

Joseph J. Tomaino
Grassi Healthcare Advisors LLC
50 Jericho Quadrangle, 2nd floor
Jericho, NY 11753
(212) 223-5020
Patient Care Ombudsman

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

Hunterdon Drug Awareness Program, Inc.

Debtor

CHAPTER 7

Case No. 22-11935

Judge Kathryn C. Ferguson

**SECOND REPORT OF
JOSEPH J. TOMAINO
AS PATIENT CARE OMBUDSMAN**

I, Joseph J. Tomaino, the duly appointed Patient Care Ombudsman (the “PCO”) appointed by the United States Trustee pursuant to an order of the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”) entered in the above-captioned bankruptcy case, file this second report pursuant to section 333(b)(2) of title 11, United States Code (the “Bankruptcy Code”). This case involves Hunterdon Drug Awareness Program, Inc., (the “Debtor”), a licensed substance abuse treatment program, which at the time of filing was no longer in operation.

Since there is no clinical activity at present, the PCO did not need to interview patients or staff, nor make any observations of clinical facilities. The PCO confirmed that clinical records are currently maintained in three locations:

C. Marino, Inc., Patterson, NJ
Cityside Archives
eI System

A written notice was sent to each of these companies explaining the role of the PCO in bankruptcy and asking them to notify the PCO if the security of these records is ever under threat during the period of negotiating their disposition.

In an interview with Brian Crowley, counsel for Trustee, the PCO was ensured that the records are secured having been confirmed by their accounting firm, and that the Trustee is pursuing a carve out arrangement to obtain funds to handle their disposition.

Complaints

On September 28, 2022, the PCO was forwarded an email initially directed to Damien Tancredi, debtors counsel, from Siobhan B. Krier, Deputy Attorney General, Department of Law and Public Safety, Division of Law. She reported that a complaint was brought to her attention that the clinical records of debtor were unsecured and not protected from breach of confidentiality. I reached out to the DAG Krier and related my findings that the debtor left the records in a storage facility and on electronic server of their health information systems vendor, as well as in their offices. When the trustee was assigned to the case, his accountants toured the offices and found that the records in that location were not secured. The trustee then made arrangements to have the records relocated to a secure storage facility. DAG Krier was assured that at this point all clinical records are secure. It was also pointed out that since the filing, there has only been one request from a former patient for a clinical record which the debtor was able to provide. The conclusion drawn from this is that it seems that there was a warm handoff of current patients at time of filing to other providers, the need for documentation for recent patients is being met by those agencies.

Risk Assessment

While the clinical care of the individuals served by the debtor appear to have been successfully passed on to other providers, no provision was made for the preservation and continued custody by an appropriate party of the associated clinical records. These records not only contain confidential health information covered by HIPAA, but they also contain information related to substance abuse treatment covered under 42 CFR Part 2.

Based on the initial assessment of the PCO, the Debtor is categorized into a low, medium, or high-risk level based on data collected and interviews with management, patients, and staff. This initial determination of level of risk may be adjusted as findings either improve or deteriorate. These levels are outlined below:

- Low-level risk evidenced by transparent reporting, and no observable staffing, supply or quality of care issues that are not readily resolved.
- Mid-level risk evidenced by transparent reporting with some significant observable staffing, supply, or quality issues, or lack of transparent reporting.
- High-level risk evidenced by significant staffing, supply, or quality issues observed, or risk of partial or full closing of services.

Healthcare debtors can move between levels of risk over the course of the bankruptcy. Based on the observations made and outlined in this report, the risk level is determined to be high level. The Trustee continues to make every possible effort with limited resources to preserve the integrity of these records. The PCO remains concerned

that these efforts are not reasonable to be maintained indefinitely and supports the trustee's efforts to get a carve out to handle the disposition of them.

Monitoring Plan

The PCO will continue to monitor the situation and report to the Court and participate in any related status conferences. The PCO will continue to maintain contact with the vendors storing the records.

Consistent with requirements outlined in Bankruptcy 2015.1-1, notice of this report will be served on each entity that issues licenses or regulates the Debtor.

The Ombudsman will make his next report in sixty (60) days or sooner, if circumstances warrant.

Dated: October 14, 2022
Jericho, New York

JOSEPH J. TOMAINO, SOLELY IN HIS
CAPACITY AS THE COURT APPOINTED
PATIENT CARE OMBUDSMAN

/s/ Joseph J. Tomaino
JOSEPH J. TOMAINO