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Patient Care Ombudsman

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS (WORCESTER)

In re:

Case No. 23-40817 (EDK)

Heywood Healthcare, Inc.

Debtor

Chapter 11

**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, Worcester 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 Heywood Healthcare., (the “Debtor”), a multi-site medical provider including Heywood Hospital, a 134-bed community hospital located in Gardner, Massachusetts, Athol Hospital, a critical access hospital located in Athol, Massachusetts, and Heywood Medical Group with multiple office locations in the community.

Approach

On February 8, 2024, on site meetings and tours of the Heywood Hospital and the

Athol Hospital by PCO staff were conducted. During these tours, select staff from a variety of disciplines were interviewed and were asked:

- Have staffing levels changed since the filing of the bankruptcy?
- Have they experienced any difficulty needing equipment or supplies since the filing of the bankruptcy?
- Has staff morale been affected by the bankruptcy filing?

Weekly virtual meetings have been held between the PCO and the organization's Senior Director, Quality and Risk, Corporate Compliance Officer. During these meetings, we inquire about any incidents or patient complaints from the previous week. We also discuss any staffing or supply issues which may have been impacted by the bankruptcy. Any planned or unplanned service interruptions are also covered.

Findings

Staffing

Interviews with staff at both hospital locations did not uncover any significant changes in staffing patterns since the bankruptcy filing, and staff who were interviewed report staffing is adequate and that they feel supported. These interviews occurred on general nursing units, as well as specialty areas such as intensive care, emergency services, oncology, maternity, and the surgical services area. The laboratory manager at Athol Hospital reports having challenges with staffing, but not due to bankruptcy, rather the usual difficulty in recruiting staff. Staff report no increase in mandated overtime.

Equipment and Supplies

No major issues reported. Facilities manager at Heywood mentioned that some vendors are not pleased about using Proforma for invoicing and they've had to pivot sometimes, but no patient care has been impacted due to this. Endoscopy Department said sometimes it's been a struggle to have equipment in time for tests, however they have used work arounds and haven't had an interruption to treating patients. There is continued feedback that some of the vendor changes have been positive and improvements over legacy vendors.

Several vendors have been slow to deliver even after the hospital has met its pre-pay obligations. Administration has reached out to PCO to join conversations with these vendors to address this, however after proposing this with these vendors the issue appears to be resolved.

Heywood Food Service Director said they are now only able to order from one vendor which has been challenging but doable. The Athol Manager said they are continuing to recruit and staff some open roles, but overall things are going well, and they haven't experienced disruptions.

Complaints

PCO received a call from a patient family member whose mother passed away prior to bankruptcy filing. His stated that his mother was being treated by a psychiatrist at Heywood and that a medication with a "black box" warning for use with the elderly was prescribed. According to the complainant, she was on this medication for about five years. The PCO explained that this incident was not during the bankruptcy and that the PCO did not have standing to investigate and provided him with the contact information for

applicable agencies who do have standing. He stated that he has filed complaints with them, and they had no findings. The PCO explained that “black box” warnings do not prohibit the use of these drugs with the elderly, only caution that there are risks that need to be considered and the provider needs to make a risk-benefit analysis. While the incident was not during the bankruptcy, the PCO did review the organization’s policy and procedure on use of “black box” warning drugs and found it to be appropriate.

The PCO also received a phone complaint from a nurse who complained that the emergency department at Athol Hospital is now going to be staffed with mid-level medical providers—a nurse practitioner and a physician’s assistant. She related that she is concerned as to the standard of care, although she acknowledged that this use of mid-levels is allowed under the critical access hospital regulations. In response to this complaint, a virtual meeting was held with the co-CEO, the Senior Director, Quality and Risk, Corporate Compliance Officer, the Chief Medical Officer, and the Director of Emergency Medicine. They related that this staffing change was necessitated by the recent unanticipated departure of a provider and the anticipated time lag for replacing them with another physician. They relate that this is only temporary during the recruitment period for another physician, and that as required by regulation they have made the appropriate public postings. The Emergency Department Director related that these two mid-level providers are highly experienced and have worked for years in the Heywood Emergency Department. He further explained that they have the necessary skills to handle emergencies and interim management of critically ill patients pending transfer to a higher level of care when necessary. The PCO suggested that additional staff meetings be held to explain the skills and experience of these providers and address any staff questions and concerns,

which management agreed to.

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 Heywood Healthcare is currently determined to be between low and mid-level. The transparency by the administration, management and staff with openness to self-reporting issues to the PCO contribute to the low risk. The counter pressure of financial strain on the supply chain effectiveness, along with physician turnover and the need for an alternative staffing structure in the emergency department at Athol contribute to the mid-level risk.

Monitoring Plan

The PCO and his staff will continue to make monthly on-site observations throughout Heywood Healthcare's facilities and will interview staff and patients. The weekly virtual calls with the Senior Director, Quality and Risk, Corporate Compliance Officer will also continue.

The PCO will also monitor the Athol emergency department provider staffing issue for any adverse impact.

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: February 19, 2024
Manhattan, New York

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

/s/ Joseph J. Tomaino
JOSEPH J. TOMAINO