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*Patient Care Ombudsman*

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
BOSTON DIVISION

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In re:

Compass Medical PC

Chapter 7  
Case No. 23-10886 (CJP)

Debtor.

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**FIRST 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 Massachusetts, Boston Division (the “Bankruptcy Court”) entered in the above-captioned bankruptcy case, file this first report pursuant to section 333(b)(2) of title 11, United States Code (the “Bankruptcy Code”). This case involves Compass Medical P.C., (the “Debtor”), a multi-site medical practice.

On June 5, 2023, a Chapter 7 Voluntary Petition for Bankruptcy was filed, with appointment of health care ombudsman by July 5, 2023 (Doc.1). On June 23, 2023, Appointment of Patient Care Ombudsman (“PCO”), Joseph J. Tomaino, was filed by Office of the United States Trustee (Doc. 35).

On June 22, 2023, the PCO had a discussion with counsel for the Chapter 7 Trustee and established that the practice had ceased clinical operations immediately and posted instructions for patients to locate their providers and to access their medical records on the practice website. On June 23, 2023, the PCO participated in a call arranged by counsel for the Chapter 7 Trustees with all parties involved to ensure patient access to medical records. During this meeting it was established that all clinical data had been removed from on site to the servers of eClinical Works. It was noted that under interoperability of medical records, limited clinical information can be accessed by a hospital or provider but the complete medical record is not accessible. Share Care, a service providing copies of medical records, needs access to eClinical Works. The availability of radiologic images was discussed as these may be kept separately from the electronic health

record.

During this June 23, 2023, call, I became aware that faxes containing clinical reports continue to come into the unmanned Compass offices. Counsel for the Chapter 7 Trustee reported that these faxes are not currently being reviewed although he is making arrangements with a third party to process them. The information services vendor reported that the information systems continue to be protected from intrusion. The firewall system is set to expire at a certain date in the future.

About July 17, 2023, the counsel for Chapter 7 Trustee and PCO had a call to discuss record access. The PCO explained that the procedures set forth on the practice website for patients to obtain their records were not working. Counsel explained to PCO that he was very close to making arrangements with a third party to provide live support for patients who needed access to their records and to handle faxes that had arrived. He also explained that he had confirmed that radiologic imaging would be accessible through the eClinical Works platform.

On July 27, 2023, the PCO and Counsel for Chapter 7 Trustee discussed the status of the third-party arrangement and counsel explained that it was still under negotiation. On July 28, 2023, PCO participated in a Court hearing related to Steward Medical getting access to eClinical Works for their current patients who had been cared for by Compass. During this hearing, PCO made a statement of concern that while this will help a significant number of patients get access to their records, there are a number of patients who moved to practices unaffiliated with Steward and therefore will still not have access to their own medical records. On July 28, 2023, the Court issued a Stipulated Order Concerning Stay Relief Motion and ordered the Chapter 7 Trustee to coordinate with eClinical Works and other debtor system providers to provide Steward immediate non-exclusive access to the eClinical Works platform (Doc.75).

### *Complaints*

During the period since appointment, the PCO has received a steady stream of complaints from patients related to medical record access. A summarization of these complaints follows:

- The patients who had access to their patient portal could continue to access the portal, however, they could not access their complete records and transferring records was cumbersome.
- Patients who did not have access to the portal, or who had password issues, could not access the portal and no help desk support was provided.
- Some patients reported that their new providers could access some clinical information through interoperability of medical record systems but could not obtain complete records or radiologic images.
- Many patients report that new providers will not see them until they can present their prior medical records thereby delaying their access to needed care.
- Several patients have reported they are scheduled for mammography exams and need an electronic file with their prior studies for comparison and now have no way of getting those records.
- One patient called last week to report that he has identified a new oncologist who cannot continue his cancer treatment without being able to access the prior medical records.
- One patient who had of brain surgery ten years ago called on August 7, 2023, to report that he has new symptoms that require evaluation, and his provider needs access to his medical history

in order to investigate if these symptoms relate to previous condition. He too cannot obtain access to those medical records.

- On Thursday, August 3, 2023, PCO spoke with a medical records worker at Steward Health who was calling because she had 50 patients who needed their medical records. When she was told that the Court had ordered that Steward could have access the eClinical Works, she was unaware of such a development.

### *Risk Assessment*

When evaluating a healthcare business in bankruptcy, 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 the 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 bankruptcy.

**Based on the observations made and outlined in this report, the current risk level for this case is determined to be high level. The situation is in fact critical and requires an immediate response. A number of patients have critical needs for their prior records in order to continue diagnostic testing for potential malignancies or for planning ongoing treatment of same. At least one patient has the need for records for assessment of new neurological symptoms. A plan to make prior medical records and prior diagnostic studies available for all prior patients needs to be implemented immediately. Additionally, the status of faxes that came into Compass offices with potentially actionable clinical results needs to be ascertained. The ongoing security of the information systems needs to be established with the upcoming service expiration of system firewall.**

### *Monitoring Plan*

The PCO will continue to pursue the information requested and will continue to communicate with patients who call. The PCO will report to the Court and participate in any related status conferences.

Consistent with requirements outlined in Bankruptcy Rule 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: August 7, 2023  
Manhattan, New York

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

/s/ Joseph J. Tomaino  
JOSEPH J. TOMAINO