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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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**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 Massachusetts, Boston Division (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 Compass Medical P.C., (the “Debtor”), a multi-site medical practice.

Since clinical activities ceased operation before filing, there is no need for PCO to visit clinical settings to interview patients and staff. Most clinical records are in the eClinical Works information system, and radiology records are stored at Jefferson Radiology. About 3500 boxes of records dating back to 2016 are in storage at Iron Mountain. The Trustee’s Counsel has advised that the plan is to discontinue the continuation of contract for support of eClinical Works in approximately one month. He related that Compass is under a custodian agreement with Steward Medical stemming from their joint venture which ended in January 2023, and since Compass will no longer be able to fulfill that function, he anticipates the custody will revert to Steward.

Approximately three weeks ago, Atrius Medical began a continuity of care project on behalf of the trustee in which they are providing clinical resources to respond to the thousands of faxes that have arrived at Compass. Atrius reported to PCO that some of these include actionable diagnostic information, and the majority are requests for prescription refills. Atrius clinical staff are following up on these faxes. These faxes continue to arrive at a rate of hundreds

per day. The Trustee's Counsel reported to the PCO that planning is underway to discontinue receipt of faxes. The PCO suggested that where possible, the biggest senders of these incoming faxes should be notified ahead of time of the cessation.

Complaints

During the period since appointment, the PCO has received a steady stream of complaints from patients related to medical record access, and lack of access to diagnostic study media such as prior mammograms. PCO also received complaints from former employees whose claims for medical expenses were not being paid by the insurance plan that Compass provided them. The PCO investigation into these complaints revealed:

- Medical providers who previously practiced at Compass, now principally at Atrius or Steward, still have access to the eClinical Works medical records for view only and are unable to transfer records.
- The ShareCare service which previously had been under contract with Compass prior to bankruptcy has ceased responding to requests for medical records as there is no mechanism for the company to be compensated for this.
- The reality of the situation is that given the lack of resources or staff for Compass to be able to respond to requests for medical records, until there is a permanent custodian of records patients will not be able to get copies of them.
- Compass was self-insured for its health plan, and at the time the bankruptcy was filed there was uncertainty of the adequacy of money in the account to cover claims, so the plan administrator has not been paying them. The Trustee's Counsel advises that negotiations with the plan administrator are underway on how to proceed—either on a first come first paid basis, or an accumulation of claims and prorated payment to all based on fund availability.
- The PCO was able to work out a mechanism for patients to contact Jefferson Radiology directly for copies of their prior mammography studies, and this has helped patients who were trying to obtain these. Patients who contacted the PCO with this need were provided with this information.

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. While the continuity of care services provided under contract with Atrius has mitigated the risk of the unattended incoming faxes, and the Trustee has maintained access to eClinical Works for prior Compass providers ensuring continued access to needed information, there is the reality that funds are running out to continue both of these and a permanent solution must be reached within the next month or so.

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: October 13, 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