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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

**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, Worcester 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 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.

### *Background*

On October 1, 2023, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

On October 3, 2023, the Court entered an order directing the appointment of a patient care ombudsman pursuant to Bankruptcy Code § 333 (ECF Doc. No. 61).

On October 20, 2023, Joseph J. Tomaino was appointed as the patient care ombudsman in the Debtors' cases and is currently serving in that capacity (ECF Doc. No. 126). He is assisted with the monitoring duties by Jamie Herlihey, SHRM-CP, from Grassi's office in Needham, MA.

On November 15, 2023, Application was filed by Health Care Ombudsman Joseph J. Tomaino for an Order Authorizing the Retention and to Employment Rimon P.C. as Counsel to the Patient Care Ombudsman. On the same date, an application filed by Health Care Ombudsman Joseph J. Tomaino for an Order Authorizing the Retention and Employment of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. as Counsel to the Patient Care Ombudsman filed with Affidavit along with certificate of service and proposed order. The Mintz firm is to be retained for local Counsel and there will be coordination between the two firms to avoid duplication of effort and extra costs to Debtor.

### *Approach*

An initial meeting was held with the Debtor and Debtor's Counsel on October 25, 2023, to review the role of the Patient Care Ombudsman, and to get the Debtor's description of the business, the scope of services, the current situation, and to establish

ongoing procedures. Debtor agreed to post the Patient Care Ombudsman's contact information link to the Heywood Healthcare web site. The address of the PCO website is <https://www.grassiadvisors.com/services/advisory/healthcare-advisory/patient-care-ombudsman/patient-care-ombudsman-appointment-heywood-healthcare/>. Reports of the PCO will be posted on this site, and an on-line complaint portal will be maintained.

On October 31, 2023, on site meetings were held with facility leadership, including executive leadership, nursing, quality improvement, purchasing, and medical affairs. After the interviews, the PCO and his assistant toured the Heywood Hospital, the Athol Hospital, and one of the Heywood Medical Group sites. 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?

On November 13, 2023, additional site visits to Heywood Hospital and Athol Hospital were conducted, observations made, and the same interview questions listed above were made of randomly selected staff.

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 changes in staffing patterns since the bankruptcy filing, and staff who were interviewed report staffing is adequate. 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. Staff report no increase in mandated overtime.

Administration reported to PCO that much deliberate communication was done with all hospital stakeholders, including physicians and staff, when the bankruptcy filing was made. They reported that there has not been a negative reaction and that both the hospital community and the community at large have been very supportive. Staff interviewed confirm that the open and frequent communication from administration has been very positive, and there seems to be a commitment to help the hospital through this difficult period.

In December, there was an incident in the emergency department involving the elopement of a psychiatric patient who stole an ambulance idling outside the hospital. This individual eventually returned to the hospital and was apprehended. An investigation was conducted by the PCO to determine if staffing levels contributed to the incident. The conclusion was that staffing levels during the two shifts during which this incident occurred were at planned levels. The root cause of the incident was that staff failure to follow policy resulted in the patient not being readily identified when he eloped.

Administration is aware of this conclusion and an additional management position is being hired for the emergency department to provide additional staff oversight, among other responses.

A number of the medical staff who are paid either as 1099 independent contractors, or W-2 employees, typically are paid bonus compensation in November based on their productivity throughout the year. Administration reports that authorization to make these payments is working its way through the Court, and a number of these physicians have expressed frustration that they have not yet received these bonus payments. There is concern that some of these physicians may leave for other available positions in health systems. Some categories of these physicians, such as hospitalists and emergency department physicians, are more readily available in the event there are resignations. Other specialists, such as Cardiologists, Spine specialists, and pain specialists etc. are much more difficult to replace, taking months to a year to recruit. When finally hired, the credentialing process with insurance plans typically takes an additional six months before these new providers can produce revenue for services they provide.

#### Equipment and Supplies

The storage room seemed well stocked and organized. Materials management staff said they were only experiencing issues not related to bankruptcy; for example, their saline solution vendor had a recall. These staff described issues they were facing as “covid continuing issues”. Controls and communication in place for staff to understand work arounds. The manager responsible for supply chain reports that most vendors have been cooperative and that he tries to be proactive in communicating with them. He

reports a small minority of the suppliers who are not helpful. There have been shortages of supplies such as laboratory reagents or infant hearing testing supplies. Even though the orders were prepaid, there were delays in delivering and alternate arrangements had to be made for testing. The organization has responded by increasing the lead time for critically needed items to give supply chain management more time to work through payment and delivery issues.

### Service Impact

Athol Hospital had some lay-offs (2 nurses) due to rightsizing to the adjusted patient volume being experienced in recent months. These nurses were offered alternative open positions elsewhere in the organization. There were changes in the Haywood Urgent Care site effective December 1, however the Tully urgent care site is not affected. PCO visited site to be closed and it is adjacent to an internal medicine and pediatric office and only 5 minutes from Athol Hospital. No impact on patient access is anticipated.

Heywood was providing Quaban Retreat, a behavioral health program not operated by Heywood, with food services, security, EVS, and facilities staff. These services have been discontinued and Quaban has procured alternative vendors.

### *Complaints*

During the period since appointment, the PCO has received only one complaint. That call came from a community member who was concerned that the PCO website posting only requested patient complaints and not compliments, and that this was not a fair representation of the esteem that Heywood Healthcare is held by the community. The PCO explained that he had observed evidence of that esteem and would include it in his report.

No reports or complaints were received through the PCO website. During weekly calls with Senior Director, Quality and Risk, Corporate Compliance Officer, complaints received by the organization are reviewed for any relevance to the bankruptcy.

#### *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 the potential for service and revenue disruption if the physician bonus payment issue is not resolved and several physicians resign, contribute to the elevation of risk into the middle range.**

*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 physician bonus payment issue and if not resolved will monitor physician turnover and potential impact on service delivery.

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: December 18, 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