit, MI, a Master of Science in Taxation in 1988 **Walsh College**, Troy, MI, and a *State of Michigan: CPA Certificate in 1982.*

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Dr. Lisa Grod

Lisa Grod is owner of **LWG & Associates,** specializing in geriatric care management, senior advocacy, and health care and compliance consulting focusing on systems analysis and implementation, health-care audits, compliance, regulatory reimbursement practices, and operational oversight. DR. Grod's consulting services focus on geriatric care management transitions and caregiver oversight, assistance with filing for Medi-Cal (Medicaid), Veterans A & A, and long-term care claims.

As a gerontologist, Grod identifies the psychosocial needs of her clients, including assessment for cognitive levels of impairment and other dementias and provides strategies and tools for families and caregivers. Grod has achieved positive state surveys as a licensed nursing home administrator and residential-care-facilities-for-elderly administrator.

Dr. Grod brings more than 25 years of experience in acute care, academia, and long-term care, providing expertise in organizational leadership and team building, education and training programs, contract negotiation, risk management, mock surveys and disaster preparedness, compliance, and CHOW processes.

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Sean Drake

Sean Drake has been employed as consultant to the Chapter 11 Trustee in the Genus case, was a key on-premise member of the team at **Nye Regional Medical Center** and **Vanessa Ly (Today Pharmacy)** cases, as well as the employed consultant to the PCO or consultant to the Chapter 7-11 Trustees in the **Justice, Plaza, Centro**, **Primecare, Ly**, **Gilbert** and **Florence Hospital** cases and in the **Lakeview Terrace Case**. Sean has proven expertise as to the complex and interoperable systems used by a wide range of health care operations to provide patient care services, monitor care, and get paid for services provided. Sean is an expert on health care facility design and operations including having a strong knowledge of the cost effectiveness and efficiency of key equipment, devices, and leasehold improvements. Prior to joining S+C Sean managed at Renaissance Surgical Arts in Newport Harbor, CA all of the Environment of Care issues in eight Operating Room startup surgery center in coordination with clinical staff,

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reporting to the Medical Board and CEO. Additional responsibilities included Safety Officer, IT support, Facilities Manager, Orderly and OR assistant.

Renaissance filed for bankruptcy and Sean served as special consultant to Patient Care Ombudsman in his efforts to properly distribute or dispose of patient confidential records and supporting field agent to the Chapter 7 Trustee's efforts to dispose of all assets of the estate. Sean worked for the owner of the building housing Renaissance to establish Pacific Coast Surgery Center, including managing all of the legal aspects pertaining to opening a new outpatient surgery center including submission of applications for facility and physician accreditation along with equipment purchases and facility management reporting directly to CEO. For General Electric and Decision Data Computer Corporation as well as with small consulting firms, Sean provided onsite support to businesses and government agencies including the Veteran Administration's Hospitals, Kaiser Permanente, U.S. Bureau of Prisons, U.S. Department of Agriculture and U.S. Weather Bureau, Blue Cross, Chevron, Pacific Bell, U.S. Nuclear Regulatory Commission, U.S. Army, and G.E. Nuclear.

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JODY M. KNOX, MHA, BS, RN

PROFESSIONAL EXPERIENCE SUMMARY

Adventist Health Hospital Portland, Oregon
February 2020 – April 2023

Vice President, Physician Services Executive

Responsible for the day-to-day operations of a large multi-specialty medical group (130 providers) and clinics located in the greater Portland area. Including strategy, financial performance, growth initiatives, patient safety and experience, and associate engagement. Group is comprised of 30 clinics located in the greater Portland area with a total operating budget exceeding $300M.

Heritage Provider Network
Regal Medical Group/Lakeside Community Healthcare
March 2014 – January 2020

Senior Vice President, Medical Group Operations

Kindred Healthcare
Kindred Hospital Rancho
Rancho Cucamonga, California
June 2011 – March 2014

Chief Executive Officer

Responsible for the leadership and performance of Kindred Hospital Rancho, a 55-bed acute care hospital with a 2013 EBITDA of greater than $13M.

Los Angeles County Department of Health Services, Hospital Division
RANCHO LOS AMIGOS HOSPITAL
Downey, California Feb 2009 – May 2011

Chief Operating Officer

Responsible for the day-to-day operations of this 395-bed acute care, public hospital. More than 65% of ADC is dedicated to the care of medical/surgical patients at the facility, which encompasses 1.2 million square feet on 53 acres, the remaining 35% is acute rehabilitative care.

REHOBOTH McKINLEY CHRISTIAN HEALTH CARE SERVICES Feb 2007 – Feb 2009
Gallup, New Mexico

Chief Operating Officer

Served as a key resource to the Chief Executive Officer of this 80-bed acute care district hospital. Primary emphasis focused on the day-to-day operations of this integrated delivery organization, which included both the inpatient hospital and the ancillary outpatient and remote departments.

ABRAZO HEALTH CARE 2003 – Sept 2005
Phoenix, Arizona

Regional Director Physician Services

Analysis of resources expended in the delivery of services and identification of opportunities to increase efficiency, effectiveness, and quality. Facilitate activities to expand existing services and develop new program/product lines within a six hospital market. Collaborated with Hospital Executive Teams. Development and maintenance of clinical objectives and standards of practice to effectively provide quality patient care to the community and interaction with facility medical staffs.

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EDUCATION

Registered Nurse
Bachelor of Science Health Administration, with Highest Honors, 2004
Master of Science Health Administration, with Honors, 2006

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