

Joseph J. Tomaino  
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*Patient Care Ombudsman*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re:**

**HBL SNF LLC d/b/a Epic  
Rehabilitation and Nursing at White Plains**

*Debtor*

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**CHAPTER 11**

**Case No. 21-22623 (SHL)**

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

I, Joseph J. Tomaino, the duly appointed Patient Care Ombudsman (“PCO”) appointed by the United States Trustee pursuant to an order of the Court entered in the above-captioned bankruptcy cases, file this second report pursuant to 11 U.S.C. § 333 (b)(2). This case involves HBL SNF LLC d/b/a Epic Rehabilitation and Nursing at White Plains (“Epic”) a licensed 160 bed skilled nursing facility located at 120 Church St., White Plains, NY.

*Approach*

On April 4, 2022, the PCO made a site visit and toured the facility, interviewing several patients, staff, and administration. The site visit was delayed two weeks because the facility was being surveyed by the New York State Department of Health.

*Findings*

The PCO toured the facility lobby area, rehab area, and three resident care units. The facilities were clean and there were no odors. Equipment appeared to be in working order. On one unit, a new bladder scan device was noted since the last visit. This is a device care staff can utilize to check that a resident has completely voided the bladder after urination. This is an important tool to address urinary incontinence and reflects a proactive approach to quality resident care.

Several nursing staff were interviewed and were asked if there has been any difficulty obtaining needed equipment, supplies or medications for resident care. They all denied any difficulty. The Director of Nursing was interviewed on ability to staff the units appropriately. She related that the facility encounters the same issues all facilities are experiencing right now with challenges recruiting and retaining staff. She stated that she can provide appropriate staffing even with these challenges. On the tour of the facility, staff were observed actively engaged with residents and no shouting out or unanswered call lights were observed.

A social worker was interviewed and asked if there have been any complaints brought to her attention by family members related to the bankruptcy, and she stated that the bankruptcy is a non-issue for residents. This same comment was said by staff, who report there has been no impact on the facility since the filing.

Several residents were interviewed in day rooms on the units. They appeared clean and well groomed and were dressed. One resident related a visit the day prior by a therapy dog and how delightful it was. The facility administrator reports that five activities staff are employed and provide programming daily. None of the residents voiced any complaints.

The facility administrator reported no issues meeting payroll or operating related financial obligations. He said that the bankruptcy has no effect at all on the facility and is related to a landlord / financing dispute. The facility does have some vacant beds, like other facilities in the area. At present there are no residents in the facility with Covid. He also reported that the Department of Health inspection and survey did not result in any deficiencies.

### *Complaints*

Since the first visit, the PCO received a complaint from a resident's son regarding frustration with the facility not cooperating with efforts to discharge his mother. He also related that his mother has had several falls, one of which resulted in a fracture. He related that he reported this to the Department of Health and the Long Term Care Ombudsman. The PCO contacted the Long Term Care Ombudsman assigned to the facility to confirm this.

The PCO made a visit to see the resident and interview the Director of Nursing on her care. The resident was observed in the beauty parlor having her hair done. She

appeared clean, pain free and comfortable. The facility administrator reported that an investigation was conducted on the resident falls and no deviation from standard of care was identified. He related that the issue with discharge planning back to the resident's home was related to reluctance on the part of the county agency responsible for approving coverage to approve the home care needed. He reported that the agency was concerned that the resident required more care than what could be safely provided at home.

The PCO maintained regular contact with both the resident's son and the facility administrator to track that the facility responded to all data requests from the county agency on a timely basis. The home care agency who planned to receive the patient at home was involved with the facility in the planning as well. Eventually, the case was approved by the county agency and the patient was transferred by ambulance to home. The resident's son contacted the PCO and reported that when the resident arrived at the home, the home care agency refused to accept the patient as her care required two caregivers at the same time which was not possible. The PCO contacted the administrator who arranged to have the patient returned to the facility. On the April 4, 2022 site visit, the PCO asked to visit this resident and was informed that the family transferred her to another facility shortly after this event.

### *Risk Assessment*

This PCO assesses each debtor he is appointed to monitor for level of risk. Based on this level of risk, he plans an appropriate level of monitoring. The PCO assigns the debtor to one of three categories of risk-- low, medium, or high. The level is 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 three potential 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, and the risk level will continue to be reassessed with each encounter between the PCO and the facility.

In the case of this debtor, there appears to be no difficulty currently meeting payroll obligations, nor with obtaining supplies, medications, vendor services, etc. There are no reported or observable staffing, medical records, or quality of care issues. The debtor and

management have been cooperative, and communication with the PCO appears to be transparent.

Based on the above findings made during this monitoring period, the risk level at this time is determined to be low.

### *Monitoring Plan*

Based on the low-level risk determination, the PCO will implement the following monitoring plan for the next 60-day period:

- Monthly on-site tour of the facility and interviews with key staff and residents
- Review of quality assurance reports from each facility
- Maintain phone and email hotline posted in facility and investigate any complaints from patients, families, or staff
- Monitoring of operating reports and other filings in the case for potential red flags
- Monitor status conferences with attendance periodically as needed or requested by parties
- Written report to court submitted at the end of the two months

Consistent with requirements outlined in Federal Rule of Bankruptcy Procedure 2015.1-1, notice of this report will be served on each entity that issues licenses or regulates the debtor. In this case, that is the New York State Department of Health. A copy will also be sent to the New York State Long Term Care Ombudsman.

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

Dated: April 10, 2022  
New York, New York

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

/s/ Joseph J. Tomaino  
JOSEPH J. TOMAINO