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Patient Care Ombudsman

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	**CHAPTER 11**
HBL SNF LLC d/b/a Epic Rehabilitation and Nursing at White Plains	**Case No. 21-22623 (SHL)**
Debtor	

EIGHTH 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 eighth 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 July 21, 2003, August 24, 2023, and September 28, 2023, the PCO's staff made site visits and toured the facility, interviewing several patients, staff, and administration.

Findings

On July 21, 2023, the administrator was interviewed, and he reported that all key leadership positions are filled. The staffing levels for the units were posted as required and was noted to reflect the actual staffing observed on the units during the tour. The Charge Nurse on the second-floor subacute unit was interviewed. She reported that staffing, supplies and medication were all adequate. The Charge Nurse on one of the long-term care units was also interviewed. She too reported that staffing, supplies and medication were all adequate. The director of social work was interviewed, and she related that since last PCO visit there were no complaints related to the bankruptcy. On the day of this visit, the outdoor temperature was very high. Throughout the building tour, temperatures were comfortable.

On August 24, 2023, on entrance to the facility, the presence of PCO contact information and a copy of the most recent PCO report were observed as being displayed and available at the front desk. The Charge Nurse on the second-floor subacute unit was interviewed. She reported that staffing, supplies and medication were all adequate. The Charge Nurse on one of the long-term care units was also interviewed. She too reported that staffing, supplies and medication were all adequate. The air conditioning system appeared to be working properly. The administrator reported no recent DOH surveys or complaint investigations.

On September 28, 2023, the administrator was interviewed, and he reported that all key leadership positions are filled. The staffing levels for the units were posted as required and was noted to reflect the actual staffing observed on the units during the tour. The Charge Nurse on the second-floor subacute unit was interviewed. She reported that staffing, supplies and medication were all adequate. The Charge Nurse on one of the long-term care units was also interviewed. She too reported that staffing, supplies and medication were all adequate. The director of social work was interviewed, and she related that since last PCO visit there were no complaints related to the bankruptcy. The kitchen and laundry areas were toured. One of the washing machines was noted to be non-functional. Staff reported that repairs were on order and that there was sufficient reserve capacity to meet the facility needs with some planning during the interim period.

Complaints

On August 17, 2023, the PCO received a complaint and interviewed the family of a former patient/resident of the facility. It was related by the complainant that the patient/resident had fallen at home almost a year ago and was taken to White Plains Hospital where her fractured hip was surgically repaired. Rehab was begun in the hospital, and she was transferred to Epic for continuing rehabilitation. While things initially went well, things deteriorated, and patient/resident declined. After a hypotensive episode during rehabilitation, the patient/resident was sent out to the hospital at family's insistence and did not return,

The complainant said that staff were caring. She explained that there is a disconnect between what management explained or instructed and what staff did. For example, the plan developed by the rehab staff was often not implemented on the unit.

The complainant also related that on one day there was a major plumbing malfunction which resulted in overflow in the patient/resident's room.

As the resident/patient was no longer in the facility, it was not possible for PCO to visit her and due to the time lapse it would be difficult to investigate. The PCO explained to complainant that these issues were of staff and management performance and not directly related to the bankruptcy and that the Department of Health is the appropriate investigative agency who needs to be notified and would be able to review patient records. They were provided with the NYSDOH complaint report hotline, which the PCO later confirmed that the complainant accessed and filed a report. Complainant was advised that the DOH also receives a copy of the PCO report.

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 continue 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 agency 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: October 6, 2023
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