

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:	Chapter 11
EBH TOPCO, LLC, et al.,¹	Case No. 18-11212 (BLS)
Debtors.	(Jointly Administered)
	Related to: Document No. 100
	No Hearing Date

SECOND PATIENT CARE OMBUDSMAN REPORT

SUBMITTED OCTOBER 19, 2018

BY:

DAVID N. CRAPO, ESQ.

PATIENT CARE OMBUDSMAN

¹The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are EBHTopco, LLC (6103), Elements Behavioral Health, Inc. (7176), EBH Holding Company, Inc. (0370), EBH Big Rock, Inc. (1880), SoCal Rehab and Recovery, Inc. (3741), The Sexual Recovery Institute, Inc. (1279), Westside Sober Living Centers, Inc. (5717), EhrmanSubsidiary Corp. (3958), PROMAL2, Inc. (1377), PROMAL4, Inc. (2453), SBAR2, Inc. (9844), Promises Residential Treatment Center VI, Inc. (1112), Assurance Toxicology Services, LLC (9612), Elements Screening Services, Inc. (0055), TRSBehavioral Care, Inc. (6343), Spirit Lodge, LLC (1375), San Cristobal Treatment Center, LLC (1419), EBH Acquisition Subsidiary, Inc. (6132), EBH Services of Florida, Inc. (6802), Outpatient Services FL, Inc. (9596), EBH Northeast Services, Inc. (3551), Intensive Outpatient Services PA, Inc. (5581), Wrightsville Services, LLC (9535), NE Sober Living, Inc. (1955), Northeast Behavioral Services, Inc. (8881), The Ranch on Piney River, Inc. (0195), Outpatient Services TN, Inc. (5584), EBH Southwest Services, Inc. (5202), Elements Medical Group of Utah, Inc. (9820), Southeast Behavioral Health Services, Inc. (1267), Elements Medical Group of Mississippi, Inc. (4545), and Elements Medical Group of Arizona, Inc. (8468).

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I. INTRODUCTION

This Second Report of the Patient Care Ombudsman (“PCO”) is issued pursuant to the author’s appointment, effective May 28, 2018 as the patient care ombudsman for the debtors in the above-captioned jointly administered cases (collectively, “Debtors”). The appointment arises under 11U.S.C. § 333, which provides for the appointment of a patient care ombudsman “to monitor the quality of patient care and to represent the interests of the patients of the health care business.” Eleven of the Debtors identified in the section designated “Programs and Licensing” immediately below (collectively, “Operating Debtors”) operate 13 facilities (collectively, “Operating Facilities”) providing mental and behavioral health and substance abuse disorder treatment in eight states. The operations of those debtors constitute “health care businesses” for purposes of the Bankruptcy Code. *See* 11 U.S.C. §101(27A).

This Second Report follows up on and supplements the Initial Patient Care Ombudsman Report submitted by the PCO on August 9, 2018 (“Initial Report”) to add additional information: (i) contained in the accreditation report concerning the Debtors’ behavioral health activities issued by The Joint Commission on August 23, 2018; (ii) learned by the PCO through his tour of and interview of staff and patients at The Ranch on the Piney River in Nunnelly, Tennessee; and learned through documents and reports provided by the Debtors to the PCO subsequent to the filing of the Initial Report. More specifically, this Second Report focuses on information the PCO learned during the reporting period beginning August 8, 2018 and ending October 18, 2018 (hereafter, the Second Reporting Period)

This report is based upon the premise that the Court requires an analysis that is both valid and reliable. That is, the report must correctly assess: (1) the existing structural condition of the Debtors; (2) the Debtors’ policies, procedures and protocols related to patient care and safety, and (3) the Operating Debtors’ operations and performance. Accordingly, variables such as staffing, policies and procedures, supplies, and facility structure were analyzed and evaluated. Additionally, this report analyzes and discusses clinical activities pertaining to direct care of the Operating Debtors’ patients.

During both the First Reporting Period (May 28, 2018 through August 8, 2018) and the Second Reporting Period, the Elements Behavioral health corporate offices exercise significant oversight over the Operating Debtors’ operations. Detailed policies and procedures for incident reporting, including identifying the types of incidents that must be reported have been established. As part of a system-wide quality assurance program, mock surveys/inspections (collectively, “Mock Surveys”) were conducted on all of the Operating Debtors between December, 2017 and February, 2018 to identify areas of improvement. Corrective action plans were formulated where necessary. The PCO saw evidence that those plans had been put in place on his tours of the Operating Debtors’ facilities during both the First and Second Reporting Periods.

Following the Mock Surveys, Performance Improvements/Quality Assurance Committee meetings were conducted for each of the Operating Facilities. A summary of those meetings indicates that numerous issues impacting patient care and safety were addressed at these meetings.

Reports provided by the Operating Debtors indicate that DEA licenses were current as of June 30, 2018. **The PCO will request periodic information to ensure that DEA licenses expiring after June 30, 2018 have been renewed.**

Operating Debtors' Programs and Licensing. The Operating Debtors are currently licensed to operate and operate the following facilities (collectively, "Operating Facilities"):

- **Promises Scottsdale**
12816 E. Tourquoise Avenue
Scottsdale, AZ 85249
49 staffed beds in three nearby facilities
Residential behavioral health and substance abuse treatment (including an Executive/Professional Program)
Operated by EBH Southwest Services, Inc.
- **Promises Malibu**
20725 Rockcroft Drive
Malibu, CA 90265
24 licensed beds in four adjacent facilities
Residential substance abuse treatment (including detoxification)
Operated by Debtors Westside Sober Living Centers, Inc.; PROMAL2, Inc. and PROMAL 4, Inc.
- **Promises Malibu Vista**
20871 Big Rock Drive
Malibu, CA 90265
12 licensed beds in two nearby facilities
Residential mental health treatment (Women Only)
Operated by Debtor Westside Sober Living Centers
- **Lucida Treatment Center**
112 N. Oak Street
Lantana, FL 33462
50 licensed beds in four adjacent townhouses
Residential mental and behavioral health and substance abuse treatment
Operated by Debtor EBH Services of Florida, Inc.
- **The Ranch Mississippi**
3949 Highway 43N
Brandon, MS 39047
130 licensed beds; 70 currently staffed
Residential substance abuse treatment
Operated by Southeast Behavioral Health Services, Inc.
- **Clarity Way**
500 Iron Ridge Road
Hanover, PA 17331

77 licensed beds; 34 currently staffed
Residential substance abuse treatment
Operated by Debtor EBH Northeast Services, Inc.

- **The Ranch Pennsylvania**
116 Hilts Road
Wrightsville, PA 17368
103 licensed beds (including 40 beds for day treatment/night residency program)
Residential behavioral health and substance abuse treatment
Operated by Debtor Wrightsville Services, LLC
- **The Ranch on the Piney River**
6107 Pinewood Road
Nunnelly, TN 73137
136 licensed beds
Residential mental, behavioral and substance abuse treatment (including detoxification)
Operated by Debtor The Ranch on the Piney River, Inc.
- **Promises Austin**
80 County Road 420
Spicewood, TX 78669
24 licensed beds; 12 currently staffed
Residential substance abuse treatment (including detoxification)
Operated by Debtors TRS Behavioral Care, Inc. and Spirit Lodge, LLC
- **The Right Step Hill Country**
440 Fischer Store Road
Wimberley TX 78676
63 Licensed Beds
Residential substance abuse treatment (including detoxification)
Operated by Debtor TRS Behavioral Care, Inc.
- **The Right Step Dallas**
2219 W. Euless Boulevard
Euless, TX 76040
110 Licensed Beds
Residential substance abuse treatment (including detoxification), intensive outpatient program and day treatment/night boarding program
Operated by Debtor TRS Behavioral Health Care, Inc.
- **The Right Step Houston**
3709 Montrose
Houston, TX 77006
49 Licensed Beds
Residential substance abuse treatment (including detoxification)
Operated by Debtor TRS Behavioral Health Care, Inc.

- **Journey Healing Centers**
8072 Highlands Drive
Cottonwood Heights, UT 84121
49 Licensed Beds
Residential mental and behavioral health and substance abuse treatment programs; day treatment/night boarding program; sober living environment program
Operated by Debtor EBH Southwest Services, Inc.

The PCO confirmed the treatment facilities identified above are currently licensed by all governing federal, state and local authorities during the First and Second Reporting Periods.

A review of The Joint Commission Quality Check website (www.qualitycheck.com) on August 8, 2018, revealed that all of the programs the Operating Debtors operate at the Operating Facilities remained fully accredited by the Joint Commission, pending the final results of this year's triennial survey conducted by the Joint Commission. The Debtors advised the PCO during the First Reporting Period that there were findings by the Joint Commission in connection with this year's triennial survey, but none that they believe would impact the accreditation of any of the Operating Facilities. The Joint Commission had not issued a final survey report for the 2018 survey at the time the PCO submitted his Initial Report.

The Joint Commission subsequently issued its final survey report for the 2018 survey on August 23, 2018. The Joint Commission has renewed the Debtors' accreditation for up to three years. In the report, the Joint Commission found the Debtors to be in compliance in all categories reviewed, with no requirements for improvement noted. Although, as noted above, the Joint Commission found made findings in the report, most of the findings were deemed to create a low likelihood of harm. None were deemed to create more than a moderate likelihood of harm. The scope of most of the findings was limited. Corrective action plans were developed to respond to the findings. Many of those findings were remedied while the survey was still in process. The remaining findings were remedied, or were in the process of being remedied, as of the date of the Joint Commission's report. The Joint Commission concluded that no follow up action was required.

PCO's Methodology. Based on the number of Operating Facilities, the nature and mix of services it offers, and the requirements of 11 U.S.C. § 333, the PCO's methodology for assessing the Debtors' (particularly the Operating Debtors) structures and operations and the quality of care provided to their patients includes the following:

- On-site inspections and interviews of staff and patients on the following dates:
 - June 15, 2018 (AM): **The Ranch Pennsylvania;**
 - June 15, 2018 (PM): **Clarity Way;**
 - June 27, 2018 (AM): **Promises Austin;**
 - June 27, 2018 (PM): **The Right Step Hill Country;**
 - June 28, 2018: **The Right Step Dallas;**

- June 29, 2018: **The Right Step Houston**;
 - July 18, 2018: **Journey Healing Centers**;
 - July 19, 2018: **Promises Scottsdale**;
 - July 20, 2018: **Promises Malibu & Promises Malibu Vista**;
 - July 24, 2018: **Lucida Treatment Center**;
 - July 25, 2018: **The Ranch Mississippi**; and
 - August 28-29, 2018: **The Ranch at Piney River**.
-
- Telephonic interviews of the following people:
 - A person at the Elements Behavioral Health corporate offices holding the title of Chief Information Officer or a similar title, who is charged with oversight over the privacy and security of the medical and clinical records (both electronic and hard copy) of the patients of the Operating Debtors;
 - A person at the Elements Behavioral Health corporate offices charged with risk management for the Operating Facilities;
 - The Debtors' contacts at federal state and local healthcare agencies, which were obviated by the PCO's review of various state investigation or accreditation renewal reports, ***contact information for whom has been provided to the PCO along with the results or reports of the most recent state evaluations***; and
 - The Debtors' primary contact at the Joint Commission in connection with the Joint Commission's 2018 survey of the Operating Facilities, ***which was obviated by the Joint Commission's issuance of its final report***.
-
- **Reviewing the following documents:**
 - The Joint Commission's report issued upon the completion of its 2018 survey of the Debtors' operating facilities, ***which the PCO has reviewed and analyzed***.
 - The minutes of the last pre-petition meetings and any post-petition meetings of committees addressing the operations of the Operating Debtors, including, but not limited to, meetings of any quality assurance committee(s) and any committees with oversight over the use, dispensing and protection of

medications at the Operating Facilities, *some of which have not yet been provided to the PCO.*

- The most recent reports concerning any inspections, reviews or surveys concerning patient care and/or safety at any of the Operating Facilities conducted by any federal, state or local governmental authority, *which have been provided to and reviewed and analyzed by the PCO.*
- Any ongoing corrective plans addressing patient care and/or safety with federal, state or local governmental authorities that any of the Debtors is a party to, *which have been provided to and reviewed and analyzed by the PCO.*
- The most recent accreditation agency evaluation reports for any of the Debtors, *which have been provided to and reviewed and analyzed by the PCO.*
- Any correspondence or other communications to or from any governmental entity (federal, state or local) regulating any of the Operating Facilities dated on or after January 1, 2018, *which have been provided to and reviewed and analyzed by the PCO.*
- Documents issued by either accreditation or regulatory authorities evidencing the Operating Debtors' current accreditation and authorization to operate the Operating Facilities, *which have been provided to and reviewed analyzed by by the PCO.*
- Reports concerning the investigation of any medical, medication-related and non-medical incidents (including, but not limited to, medication variances) at an Operating Facility conducted by any of the Debtors since December 31, 2017, as well as any corrective action plans resulting from such investigations, *sufficient information of which has been provided to and reviewed and analyzed by the PCO.*
- Any and all licenses or authorizations permitting any of the Debtors to hold or dispense controlled substances, including any authorizations by the U.S. Drug Enforcement Agency, *which have been provided to and reviewed and verified by the PCO.*
- Staff disciplinary records for all Operating Debtors from January 1, 2018 to the present, including reports of any misconduct by an employee directly impacting the safety or care of one or more patients, *sufficient information of which has been provided to and reviewed and analyzed by the PCO.*

- New employee training and orientation materials (including the computerized Relias training) for all Operating Debtors in use for the period beginning January 1, 2018 to the present, ***some of which still need to be provided to the PCO.***
- The policies and procedures of the Operating Debtors:
 - Quality assurance and management (***sufficient information on those policies has been provided to and reviewed and analyzed by the PCO;***)
 - Incident reporting and response (medical and non-medical) (***sufficient information on those policies has been provided to and reviewed and analyzed by the PCO;***)
 - Employee hiring, vetting, training and orientation (***sufficient information concerning these policies has been provided to and reviewed and analyzed by the PCO;***)
 - Patient safety (including, but not limited to, policies to prevent/minimize aggression incidents) (***sufficient information of which has been provided to and analyzed by the PCO;***)
 - Admission and evaluation of patients/clients/consumers (***sufficient information of which has been provided to and analyzed by the PCO;***)
 - Post-admission evaluation of patients/clients/consumers;
 - Discharge of patients (including post-discharge monitoring and care) (***sufficient information of which has been provided to and analyzed by the PCO;***)
 - HIPAA and other data privacy and security policies (***additional information still needed;***)
 - Policies concerning medical and physical restraints of patients (***sufficient information of which has been provided to and analyzed by the PCO;***)
 - Policies concerning sanctions and staff discipline, including policies concerning drug and alcohol abuse by staff-members (***sufficient information of which has been provided to and analyzed by the PCO;***)
 - Infection control (***sufficient information of which has been provided to and analyzed by the PCO;***) and
 - Information technology management (particularly the protection of protected health or other individually identifiable information) (***Information still necessary).***
- Information/reports concerning staff and management turnover at the Operating Facilities from January 1, 2018 to the present (***sufficient information of which has been provided to and reviewed and analyzed by the PCO).***

- Current staff vacancies at Operating Facilities, identifying the positions that are vacant and the time period during which they have remained vacant (***sufficient information of which has been provided to and reviewed and analyzed by the PCO.***)�
 - Documentary evidence that the Operating Debtors are currently meeting applicable staffing requirements (***sufficient information of which is has been provided to and reviewed and analyzed by the PCO.***)�
 - Information/reports/summaries concerning falls or other injuries at Operating Facilities from January 1, 2018 to the present (***sufficient information of which is has been provided to and reviewed and analyzed by the PCO.***)�
 - Information/reports/summaries concerning patient-on-patient and patient-on-staff aggression and other patient misconduct at the Operating Facilities from January 1, 2018 to the present (***sufficient information of which is has been provided to and reviewed and analyzed by the PCO.***)�
 - Any complaints/grievances submitted by patients, their families or employees to any of the Operating Debtors from April 1, 2018 to the present (***sufficient information of which is has been provided to and reviewed and analyzed by the PCO.***)�
 - Patient satisfaction survey results for the period from April 1, 2018 to the present (***sufficient information of which is has been provided to and reviewed and analyzed by the PCO.***)�
 - Documents evidencing the results of the assessment of the performance of clinical staff at the Operating Facilities for the period from January 1, 2018 to the present (***sufficient information of which is has been provided to and reviewed and analyzed by the PCO.***)�
 - Summaries or reports containing the following information concerning clinical staff at the Operating Facilities for the period from April 1, 2018 to the present:
 - Clinical hours per patient;
 - Staff effectiveness;
 - Chart audits; and
 - Timely and complete plans of care.
- (***Sufficient information has been provided to and reviewed and analyzed by the PCO through August 31, 2018; the same information is needed for September 1, 2018 through the present.***)

- Reports or summaries containing information concerning the following pharmacy issues at the Operating Facilities for the period from April 1, 2018 to the present:
 - Quality management, including, but not limited to expiration dates;
 - Availability of medications;
 - Self-policing;
 - Controlled substance perpetual inventory records for residential and out-patient facilities for the period from April 1, 2018 to the present;
 - ADM Controlled Substance Activity Reports for 2017;
 - Controlled Substance Destruction Log; and
 - Medication errors.

(Sufficient information has been provided to and reviewed and analyzed by the PCO through August 31, 2018; the same information is needed for September 1, 2018 through the present).

- Reports or summaries concerning medical records at the Operating Facilities for the period from April 1, 2018 to the present addressing:
 - Completeness; and
 - Timeliness.

(Sufficient information concerning this matter has been provided to and reviewed and analyzed by the PCO).

- Reports or summaries for the period from April 1, 2018 concerning information technology issues at the Operating Facilities impacting patient care and safety, including:
 - Physician Entry of Orders;
 - Uptime v. Downtime;
 - Information Security:
 - Malware;
 - Ransomware; and
 - Data Breaches.

(Additional Information is necessary).

- Reports or summaries containing information concerning any fires or environmental incidents at any of the Operating Facilities during the period from January 1, 2018 to the present.

(Sufficient information has been provided to and reviewed and analyzed by the PCO through August 31, 2018; the same information is needed for September 1, 2018 through the present).

To date, the Debtors have provided the PCO with the following documents for review and the PCO has reviewed them:

- A Staff Qualifications At-A-Glance Chart, updated as of October 26, 2017, for all clinical positions at all Operating Facilities setting forth the applicable state qualification requirements;
- A Staffing Ratios At-A-Glance Chart, updated as of October 26, 2017, for all clinical positions at all Operating Facilities setting forth the applicable state qualification requirements;
- A list of contractors providing clinical support at Operating Facilities;
- A copy of a letter dated December 19, 2017 from Laura V. O’Keefe, the Senior Account Executive, Accreditation and Certification Operations assigned to the Operating Debtors by the Joint Commission advising that all treatment programs conducted by the Operating Debtors remain accredited pending this year’s triennial survey, together with the attached Quality Report issued by the Joint Commission;
- The EBH Incident Reporting Category and Subcategory Definitions that governs the preparation of incident reports by any of the Operating Debtors;
- Operating Facility census information for calendar year 2017 and January of 2018;
- The Policy and Guidelines on Quality Assurance and Performance Improvement Plan in place for the Operating Facilities, together with a Quality Assurance Improvement Report summarizing incidents reported for the first 11 months of 2017;
- Summaries of patient satisfaction surveys for 2017 and January, February and May of 2018;
- The most current Emergency Management Plans and Safety and Security Plans for the Operating Debtors (*revisions/supplements to the Emergency Management Plans and Safety and Security Plans for the Operating Debtors were in process as of the filing of the Initial Report for The Ranch Pennsylvania, The Right Step Houston and The Right Step Dallas, but have not yet been provided to the PCO for review and analysis*);
- The report issued by the Joint Commission at the end of its 2018 survey; and
- The Mock Survey reports.

Because the Operating Debtors are healthcare providers, they are “covered entities” for purposes of HIPAA (the Health Insurance Portability and Accountability Act of 1996), as amended by the HITECH Act (the Health Information Technology for Economic and Clinical Health Act of

2009). As a general rule, the HIPAA Privacy Rule, which was promulgated pursuant to HIPAA, prohibits the Operating Debtors' disclosure of the protected health information ("PHI") of its patients absent the consent of the affected patient (or a personal representative) or authorization under HIPAA or other applicable law. Federal and state laws provide more stringent protection of the privacy of PHI related to the treatment of mental illness and substance abuse disorders. Section 333 of the Bankruptcy Code contemplates the PCO's review of patient medical records, but does not expressly authorize such a review. Accordingly, on June 13, 2018, the PCO filed a motion seeking the limited authority to access to PHI that would be necessary for him to perform his duties. [ECF No. 138] On June 22, 2018, the Court entered its Order Requiring Patient Care Ombudsman to Be Provided with Access to Confidential Patient Information, Approving Notice to Patients of Ombudsman's Reports, and Granting Related Relief authorizing the PCO the limited access to PHI necessary for his performance of his duties. [ECF 158] Given (i) the results of his interviews of administration, staff and patients; (ii) his review of the Joint Commission Report; and (iii) his review of documentation provided to date, the PCO has not needed to review patient charts, but reserves the right to do so if information concerning the quality of patient care and safety makes such a review advisable.

II. PRIMARY FINDINGS

The PCO has made the following primary findings:

Finding #1: The Quality of Care Provided to The Operating Debtors' Patients (including Patient Safety) During the Remains Acceptable, and Is Not Currently Declining or Otherwise Materially Compromised.

Finding #2: The Oversight and Supervision Provided by the Management of the Operating Debtors and the Elements Behavioral Health Corporate Offices and the Competence, Attentiveness and Loyalty of the Operating Debtors' Clinical Will Likely Uncover Quality of Care Deficits if They Arise.

Finding #3: Commencing October 2, 2018, having the PCO Receive Bi-Weekly Reports and Other Materials Regarding Quality of Care and the Operating Debtors' Operations That Could Affect Resident Quality of Care Will Provide a Reasonable Basis to Monitor Whether the Quality of Care (including Patient Safety) Provided by the Operating Debtors Is Declining or Otherwise Materially Compromised.

Those findings will be discussed in more detail below and followed by a conclusion.

Finding #1: The Quality of Care Provided to The Operating Debtors' Patients (including Patient Safety) Is Acceptable, and Is Not Currently Declining or Otherwise Materially Compromised.

A. The PCO Reviewed Surveys of the Operating Facilities Conducted by Various State Governmental Entities, and Those Surveys Do Not

Demonstrate a Decline in or Material Compromise of Either Patient Safety or the Quality of Care at the Operating Debtors .

1. **Arizona:** The State of Arizona waived a 2018 survey inspection of Promises Scottsdale because of the continued Joint Commission accreditation.
2. **California:** The California Department of Health Care Services inspected Malibu Vista on July 27, 2017. The Department made no findings and concluded the facility was in compliance.

On August 30, 2017, the California Department of Social Services—Community Care Licensing (“CCL”) initiated three complaints concerning the Malibu Vista facility but left no reports and did not visit one of the residential facilities that was the subject of a complaint. On January 3, 2018, the CCL followed up on the two complaints concerning the residential facility that had been previously visited (the Cool Oak Facility) and issued an unsubstantiated finding for the residential facility that was not previously visited. CCL also conducted a facility evaluation on the 20781 Big Rock Drive facility on January 3, 2018, and noted two easily corrected environmental violations and some record-keeping deficiencies. On January 25, 2018, the CCL conducted an annual survey of the Cool Oak Facility noting easily corrected deficiencies. The Malibu Vista Facility remains licensed.

3. **Florida:** The Florida Agency for Health Care Administration (“AHCA”) inspected the Lucida Treatment Center on September 15, 2017 and found no issues. AHCA renewed Lucida Treatment Center’s Florida state licenses in 2018 on the basis of the continued Joint Commission accreditation.
4. **Mississippi:** The Mississippi Department of Mental Health (“MDMH”) conducted a licensing visit to The Ranch Mississippi on February 22 and 23, 2018 to approve the Operating Facility’s certification for partial hospitalization and the expansion of the detoxification program. The Operating Facility was cited for: (i) failure to maintain an updated hospital transfer agreement; (ii) a review log did not maintain review of smoke detectors; and (iii) a fire extinguisher in a van was not secure. A corrective plan was put in place and the proposed expansion was approved.² In any event, The Ranch Mississippi has retained its MDMH licensure.

² MDMH inspected the The Ranch Mississippi in 2017 and issued several findings. The Debtors provided proof that the deficiencies had been timely corrected. The PCO was able to confirm most of the corrections on his inspection of The Ranch Mississippi.

5. **Pennsylvania:** On July 13, 2017, the Pennsylvania Department of Human Services—Office of Mental Health and Substance Abuse Services (Community Residential Rehabilitation Services) (“OMHSAS”) conducted a license review inspection of The Ranch Pennsylvania. OMHSAS’s official report cited three record deficiencies. A corrective action plan was put in place, and The Ranch Pennsylvania timely corrected those issues. The facility has retained its OMHSAS licensure.

On September 13 and 14, 2017, the Pennsylvania Department of Alcohol and Drug Programs (“DDAP”) conducted a license renewal inspection on the Ranch Pennsylvania and cited the facility for food service, water temperature and treatment plan issues. A corrective action plan was put in place and the deficiencies have been corrected. By way of example, the food service issues had clearly been corrected by the time the PCO visited the facility. The Ranch Pennsylvania has retained its DDAP licensure.

On September 10 and 11, 2017, DDAP conducted a licensure inspection of Clarity Way. DDAP’s report cited medical record issues and a lack of fire drill documentation. A corrective action was put in place and the issues addressed. Clarity Way has retained its DDAP licensure.

6. **Tennessee:** On September 7, 2017, the conducted a licensure renewal inspection on The Ranch on the Piney River. In its report, MHSAS cited that facility for wear and tear issues (carpet stains and the need for touch up paint on a wall and door), deep potholes and oil left in a pan. A correction plan was put into place and documentation provided to the PCO by the Debtors indicates that the corrections have been made.

On March 27, 2018, the facility was cited for failing to report an August, 2017 fall from a horse by a client. The client was X-rayed for injuries. A correction plan is in place.

7. **Texas:** State of Texas visited The Right Step Houston on November 15 and 16, 2017 to investigate allegations of the sexual assault on a client. The Houston police were also called but the client refused to go to the hospital. As a result, the State did not leave a report.
8. **Utah:** The Utah Department of Health Services conducted a renewal visit at Journey Healing Centers on April 17, 2018. The report noted several discrete and easily correctable deficiencies in record-keeping and two necessary repairs that had been completed by the time of the PCO’s inspection of the facility. The facility’s license was renewed.

B. The PCO Reviewed Internal Surveys of the Operating Facilities, and Those Surveys Do Not Demonstrate a Decline in or Material Compromise of Either Patient Safety or the Quality of Care at the Operating Debtors

As part of their continuous quality improvement action plan, the Operating Debtors, under the direction of the Elements Behavioral Health corporate offices, conduct the Mock Surveys described above. The most recent Mock Surveys were conducted between December 1, 2017 and February 28, 2018. All of the Operating Facilities were surveyed during that period. Among the issues that have addressed by these mock surveys are:

- The completeness of emergency operation and recovery plans;
- Signing and dating medical and clinical records;
- The safe administration and storage of medications;
- The completeness of medical and clinical records;
- Environmental hygiene;
- Proper food storage;
- Repairs and maintenance; and
- Patient safety concerns.

The Mock Surveys revealed deficiencies. Corrective action plans were put into place and completed. By the observations he made during his tours of the Operating Facilities, the PCO was able to conclude that most of the deficiencies had been corrected. In particularly, the PCO learned through interviews that there has been an increased focus on keeping medical and clinical records up to date. Rather than being evidence of a decline in the quality of patient care and safety, at the Operating Facilities, the Mock Surveys reflect diligence on the part of the Operating Debtors and the Elements Behavioral Health corporate office.

C. The PCO Reviewed the Most Current Emergency Management Plans and Safety and Security Plans for the Operating Debtors.

The following ten Operating Facilities have in place an Emergency Management Plan and Safety and Security Plan (collectively, “Emergency/Safety Plan”), which are contained in the same document: Journey Healing Centers (UT), Promises Scottsdale, Promises Malibu Vista, Promises Malibu, Lucida Treatment Center (FL), Clarity Way (PA), Promises Austin, The Ranch Tennessee and the Ranch Mississippi. The Emergency/Safety Plans were last revised as of: (ii) December, 2016 (Journey Healing Centers (UT) and Promises Scottsdale); and (ii) December, 2017 (Promises Malibu Vista, Promises Malibu, Lucida Treatment Center (FL), Clarity Way (PA), Promises Austin, The Ranch Tennessee and the Ranch Mississippi). The topics covered by the Emergency/Safety Plans include the following:

- Staff responsibilities during an emergency event;
- Post-event procedures;
- Evacuation locations;
- Emergency communication plans;
- General safety and security measures;
- Utilities and utilities disruptions;
- Medical emergencies;
- Storms and other climactic or environmental emergencies;
- Suspicious articles, vehicles or persons on premises;
- Hostage situations/intruders/disgruntled persons;
- Violence/terrorism/civil disturbance (including bomb threats);
- Missing clients and notifying parents/guardians/family contacts;
- Handling media requests; and
- Emergency/crisis and other relevant telephone numbers.

Although largely identical, the Emergency/Safety Plans are individualized to meet the specific needs and requirements of the Operating Facility to which they apply.

The Emergency Management Plan for The Ranch Pennsylvania (revised March 28, 2017) and the Safety (Disaster/Evacuation) Plan/Emergency Management Plan for The Right Step Houston and The Right Step Dallas (revised October 13, 2015) are not as detailed as the Emergency/Safety Plans. They focus on the steps to respond to an emergency impacting the entire facility and do not contain some of the proactive steps included in the Emergency/Safety Plans. In response to the Mock Surveys, the emergency management and safety plans for The Ranch Pennsylvania, The Right Step Houston and The Right Step Dallas are being updated and expanded into more detailed Emergency/Safety Plans like those at the other Operating facilities.

- D. Based upon His Investigation to Date, the PCO Has Concluded That Patient Safety and the Quality of Patient Care at Operating Facilities are Not Declining or Otherwise Being Materially Compromised. Rather, the Level of Patient Safety and the Current Quality of Care is Acceptable and Stable. Specific Conclusions Drawn from Interviews of and Patients, Management,**

Staff and Factual Information Provided to the PCO with Respect to the Safety and Care of Patients at the Operating Facilities are as follows:

1. **Patient Census.** Staff members interviewed by the PCO stated that the patient census at the Operating Facilities fluctuates, particularly around holiday times and tends to be lower in July and August. Census figures as of January 31, 2018 reflect occupancy rates ranging from 23% to 67%. A comparison of census figures as of December 31, 2017 with reported census figures as of the dates of the PCO's tours indicates declines in census at the Operating Facilities.

One facility, Lucida Treatment Centers saw a reduction in patients because the facility's psychiatrist resigned³ and the facility needs a staff member with authority to admit new patients. Psychiatrists are being interviewed, but the onboarding process is complicated. A psychiatric nurse practitioner with authority to admit patients was due to start July 25, 2018. One interviewee stated that, once the nurse practitioner started work, the facility should see its census grow to its prior average of 30 patients.

The Right Step Houston has suffered census declines as a result of the continued disruptions to the Houston metropolitan area by Hurricane Harvey.

In their bankruptcy filings, the Debtors noted the reimbursement challenges healthcare providers face as contributing to the bankruptcy filing and, perhaps to declines in census. However, the most common reason cited for the decline in census was changes in online search policies for behavioral health facilities implemented by Google in response to indications that many behavioral and mental health facilities employed recruiters to find patients. Because many (and for some of the Operating Facilities, most) of patients come from out of state, Google's policy change negatively impacted referrals of and applications by patients. The PCO was advised that the Operating Facilities have made the applications required by Google to benefit from internet searches for behavioral health facilities. Additionally, more attention is being paid to marketing in the local and regional areas in which the various Operating Facilities are located. The PCO's inspections of the 13 Operating Facilities during the First and Second Reporting Periods and interviews with staff and patients did not reveal any deficiencies in health care or patient safety that would cause census declines. **As part of his ongoing duties, the PCO will request periodic updates of census reports.**

³ The psychiatrist remains on call to provide necessary psychiatric services, but cannot admit new patients to the facilities.

2. **Services Provided.** According to the staff members interviewed by the PCO none of the services and programs provided by the Operating Facilities have been eliminated in 2018. In fact, one facility, The Ranch Pennsylvania, began to expand its mental health program in 2017. In a few situations addressed in the PCO's discussions below of his inspections of the Operating Facilities, some aspects of programming have been curtailed because of staff either leaving or going out on leave. At one Operating Facility, there has been a curtailment in trauma therapy, family therapy and dialectic behavioral therapy, and clinicians interviewed by the PCO were critical of that curtailment. Those programs have not been eliminated, however. In other facilities, programs in art therapy, music therapy and massage therapy have been significantly curtailed or eliminated. However, the basic programs offered by that Operating Facilities (as well as the other Operating Facilities) have remained intact.
3. **Average Length of Stay.** With some variance between facilities the average length of stay for a patient of an Operating Facility is 21 days. Insurance coverage plays a role in the length of stay. However, some patients have the resources to pay for additional services. Moreover, two of the staff members interviewed by the PCO advised that Operating Facilities have kept patients whose conditions have not been stabilized even if insurance coverage has ceased and the patient lacks the resources to pay for additional treatment.
4. **Staff to Patient Ratios/Fully Staffed Shifts.** As evidenced by the Staffing Ratios At-A-Glance report the Debtors provided to the PCO, the Debtors are aware of and appear to comply with state staffing requirements. All staff members interviewed by the PCO agreed that clinical positions at the Operating Facilities have been fully staffed during 2018 (including for the period following the Petition Date) and that the Operating Facilities follow federal and state staffing requirements. Sometimes this has meant that staff members have had to work overtime to ensure coverage when staff members were ill or on leave. In other cases, some programming was curtailed. Staff members generally agreed that it would be helpful to have more clinical staff, particularly the behavioral health technicians who are with the patients all the time and provide instructional and non-clinical services. However, none of the staff members indicated that they were overwhelmed by their workload, although it could be challenging meet their obligations sometimes. One patient advised the PCO that the patient believed that a nurse practitioner at the Operating Facility at which the patient was being treated had too heavy a workload. The decline in census at some Operating Facilities has also made compliance with staffing requirements easier.

Staff members interviewed by the PCO agreed that they had sufficient time to provide adequate care to the patients. Three staff members indicated that sometimes the paperwork could get in the way of care. One

of those interviewees noted that careful time management can reduce the pressure of paperwork. The other interviewee, who had worked more than 20 years in behavioral health facilities, was not aware of a place where paperwork could not sometimes get in the way of patient care. Another interviewee noted that some patients require more time than others, which can make caring for an entire caseload challenging.

With one exception, patients interviewed by the PCO also agreed that the staffing was adequate staffing at the Operating Facilities. One staff member interviewed by the PCO believed that the Operating facilities would benefit from dedicated case managers, particularly for coordinating post-discharge care. One staff member stated that it had been difficult to maintain adequate staffing at the Operating Facility at which the staff member worked, but that adequate staffing had been maintained in part because of a reduced census. The facility had no difficulty recruiting new staff. However, a large part of the difficulty in obtaining new staff was the complexity in onboarding new clinician staff. Difficulty in onboarding staff was noted at another facility.

The PCO has reviewed information concerning staffing at the Operating Facilities intends to obtain periodic updates of that information to ensure that staffing remains adequate. **In that regard, the PCO will request the Debtors provide him with an updated staffing report that can be compared to updated patient census reports.**

5. **Staff Qualifications and Training.** The Staffing Qualifications At-A-Glance provided by the Debtors to the PCO reflected the Operating Debtors' awareness of the licensure, educational and training requirements for their staff. All staff members interviewed by the PCO confirmed that, to the best of their knowledge, all clinical staff members are properly educated, trained and licensed. The staff members interviewed by the PCO were properly educated, trained and licensed. All clinical staff members interviewed by the PCO had completed the required orientation process and staff members interviewed by the PCO were familiar with the Operating Debtors' policies and procedures, particularly those relating to patient care and safety. One patient advised the PCO that the patient was not confident about a nurse practitioner's experience, but didn't want to "throw the nurse practitioner under the bus." The Operating Debtors also provide in-service training and education to both management and staff.

Behavioral technicians who provide instructional and non-clinical services to patients are not required to have a college degree. Many of those technicians are working towards a degree or certification relevant to behavioral health. Some are in recovery themselves, although they must have been drug- or alcohol-free for two years before being hired by one of the Debtors. In addition to having been drug- or alcohol-free for two years, behavioral technicians must have two years' work experience in a

behavioral health facility as a condition to employment at an Operating Facility.

The PCO will continue to review the Operating Debtors' personnel records to ensure that staff (particularly clinical staff) remains properly trained. Specifically, the PCO will periodically request current lists of clinical contractors and employees with the list to include evidence of educational credentials, licensure and certification.

6. **Employee Vetting, Hiring, Training and Supervision.** Per the administrative and clinical staff members the PCO interviewed, extensive employee training is conducted upon hiring and continues regularly thereafter. All interviewees stated that in-service training was conducted at least annually, including training in HIPAA, and on a more frequent basis as necessary.

Interviewees agreed that employees were properly vetted at hiring. New hires must provide the Debtors with evidence of current and appropriate licensure or certification. Criminal history checks are conducted for all employees. New hires go through a week-long orientation pursuant to which they are trained in certain subject areas relevant to the health and safety of the Operating Facility's residents. Each interviewee confirmed that (s)he had been trained upon hiring in the following areas: (i) Ethics (including the Code of Employee Conduct); (ii) infection prevention and control; (iii) blood-borne pathogen exposure control; (v) fire prevention and safety; (vi) HIV confidentiality, (vi) HIPAA and medical information privacy and security; (vii) disaster preparedness; (viii) patient safety; (ix) the prohibition against asking for tips or gifts from residents or their families; (x) the prohibition against fraternizing with patients; (xi) the prohibition against entering into economic, business or financial relationships with patients; (xii) proper handling of medications (for those authorized to do so); (xiii) handling situations in which the patient has become uncooperative, aggressive or violent; and (xiv) the Debtors' employee substance abuse and non-smoking policies. The interviewees each confirmed that training in each of those areas was ongoing. One interviewee characterized the training as "constant." The training includes both on-line and face-to-face training. Following the formal training an employee receives upon hiring, each employee shadows another employee until being permitted to work on his or her own.

All but one of the staff members interviewed by the PCO commented that the staff functioned as a team and supported one another. There was general agreement that management was supportive. For one facility, which had experienced a change in management just before the Petition Date, one staff member complained that management demonstrated a lack of appreciation for the employees, particularly the clinical staff. In that

case, the new Executive Director, a military veteran brought a very different (and less relaxed) style of leadership to the facility than had been the case before the change. At all Operating Facilities, regular (mostly weekly) clinical staff meetings are held. The teamwork between staff members, the supportiveness of management and the regular meetings ensures that staff members were adequately supervised. Indeed, one staff member interviewed by the PCO stated that therapists/clinicians are supervised to improve their clinical skills. One staff member told the PCO that, although most staff members did their jobs, some did not. It appears, however, that the relatively small size of the Operating Facilities makes supervision of staff relatively easy.

The PCO noted that the behavioral technicians were involved with and attentive to the patients, with only one possible exception. At one facility, while dinner was being prepared and the patients were in the public areas of the facility, the behavioral technicians were in the technician's room.

7. **Patient Admission and Placement.** Patient admission and placement procedures among the Operating Facilities are largely consistent. At each facility, a referral or request for admission by a patient is reviewed by the Executive and Clinical Directors (among others) to determine that the facility can provide adequate and appropriate treatment to the patient. Upon arrival at an Operating Facility, a nursing evaluation is conducted. At those facilities with detoxification facilities, patients needing detoxification are placed in detoxification. A medical history is taken and a physical examination is to be administered within 24 business hours after the patient's arrival. A primary therapist/counsellor is to be assigned to the patient during that period and a psychosocial evaluation is to be conducted within 72 business hours after the patient's arrivals. Therapy (including discharge planning) commences immediately. Once the patient has completed detoxification (if necessary), behavioral health technicians and patient community leaders will acclimate the patient to the facility. A master treatment plan tailored to the patient's needs is to be completed within 7 days. The patient is expected to be involved in the formulation of the plan. The plan is reviewed and, if necessary updated weekly. The patient is expected to participate in the updating of his/her plan. Post-discharge treatment was incorporated into the development of the treatment plans.

Staff interviewed by the PCO advised that the foregoing schedule was followed in the vast majority of cases. Most patients interviewed by the PCO agreed. Some patients who had required detoxification upon admission acknowledged that their memories of the earlier portion of their treatment were unclear. One patient and the patient's therapist were still working on the treatment plan eight days into treatment another stated that the patient and the therapist/counsellor were working on the treatment plan three weeks into treatment. Regardless of whether a written, signed

treatment plan was in place, both patients acknowledged working with the counsellor on a treatment plan and both were actually going through treatment. Another patient seemed to have confused the treatment plan with a post-discharge plan and wasn't certain that the treatment plan had been signed. The PCO will review a sample of patient records to determine if the rules concerning treatment plans are being followed.

All of the staff interviewed by the PCO agreed that none of the Operating Facilities had admitted patients whose needs they knew could not be met at the facilities. Many of the substance abuse patients also have co-occurring mental health disorders. The Operating Facilities that focus on patients with a primary substance abuse diagnosis do not accept patients with a mental health diagnosis unless the mental health disorder can be self-managed. Because they are not locked facilities, the Operating Facilities do not admit violent patients or patients with significant suicidal tendencies, although the Operating Facility in Euliss, TX can treat aggressive (if not violent) patients. Most Operating Facilities do not admit patients with active eating disorders.

In some cases, if it becomes obvious after admission that an Operating Facility is unable to appropriately treat a patient, the patient is referred to another, more appropriate facility. A couple of staff members expressed frustration that families were not always forthcoming with information concerning patients, resulting in some improvident admissions to Operating Facilities.

During the Second Reporting Period, the PCO was faced with a situation involving a patient who had been improvidently admitted to an Operating Facility. The PCO received a call from a patient who had just been discharged from an Operating Facility. The patient had been referred to the Operating Facility by an organization assisting professionals dealing with behavioral and/or mental health challenges. At the behest of that organization and apparently not at the patient's request, the patient was transferring to another facility (not an Organizational Facility), because the Organizational Facility does not have a program to treat the disorder from which the patient was suffering. According to the patient, personnel at the Operating Facility took the patient's transfer personally and seemed offended that the patient would be going to another treatment facility. The patient advised the PCO that personnel at the Operating Facility would not allow the patient to regain possession of the patient's cellphone until the patient was off of the property. The patient was not permitted to call the patient's ride until departing the property and had to wait on the street by the facility for the ride.

The PCO asked the patient about treatment the patient received at the facility. The patient advised the PCO that the staff had an attitude and couldn't have cared less about the patients. According to the patient, staff

members were standoffish and disrespectful of patients. By way of example, the patient stated that staff would walk away from the patient while the patient was attempting to talk to them. Additionally, the patient said, staff members were more focused on whether the patient's insurance would cover treatment than on providing treatment. The patient told me that it was necessary for the patient to take the initiative to meet the counsellor assigned to the patient. The patient claims to have been unable to get a throat lozenge for six days. The patient also advised that there had been conflicting directives from the doctor and other staff. The doctor initially told the patient that the patient could stay in bed and rest as long as the patient needed to do so and could go to meetings and therapy sessions when the patient felt up to it. Meanwhile, according to the patient, the staff sarcastically asked whether the patient was going to start attending meetings. According to the patient, there was no discussion of a treatment plan for the patient. The patient was advised that "it all depended on the insurance."

The patient's comments raised concerns with the PCO. The PCO's inspections of the facilities and interviews with patients and staff had not uncovered indifference on the part of the staff, although some of the behavioral technicians were clearly better at addressing patients' needs and concerns than others. The PCO had also heard from some staff and patients that communications between medical staff, nurses and therapists, on the one hand, and behavioral technicians, on the other hand, were sometimes confused. Additionally, the PCO was aware that reductions and delays in reimbursement by payers was a significant factor leading to the Debtors' bankruptcy filing. However, despite being advised not to share the diagnosis, the former patient advised the PCO that the patient had been diagnosed with a borderline personality disorder—a disorder that often clouds the sufferer's view of reality and renders the sufferer difficult to deal with. The PCO advised the patient that he would follow up with management.

The PCO immediately followed up with Elements Behavioral Health management about the concerns raised by the former patient. Management confirmed that the patient had been referred to the Operating Facility by an organization providing behavioral and mental health assistance (mostly via referrals) to professionals. Also confirmed was the patient's diagnosis and the inability of the Operating Facility to which the patient had been referred to provide appropriate treatment. According to management, the Operating Facility would not return the patient's cellphone until the patient's ride arrived. The patient was offered a telephone to contact the ride and was encouraged to remain on premises (albeit sans cellphone) to wait for the ride. The patient was not forced off premises to wait for the ride.

Once the PCO had discussed the matter with Elements Behavioral Health's management, what had actually happened became clear. Through the intake process the staff at the Operating Facility learned that the facility could not appropriately treat the patient. The patient was not pushed to attend therapy or meetings. A therapist could not be assigned, and a treatment plan could not be formulated. Unfortunately, there appears to have been inadequate communication to the behavioral technicians about the patient's status. However, it remains unclear to the PCO about how much of the patient's problems with the behavioral technicians arose from the patient's borderline personality disorder and how much of it arose from the attitudes and actions of the technicians themselves. In that regard, the PCO contacted the patient after the patient's ride should have arrived and asked the patient to call him to confirm that the ride had arrived. The patient never called the PCO.

In sum, the incident, while troubling, did not reflect a decline in the quality of patient care at the Operating Facility. The incident, however, may demonstrate the need for improvements to the vetting process to minimize the possibility of admitting patients who cannot be appropriately treated at an Operating Facility. The incident may also demonstrate a need to provide better communications to behavioral technicians in situations in which a patient has been improvidentially admitted to an Operating Facility and needs to be transferred to another facility—a process that may take several days, as evidenced by this incident.

8. **TB Testing of Patients and Clinical Staff.** As a condition to employment at NPSH, staff members must undergo TB testing. Patients are also tested for TB upon admission. Interviews of staff and patients have confirmed that this policy has been followed. **The PCO will request periodic reports to ensure that the policy continues to be followed.**

9. **Employee Conduct and Discipline.** The Debtors have developed policies and procedures governing staff behavior, with a focus on the proper treatment of and relation to patients. Specifically, employees are trained to avoid crossing certain boundaries with patients. Interviewees were generally in agreement that the Debtors enforce those policies. In that regard none of the staff members or patients interviewed by the PCO were aware of any mistreatment or abuse of patients by staff members. None of the patients or staff members interviewed by the PCO were aware of any instances of staff members asking patients or their families for gifts or tips. The PCO will review employee discipline reports on a bi-weekly basis to ensure that the Debtors continue to enforce their employee conduct and discipline policies and procedures and that patients are not abused by employees.

Pursuant to a report prepared by the Debtors for the PCO, since April 1, 2018, the Debtors have terminated 15 employees for misconduct.

Grounds for termination included: (i) failure to maintain appropriate boundaries with patients (5); (ii) sleeping while on shift; (iii) sexual harassment (1); (iv) lying during an investigation into a potential client safety issue; (v) allowing a former patient into a patient residence; (vi) simultaneously working for a competitor; (vii) leaving a client at an AA meeting; (viii) insubordination; (ix) unprofessional behavior; and (x) attendance issues. Eight of the terminated employees were Behavioral technicians; 2 were nurses; 1 was a clinical care coordinator. None were psychiatrists or therapists/counsellors. The Debtors' report demonstrates their willingness to discipline clinical employees and the seriousness with which they take boundary issues between staff and patients. It does not reflect a decline in the quality of patient care or safety.

- 10. Infection Control.** Operating Facility Staff are trained in infection control. Management, staff and patients interviewed by the PCO confirmed that there had been no outbreaks of infections at any of the facilities during 2018. According to one staff member, if patients come in with infections, they are treated with antibiotics to avoid any spreading of the infection. Patients suffering from HIV are gotten back on medications.

Staff members and patients similarly confirmed that there had been no insect or rodent infestations of at the facility. One patient noted that, while that patient was undergoing detoxification, there had been ants in the detoxification facility, but the facility responded immediately to the problem. A staff member advised the PCO that there had been a couple of reports of mice in a residential unit because a door had been left open, but the facility addressed the issue promptly. Staff members in one facility indicate that roaches may appear after a heavy rain, but maintenance addresses the issue quickly. Management and staff members interviewed by the PCO agreed that measures are taken to ensure that there are no insect or rodent infestations at any of the Operating Facilities. The PCO saw no evidence of either rodent or insect infestation on his tours of the Operating Facilities.

The PCO will review bi-weekly incident reports to ensure that there is either no uptick in patient infections or occurrences of rodent or insect infestation.

- 11. Dietary and Nutrition Support.** The kitchens of several of the Operating Facilities are staffed by professional chefs. As discussed below, the kitchen facilities inspected by the PCO on his tours of the Operating Facilities were clean and well maintained. Food is properly handled, stored and prepared. Opened food is generally labeled and dated. On the dates of the PCO's tours, refrigerators, coolers and freezers were being operated at appropriate temperatures and had working thermometers. Temperatures are checked at least daily and logs kept either on the refrigerator, cooler or freezer or in the kitchen. Patients receive nutrition

assessments (which include determination of food allergies) upon admission, and information concerning dietary needs (including food allergies) was made available to the kitchen staff upon the admission of a patient and kept in either binders or online. All interviewees (both staff and patients) stated that patients received sufficient and adequate food. One interviewee (a patient) noted receipt of food that the patient could not eat because of a food allergy.

- 12. Pharmacy Support.** All management and staff the PCO interviewed agreed that there was adequate pharmacy support. Clinical staff agreed that the patients had available to them the medications they needed for their patients. In most cases, the Operating Facilities receive weekly or bi-weekly deliveries of medications. One patient advised the PCO that the patient was not able to receive the required dose of medication when the dosage was changed, because a staff member could not get to the pharmacy. However, the patient advised that there was no adverse effect of not being able to receive the correct dose.

With the exception of the Promises Scottsdale facility, patient medications are stored at nursing stations. The stations are kept locked when nursing personnel are not present. Prescription medications are kept in locked cabinets with each patient's medication being labeled by name. Controlled substances are kept in locked metal containers. Patients receive their medications at the nursing stations according to a set schedule, with the medication being handed by the nurse to the patient. In most Operating Facilities, the patient receives his or her medication at the door of the nurses' station. At one facility, patients receive their medications in the laundry. As a safety precaution and to avoid the unauthorized sharing of medication at that nurses' station, only one patient is permitted in the laundry at a time when medications are being passed. One interviewee stated, however, that that rule is not always followed.

- 13. Altercations/Confrontations, Accidents and Other Serious Incidents.**

A common EBH Behavioral Health policy governs the reporting of altercations/confrontations, accidents and other serious incidents at all Operating Facilities. The staff members interviewed by the PCO agreed that any accidents or incidents were properly and promptly reported. Several of the patients interviewed by the PCO corroborated the statements of the staff members. Categories of incidents subject to mandatory reporting under the policy include:

- Abuse of a patient (including verbal abuse);
- Adverse patient behavior;
- Patient possession of contraband;

- Death of a patient at the facility (including suicide);
- Attempted suicide by a patient at the facility;
- Suicide ideation;
- Elopement (including leaving the facility or treatment against medical advice and a patient gone missing);
- Unintentional physical injury;
- Billing errors;
- Physiological Medical Conditions;
- Medication errors (including missed dosages not resulting from patient refusal);
- Adverse drug reaction;
- Found medication-substance not in the possession of an identifiable client;
- Patient refusal of drug administration;
- General complaints by patients and patients' family;
- Transfer to a higher level of care;
- Unethical/unprofessional conduct by an employee;
- Adverse behavior by a staff member;
- Biohazards;
- Data privacy or security breach;
- Facility emergency;
- Motor vehicle incidents; and
- Property damage/theft/loss.

The Debtors record and summarize incident reports into a single report that unfortunately is not very useful for analysis because of the breadth of the categories used by the Debtors and the inability to determine the seriousness of the reported incident from the report. An incident report provided by the Debtors to the PCO was for November, 2017. During that

month there were 271 reported incidents. Of those incidents, there was one report of abuse, one reported patient death, 31 reported injuries, 89 reported medication incidents (which, in addition to medication errors, include patient refusals of medication, adverse drug reactions and medications found on premises not belonging to an identifiable patient), but no suicides. An incident report for the period beginning April 1, 2018 and ending August 22, 2018 reflects an improvement over the experience in November. During that period there were between 31 and 56 incidents (which did not include medication errors) per month, as compared to 182 non-medication incidents during November, 2017, for a total of 222 incidents (spread across 13 Operating Facility over a 5-month period). Those incidents included: 18 cases of physical aggression by patients; 11 cases of verbal aggression by patients; 1non-suicide patient death; and 1 successful suicide.

The PCO did inquire about incidents in his interviews of both patients and staff members. One staff member and one patient interviewed by the PCO advised the PCO of a physical altercation at an Operating Facility during 2018. The altercation involved a patient becoming argumentative, striking staff members and throwing things and finally being removed from the facility by the police and taken to a hospital. Another patient interviewed by the PCO stated that police had to be called three times to the facility at which the patient was treated because of a patient acting out. Another staff member advised the PCO that a patient had become aggressive and shoved another patient. The matter was de-escalated and aggressor was put on a behavior contract. The aggressor continued to act out and was therapeutically discharged. Another staff member stated that there had been some incidents but the Operating Facility at which the staff member works has a zero-tolerance policy for violence and discharges patients if they become violent. Finally, a staff member at another facility advised the trustee that one patient had become verbally aggressive a few months before the interview and was transferred out of the facility, but that things had been quiet since that incident.

Patients and staff interviewed by the PCO acknowledged that verbal altercations (particularly between male patients) did occur but not with any regularity. Those altercations were quickly defused. Staff members are trained on how to avoid being grabbed and in getting out of such a situation if it occurs. The staff member who advised the PCO of the altercation described above stated that physical altercations are very rare. According to that staff member, staff members are very good at de-escalating confrontational situations, and that staff members help each other in de-escalating those situations.

The statements made during the PCO interviews concerning altercations are consistent with the incident report provided by the Debtors to the PCO for the months of April through August of 2018.

None of the interviewees was aware of any serious accidents, falls or other incidents resulting in serious injury to a patient or staff member. One staff member noted that, on occasion, patients going through detoxification may have seizures or pseudo-seizures and may fall, but there have been no serious injuries from those falls. Two interviewees told the PCO of patients who suffered seizures and fell. One of the patients was taken to a hospital, required stitches but returned to the Operating Facility; the other did not require hospitalization. One interviewee told the patient that the facility at which the interviewee works, utilizes fall bracelets and sober companions to reduce the risks of falls. None of the patients interviewed by the PCO had been physically assaulted while at an Operating Facility. One patient stated that the patient had been splattered with some spots of grease as a result of a grease fire that had erupted when the patient was cooking a meal. The burns were not serious and treated quickly and a report was filed. As the patient stated, once the fire happened alarms went off.

Again, the results of the interviews are consistent with the Debtors' incident report for the months of April through August of 2018, with most (105 out of 166) injuries during that period being from slips and falls, bruises, sprains and tripping.

The PCO will follow up with the Debtors on the two deaths.

14. **Restraints and Seclusion.** All staff members agreed that all of the Operating Facilities are restraints-free and seclusion-free facilities. Staff members learn de-escalation techniques. If a patient becomes aggressive or violent and de-escalation techniques do not work, the police may be called. Thereafter, the patient may be put on a behavior contract. In extreme cases, or if a behavior contract is not successful, the patient is referred to another facility.
15. **Activities, Creative Arts Therapy and Ancillary Services.** In addition to individual and group psychotherapy and medication, patients at Operating Facilities receive education focused on the practical aspects of returning to life in the community. Those services are generally provided by behavioral technicians. Additionally, most of the Operating Facilities have gyms that patients are free to use when they are not in programming. Some facilities have pools for use during down time. Patients' use of the pools is always supervised and, with one exception, use of the gyms is supervised by staff. There are common rooms or lounges for leisure activities. Several of the Operating facilities incorporate art and music (mostly on an informal basis) into therapy.

Some facilities also employ message therapists and physical trainers. Some also provide spiritual counselling, yoga, and mindfulness/wholeness training.

16. **Elopement.** All admissions to the Operating Facilities are on a voluntary basis. Hence, most “elopements” at the Operating Facilities are departures be against medical advice (constituting 196 of the 215 “elopements” during the months of April through August of 2018). **The PCO will follow up with the Debtors about the 19 “missing persons” constituting the smaller group in the elopement category.**

17. **Patient and Facility Safety Issues.** Employees of the Operating Facilities receive training on patient safety issues both during their initial employment orientation and on an ongoing basis.

With one exception, none of the management, staff or patients the PCO interviewed at the Operating Facilities were aware of any patient safety issues. A patient at an Operating Facility at which patients use the kitchen facilities for cooking advised the PCO that the patient did not believe that the knives used in cooking were not adequately secured when not in use. That was not the case on the date of the PCO’s tour. The PCO did not see any other situation that would raise patient safety concerns when he toured the Operating Facilities, although, as discussed below, certain of the resident rooms required that the occupying patient be specially vetted to avoid harm.

One interviewee noted that the Operating Facility at which the interviewee worked had limited ability to admit patients using wheelchairs. Another noted that the steps to the nursing station at the facility at which the interviewee worked were steep. The PCO’s tours revealed that the campuses of several of the Operating Facilities presented challenges to those with mobility limitations. However, ADA-compliant residential and treatment facilities are available and there is sufficient staff available to assist those with mobility limitations.

18. **Medication Management and Errors.** With one exception, the therapist/counsellors interviewed by the PCO were not aware of medication errors, but acknowledged that the nursing staff handled the distribution of medications. Two interviewees advised that staff nurses ensure that all medications are accounted—in one facility by a daily count and in another facility by a count at the end of each shift. Three staff members (management level) and two patients interviewed by the PCO stated that there had been minor medication errors in 2018. One interviewee credited the Operating Debtors’ quality assurance policies and procedures for reducing the number of medication errors and preventing serious errors. Another interviewee credited quarterly medical competency reviews for reducing the rate of medication errors at the facility at which the interviewee worked to almost zero, although the interviewee acknowledged more work had to be done in documentation.

Nevertheless, in one case a patient had recognized that (s)he had been given the wrong medication before ingesting it. Another patient was given the wrong medication, but it was a medication that was similar to the medication prescribed for the patient and the matter was corrected. Two patients told the PCO that the respective Operating Facilities at which they were being treated had lost their medications. There was agreement by all of the interviewees who had advised the PCO of medication errors that none of the errors had resulted in harm to a patient. Per the staff members interviewed by the PCO, the errors were properly recorded in a transparent procedure, root causes were determined and corrective action was taken. One interviewee told the PCO that medication errors occurred perhaps once or twice a year at the facility at which the interviewee was employed. One interviewee advised the PCO that medication errors occurred with less frequency at the two Operating Facilities with the interviewee was associated than at other facilities at which the interviewee had worked. Another interviewee advised that medications at the facility at which the interviewee works had declined. The PCO will review medication error reports to confirm what he was told by interviewees.

Most patients interviewed by the PCO were taking medications as part of their treatment. Many had been prescribed at the Operating Facility at which they were being treated a medication they had never taken before. All the patients interviewed by the PCO stated that they had been advised of the reason the medication was being prescribed. Only one patient stated that the staff had not advised the patient of possible side effects. That patient suffered shakiness from the medication. At the time of the PCO's interview of the patient, the patient was being taken off of the medication.

Patients interviewed by the PCO were unaware of any situations in which a patient had given the wrong medication, although one patient advised the PCO that the dosage was wrong on a medication prescribed for the patient, but the error was quickly corrected. Similarly, with one exception, the patients interviewed by the PCO stated that the Operating Facility at which they were being treated was always able to provide the medications they needed. One patient needed a different dosage of a prescribed medication, but staff was unable to get to a pharmacy. The patient advised the patient that the patient had suffered no harm from the incident. One patient stated that medications brought by a family member to the facility upon the patient's admission were lost. Only one patient was aware of any medication left unattended. The patient stated that he was aware that a sleeping pill was found on the ground.

- 19. Grievances/Complaints by Patients and Families.** As noted above, the Operating Debtors each has a grievance and complaint policy. Additionally, some patients With the exception of two patients (one of whom was unsure whether the Operating Facility had advised the patient

of the facility's complaint policy), the persons interviewed by the PCO confirmed that patients were advised of the Operating Facilities' complaint policies upon admission. With one exception, staff and patients interviewed by the PCO advised that patients had the confidence to file a complaint. One patient, in fact, stated that the staff was willing to listen to patients' complaints. However, there were 17 written complaints submitted to the Debtors concerning Operating Facilities during the months of April through August of 2018. Given the number of patients treated at the Operating Facility during that period and the substance of the complaints described below that were made to the PCO during interviews, it does not appear likely that those complaints were serious.

A few patients expressed additional complaints to the PCO during interviews. One patient complained of the rudeness of a psychiatrist, but was able to see another psychiatrist. In a telephone conference with the PCO, a former patient advised the PCO that the patient felt that the therapist/counsellor assigned to the patient was more interested in providing spiritual counseling than in addressing the patient's substance abuse issues. However, that patient acknowledged receiving significant assistance in obtaining post-discharge care. Another patient complained that the program was repetitive and that there was not that much to do at the Operating Facility at which the patient was being treated. That facility does have a gym and art and music therapy programs. The patient also noted that other patients were not happy that the Operating Facility in question was not as resort-like as other debtor Operating Facilities. In sum, the interviews conducted by the PCO did not unearth complaints evidencing a low level of or decline in the quality of patient care or safety at any of the Operating Facilities.

Patient satisfaction surveys for May of 2018 reflect a fairly high rate of satisfaction among patients responding to the survey. The survey measured satisfaction with the admissions process, counselling service, facility operations, medical treatment and ancillary services. Percentages of patients responding varied among Operating Facilities. However, on a scale of 0 (very dissatisfied) to 5 (very satisfied), overall satisfaction with facilities ranged from 3.6 to 5.0. Those results were consistent with the PCO's interviews of patients who, when they used numbers from 1 to 10 to rate the facility at which they were being treated most commonly used 8 or 9. The patient surveys for January and February of 2018 yielded similar results although the satisfaction ratings for the Operating Facilities fluctuated. The PCO will, however, continue to monitor complaints through bi-weekly reports from the Debtors.

- 20. Equipment and Supply Issues.** The clinical staff the PCO interviewed agreed that generally they had the supplies they needed to perform their duties.

21. Maintenance and Environmental Issues. All but one of the interviewees agreed that the Operating Facilities and their campuses are well maintained, albeit, in some cases, subject to wear and tear. One interviewee told the PCO that maintenance could be better and that housekeeping could do a better job. The interviewee indicated that things are “patched up just enough to be better.” As discussed below, on his tours, the PCO found the Operating Facilities and their campuses to be well maintained, with some of the older facilities subject to expected wear and tear. An incident summary prepared by the debtor through August 22, 2018, reflects few environmental issues. There were five minor fires reported for all 13 Operational Facilities during that period.

22. Facility Security. Per management and staff, the bankruptcy filing has not negatively impacted security at the Operating Facilities. All interviewees, staff and patient, stated they felt safe at the premises, although one interviewee would like to see the Operating Facility at which the interviewee works install security cameras for safety and for behavioral issues.

For the first 8 months of 2018 there were only 3 incidents of unauthorized entry into an Operating Facility. One of those was a behavioral technician’s unauthorized allowance of an alumnus’ visit to the residential section of the facility. The technician was disciplined for that error.

23. General Quality of Care. All of the staff members at the Operating Facilities interviewed by the PCO agreed that patients received a high quality of care, rating the care as very good, excellent or outstanding. One staff member told the PCO that the staff member would send a family member to the Operating Facility at which the staff member worked. Most of the patients interviewed by the PCO gave the quality of patient care at the Operating Facilities high ratings as well. Staff members interviewed also agreed that patients were placed in the appropriate treatment program and that the Operating Facilities do not accept patients they know they can’t treat appropriately. Where it becomes apparent after admission that an Operating Facility cannot adequately treat a patient, the patient is referred to a more appropriate facility.

Most of the patients interviewed by the PCO stated that they were treated with courtesy and respect respectfully by the clinical and non-clinical staff, and that staff members listened to them carefully and explained their diagnosis and treat in a way that the patient could understand, although one patient advised the PCO that the patient needed to ask for clarification from a therapist/counsellor.⁴ Only one patient told the PCO that a counsellor and psychiatrist did not respond timely to her requests for

⁴ One patient stated that staff explained things in a way the patient could understand most of the time.

information. Another patient agreed that patients received timely assistance but that therapist/counsellors were better at getting back to patients than physicians, psychiatrists or nurses. In point of fact, therapists/counsellors were singled out most commonly for praise by patients (and administrators). With one exception, patients stated that they saw their assigned therapist/counsellor at least once a week and, for the most part, more often than that. The psychiatrists are also generally available as needed. One criticism from three patients was that the behavioral technicians did not always have the most up to date information (about appointments or off-campus trips) and were sometimes not in the position of providing correct information. One patient noted that the nurses always treated the patient with courtesy and respect but that one of the psychiatrists was "blunt" and "mean." However, that patient found another psychiatrist to be more courteous and respectful and found the counsellor assigned to the patient to be very helpful.

The patients interviewed by the PCO also stated that they were involved in the formulation of their care plans including the revisions and updating of those plans as the patients progressed through treatment. Some patients who had gone through detoxification at the beginning of their stays at an Operating Facilities admitted to having fairly vague memories of the initial portion of their stays and couldn't remember when the process of formulating a treatment plan began. At least one patient appears to have confused the treatment plan with a post-discharge plan. All but one of the patients interviewed by the PCO agreed that they were asked to set goals as part of their care plan. All but two of the patients interviewed by the PCO acknowledged having reviewed and signed their treatment plan and any revisions or updates and of those patients one was not sure whether the treatment plan had been signed. All staff and patients interviewed by the PCO agreed that patients were educated in ways they could understand on the nature of their illness, means for avoiding relapse and their treatment.

Patients and staff all agreed that individual therapy sessions were always conducted privately. All but one patient stated that those sessions were conducted behind closed doors. One patient advised of having individual sessions during walks on the campus, but that the patient and the counsellor were at some remove from other patients so that the session was, in fact private. Group sessions were typically conducted in group rooms with the doors shut. However, some group sessions are conducted in common rooms in residential facilities, but the only people in the residential facility were the residents and the clinicians involved in the meeting. One patient stated that a group session had been conducted outdoors, but it was away from people who should not have been listening. The privacy of those sessions is maintained by limiting the persons present in the facility to the patients and the counsellors conducting the group

session. All of the patients and staff members interviewed by the PCO agreed that patients have sufficient privacy at the Operating Facilities.

Two patients told the PCO about the flexibility they had experienced at the facility. One patient admitted to being difficult to deal with, but the staff at the Operating Facility at which the patient was being treated worked with him. Another patient noted that the Operating Facility had made sure that the patient received the care the patient needed when the patient developed pneumonia.

One staff member interviewed by the PCO stated that there could be some improvements to the admissions process and the process for arranging for post-discharge care. Otherwise, the staff member provided a very positive evaluation of the care provided by the Operating Facility at which the staff member worked. After commenting positively on the continuity of care patients receive at the Operating Facility at which the interviewee works, the interviewee recommended that therapist/counsellors be involved in the initial part of the admissions process to get a better understanding of the patient's specific needs. One staff member would like to see more creative programs (like an LGBT group) and more holistic programs, but agrees that the program at the facility at which the staff member works does what it is supposed to do. Two staff members and one patient told the PCO that there should be more physical activity involved in treatment; one of the staff members thinks patients spend too much time in group sessions. One patient told the PCO he would like to see more variations in meetings, including the application of the 12-step process to other types of addictions. He spoke with the administration about his ideas and advised the PCO that the administration took his suggestions seriously and are doing something about it. Three staff members who work at two of the older Operating Facilities and one patient at one of the older Operating Facilities commented on the need to improve the aesthetics of their facilities.

One former patient expressed mixed feelings about the Operating Facility at which the patient was treated. The patient had positive views of the educational programs offered. However, the patient advised the PCO that the patient had had limited and not particularly helpful contact with a psychiatrist and the therapist/counsellor assigned to the patient after the original therapist/counsellor assigned to her had gone out on sick leave. The patient felt the counsellor was more interested in providing spiritual guidance than in helping address the patient's substance abuse problem. The patient decided to leave the program early and the counsellor and one of the psychiatrists attempted to get the patient to stay. One of the nurse practitioners helped the patient arrange for post-discharge care.

E. Although Employee Morale Was Shaken by the Bankruptcy, Human Resources Appear to Have Remained Stable and will Likely Continue to Remain Stable for the Immediate Future and Beyond.

As of August 21, 2018, the Debtors sought to hire: (i) 21 Behavioral Technicians (16f/t; 5p/t); (ii) 5 Therapists/Counsellors (4f/t; 1 p/t); (iii) 10 Nurses/Nurse Practitioners (4f/t; 6p/t); and (iv) 1 part-time psychiatrist.

As noted above, the Operating Facilities have been able to maintain appropriate staff to patient ratios notwithstanding the bankruptcy filing. With one exception discussed below, the Operating Facilities have been able to recruit for and fill vacant positions. One interviewee stated that the Operating Facility at which the interviewee worked had lost some staff because of the bankruptcy, but not enough to destabilize the facility. One nurse advised the PCO that it had been difficult to keep night nurses at the Operating Facility at which the nurse works. Only two Operating Facilities have had to rely on PRN workers during 2018. One facility fills one nursing position and one therapist/counsellor position with PRN workers. Another utilizes PRN's in admissions. In both cases, only fully licensed staff are used.

Staff members were concerned about the bankruptcy filing; some initially started looking for other positions, and many were recruited. Some were concerned about changes resulting from the bankruptcy (*e.g.*, the abrupt elimination of a dietary program at one facility). A few interviewees told the PCO that employee morale at the Operating Facilities at which they work is low because of the bankruptcy filing, but that employees are still interested in the patients and their work. However, management at almost all of the Operating Facilities was proactive and addressed the staff about the bankruptcy, although one employee complained about inadequate communication from management about the bankruptcy filing. The open communications at most of the facilities allayed a substantial portion of the staff members' concerns. Ownership of a number of the Operating Facilities had changed hands in the fairly recent past, so a bankruptcy and sale did not disconcert many employees. There was general (but not useful) agreement that bankruptcy had not made recruiting new staff particularly difficult. There also appears to have been little bankruptcy-related attrition. Most staff members interviewed by the PCO also pointed to the dedication of the staff to their work as helping to maintain morale; the staff rose to the occasion. Staff members also emphasized the cohesiveness of staff members who function as a team in performing their duties. This is true even in the two facilities that have had some trouble in onboarding new staff. In sum, there is almost universal agreement among the staff members the PCO interviewed that employee morale at the Operating Facilities has remained fairly high notwithstanding the bankruptcy.

In only one of the Operating Facilities was there a complaint by multiple interviewees about management's relationship with staff. Complaints focused on communication, particularly the communication of changes that appear to have

been necessitated by the Debtors' bankruptcy filings. In that case, however, management had changed just before the bankruptcy filing, leaving new management to make painful and unpleasant decisions and changes. Moreover, there was clearly a change in leadership styles between new management and prior management. Employees at the facility did, however, praise new management for hiring case managers to handle much of the administrative work related to therapy. In any event, the PCO's inspection of and interviews at the facility did not reveal any decline in the quality of patient care or safety.

The PCO intends to conduct periodic reviews of employee attrition through receipt of bi-weekly reports. As of the date of this report, however, human resources appear to have remained stable at Operating Facilities and, at least for the immediate future, are not likely to be the cause of a decline in the quality of patient care or safety.

F. The PCO'S Tours of the Operating Facilities

1. **June 15, 2018 (AM) Tour of The Ranch Pennsylvania.** The tour of this Operating Facility began with a conference with the Executive and Clinical Directors of The Ranch Pennsylvania and John Graham, Executive Vice President of EBH Topco, LLC. The PCO also met with and interviewed the operations director, two therapist/counsellors and one patient.

According to two interviewees, as of June 15, 2018, there were between 33 and 36 patients in residence at The Ranch Pennsylvania. Six patients were had primary mental health diagnoses; the remainder had either a primary substance abuse diagnosis or a dual diagnosis. Patients with a dual diagnosis may be in different treatment tracks during different parts times during their treatment. Treatment plans are tailored to meet the needs of the patients. The average length of stay at the facility is 21 days. Insurance typically covers 21 days. Patients with private resources are able to stay longer, if necessary—some of those patients stay as long as 30 to 60 days.

The clinical staff at The Ranch Pennsylvania consists of (i) a medical director (a psychiatrist); (ii) a part-time psychiatrist; (iii) a psychiatric nurse practitioner; (iv) a medical nurse practitioner; (v) a director of nursing and 9 nurses (there are 2 nurses per shift); (vi) 6 masters level therapists; and (vii) a trained and certified coordinator of an adventure group program who is assisted by two bachelors-level therapists.

Programing is gender specific. There is an arts and crafts room for use by patients. In addition to twelve-step and other standard substance abuse treatment programs, The Ranch Pennsylvania provides yoga and meditation, as well as opportunities for expressive therapeutic activity. Client artwork could be found on the walls of the main building.

However, there is no formal art therapy program offered. The adventure group program is individualized and provides a supplement to talk therapy and is designed to address frustration, anger management and life skill issues.

The treatment and residential facilities at the Ranch Pennsylvania consist of a main treatment building and six residential cottages. All patients, whether or not they require detoxification, begin their treatment at the nursing cottage, which is staffed at all times by nurses. Once the patient has completed detoxification (if necessary) or is otherwise deemed ready to leave the nursing cottage, (s)he transfers to a residential cottage. Cottages are gender-specific.

The main treatment building was clean and spacious, with minimal wear and tear. Equipment, fixtures and appliances were clean and functional. Therapist offices and group rooms were private. Individual and group sessions could not be heard in the halls. White noise machines provide added privacy for therapist offices. The electric equipment room and most closets and storage areas were locked when the PCO visited. Balconies were also locked. During the PCO's visit, staff was always present with patients. The PCO was advised that staff was always on the floor with patients.

The kitchen is located in the main building and was clean when the PCO visited. There was some very minor wear and tear and very minor rusting on some equipment. A dietitian develops dietary plans for patients. The kitchen was posted with a food allergy alert reflecting patient allergies. Upon a patient's admission to the Ranch Pennsylvania, the kitchen receives and posts dietary information. Food is properly stored. There are thermometers in the refrigerators and temperature logs, which are kept in a binder in the kitchen, were up to date. Refrigerator and cooler temperatures are checked daily. The gym is also located in the main therapy building. Equipment is clean, functional and up to date. Patients are always supervised when using the gym.

The nursing cottage was clean. Patients are assigned two or three to a room. All medications are kept in and the nursing cottage. Distribution of medications occurs in the nursing cottage. The medication room is kept locked when nurses are not present. Medications are kept in locked cabinets. The residential cottages are clean, spacious and private. The furniture was in very good shape and was not institutional. Each cottage contains a relaxation area. They are locked during the day when patients are in therapy or other programming. There is always a staff member in a cottage if there are patients present. Patients are allowed privacy when making phone calls. Triple bedrooms are used for substance abuse patients; double rooms for patients whose primary diagnosis is a mental health disorder. Each cottage contains a handicap accessible room. The

air conditioning in one cottage was not working and movable units were installed pending repair to the air conditioning. Cords were covered with mats to prevent trips and falls.

2. **June 15, 2018 (PM) Tour of Clarity Way (PA).** At this Operating Facility, the PCO met with the Executive Director and met with and interviewed one therapist/counsellor and one patient.

The Main Building. This facility was smaller than The Ranch Pennsylvania. Most rooms are doubles. There are some singles. Some rooms have decks. The Executive Administrator advised that patients are carefully screened for mental health issues (particularly for suicidal ideations) before being assigned to those rooms. Some rooms have private baths. Male and female patients do not share the shared bathrooms. The facility is clean and spacious.

There are two kitchens in the Main Building. One is staffed by a professional chef. The other kitchen is available for use by patients, but only under supervision. Both kitchens were very clean when the PCO inspected them. The appliances and other equipment were functioning. The refrigerators were clean and had up to date temperature logs. A log of dietary considerations (including food allergies) is kept in the kitchen and is up-to-date. Doors to equipment and storage closets are kept locked.

The facility includes tennis courts and a swimming pool. Staff supervises the use of the pool. There is a facility for acupuncture and massage therapy on campus. The gym was clean and the equipment functional.

The Therapy Building. The Therapy Building was clean and spacious. The building provides privacy for therapy sessions. Also on campus is a facility containing studios for music/video activities, art-related activities and biofeedback therapy. Clarity Way does not offer formal programs in art or music therapy.

The Lower Campus. The lower campus contains the facilities administrative offices, as well as additional residential facilities. Although unused at this point, the facilities are kept clean. They are spacious and private.

3. **June 27, 2018 (AM) Tour of Promises Austin (TX).** At this facility, the PCO met with the Executive Director, a therapist/counselor and a patient. At the time of the PCO's tour there were 10 patients at the facility, including 2 undergoing detoxification. The average census is between 15 and 17 patients.

This facility provides substance abuse treatment. Treatment includes AA/12-step meetings off campus four days per week. Standard substance abuse therapy is supplemented by massage therapy, yoga, fitness

activities, mindfulness/wholeness counselling, refuge recovery and equine therapy (twice a month, offsite). Spiritual counselling is available. The facility provides entertainment activities off-campus on Saturdays. Patients are always supervised when off-campus.

The facility was clean, spacious, well maintained and in very good repair. Consistent with the other Operating Facilities, this one is staffed at all times. The facility attempts to allow patients a private room if possible. Men and women do not share bathroom facilities. There is a deck off of one of the residential floors. In response to the PCO's concerns, the Executive Director of the facility advised that patients are carefully vetted before being admitted to the facility. For example, the facility does not admit suicidal patients and refers patients whose suicidal ideations become apparent after admission to other treatment facilities.

The facility's nursing station was clean and kept locked when nurses are not present. Medications are kept locked in locked cabinets. Patients in the detoxification are monitored 24/7 by the nurses. The psychiatrist and physician come to the detoxification unit to meet with patients (and do the same with disabled patients). Paper medical records are kept locked, although this facility primarily utilizes an electronic health record. Therapist and doctors' consulting offices are private. The group lounge is used for meetings generally conducted by patients. It is not particularly private, but the facility is relatively remote.

The kitchen is staffed by a professional chef. The PCO found it to be clean and food stored properly. Refrigerators, coolers had freezers had thermometers and temperature logs were up to date. There is a pool for patients, who can use it only when supervised by staff. Generally storage areas are kept locked, although one room containing a heater was not locked.

4. **June 27, 2018 (PM) Tour of The Right Step Hill Country (TX).** The PCO met with and interviewed the Executive Director, the Medical Director, the Admissions Coordinator and two patients at this facility. The census at this Operating Facility currently averages about 30 per day.

Patients undergoing detoxification treatment are housed in a separate residence, which is staffed all of the time by nurses. A doctor is on call at all times. During his inspection of the detoxification facility, the PCO noted the attentiveness of the staff. The house is clean and spacious. The front steps, which appear to have been installed before the construction of the current residence, are not suitable for a patient with mobility limitations. However, the front door to the residence is not used. An accessible rear entrance is used. Patients usually remain in the detoxification residence between 5 and 7 days and then move to a step-down facility where they are assigned a therapist/counsellor. While

undergoing detoxification, patients see a therapist/counsellor daily, but are not required to attend classes or group sessions. Male and female patients are housed in separate bedrooms. The bedrooms house between 2 and four patients.

Group sessions are conducted in a separate building. The building is private and clean. Patients eat at a building called The Lodge. Dining hours are gender specific. A refrigerator holding client food at the lodge was clean and working properly. The kitchen was clean, subject to some wear and tear. Food was stored appropriately. Refrigerators and coolers were clean and functioned properly. Temperature logs were up to date, and there was a schedule of specific patient dietary needs in the kitchen. There is a pool on campus. Male and female patients use it at different times. Patients are always supervised when the pool is used. The pool is clean.

The PCO inspected the nursing station. It was clean and secure and staffed 24/7. Medications are kept locked in the nurses station. This Operating Facility utilizes an electronic health record, although records. Those paper records that do exist are scanned or otherwise entered into the electronic health record. Medical records are kept secure. For example, a medications board is kept out of the sight of patients. Three bedrooms in the nurses' station can be used for detoxification if necessary. All three rooms are accessible to the nurses' station.

Patients not undergoing detoxification live in gender segregated cabins. There are generally 5 or 6 bedrooms in a cabin. Each cabin has a common room with a refrigerator and a coffee machine. Maintenance closets are kept locked.

5. **June 28, 2018 Tour of The Right Step Dallas (TX).** At this Operating Facility the PCO met with and interviewed the Executive Director, a Nurse, two therapist/counsellors and two patients. The facility focuses primarily on substance abuse disorder treatment. Patients with a dual diagnosis of substance abuse and mental health disorders are admitted if the mental health disorder is relatively minor. As of the date of the PCO's tour the patient census was 47. Per the Executive Director, patient census was down from the mid- to high-50's.

Treatment programs at this facility are gender-specific. Male and female patients attend separate treatment programs and live in separate sections of the facility. Doors to the various sections of the facility are locked going into the section to preserve privacy. They are not locked going out because all patients are at the facility voluntarily.

The men's unit was very clean, with some wear and tear—The Right Step Dallas is one of the older Operating Facilities. Two or 3 patients share a

room. The rooms are clean and spacious. ADA-accessible rooms are available. Clinicians' offices are private. Patients undergoing detoxification occupy rooms near the nurses' station to permit the nurses to monitor the detoxification process. The nurses' station is clean. Medications are kept locked. Clients' medications are kept in locked boxes with the client's names and allergies noted on the box. The medication refrigerator was clean and did not contain food. The temperature logs were up to date. Expired medications or excess medications from open containers are destroyed. Paper medical records (kept primarily on patients in the detoxification beds) are kept locked up in the behavioral health technicians' office. Patient property that patients are not permitted to have with them in their rooms are also kept locked up on that office. The men's unit also contains patio areas that are available for relaxation and smoking when the men are not in programming. The men's unit also includes a quite retreat/common area which was clean and spacious.

The Operating Facility also contains rooms for patients undergoing day treatment who board at the facility at night. That program provides a transition from a residential to an outpatient mode of treatment.

Like the men's unit, the women's unit is clean and spacious, with some wear and tear. Storage and linen closets are kept locked. There is a clean and spacious day room for relaxation when the women patients are not in programming. Two or 3 women share a bedroom. ADA-accessible rooms are available. The PCO noticed one leaky shower, which appeared to be missing a shower head in the women's unit and one bathroom with wall damage. Otherwise, there was no damage in the Operating Facility. The group and individual therapy rooms are private and clean. The nurses' station is clean. Paper medical records, as well as medications are kept locked. There is a safe for belongings that patients cannot keep in their rooms. The door to the nurses' station is kept locked. However, there is an opening in the wall, which means a nurse must be present in the station at all times.

The facility contains an activity room and a gym. The gym equipment is regularly inspected. On the day of the PCO's tour the equipment was clean and functional. The facility has a fitness instructor. Men and women use the gym at separate times. The group rooms (one of which is used for family programming) are spacious and clean.

The facility's kitchen and dining room are clean, although the kitchen surfaces could have been wiped down better. Refrigerators, coolers and freezers are clean, have working thermometers and the temperature logs are current. Food is generally stored appropriately and dated. Some food in the freezer was stored on the floor, and the floor in the cooler was a little sticky. There is a log for patient food allergies, which identify the

patients by name and photograph. Men and women eat at separate times. The kitchen and dining room are kept locked except during meal times.

6. **June 29, 2018 Tour of The Right Step Houston (TX)**. At this Operating Facility, the PCO interviewed 2 admissions counsellors, a counsellor intern and 2 patients. The focus of this facility is substance abuse disorder treatment, although many patients have co-occurring mental health disorders as well. Until Hurricane Harvey, average census was between 35 and 40 patients per day. Currently, census averages about 20 patients per day.

The facility consists primarily of converted older homes in a historic section of Houston. Despite Hurricane Harvey, which closed the facility for a week, the facility buildings are kept clean and generally in good repair. However, given their age and their original purposes, there is significant wear and tear. The PCO did not find any dangerous conditions in the premises, although some of the patient rooms would be inaccessible to patients with mobility limitations.

The facility's recreation center is kept locked while patients are in programming. It contains games and a pool table. The group therapy room is generally clean. On the day the PCO visited, a plumbing problem was being fixed. There was also water damage to the entry ramp. This Operating facility does not have a gym, and the one piece of gym equipment was removed after it was no longer functional.

The men's residence was generally clean; one bathroom was not. The bedrooms were doubles. The house is spacious. The women's residence was similarly clean and spacious. Bedrooms were doubles or triples. However, one bedroom had a curtain instead of a door.

The group therapy room was private. Voices from the room could be heard in the hall. However, they were muted and it was not possible to make out what was being said. The copy room and computer rooms were kept locked when not in use. Counsellors' offices were private, with privacy enhanced by white noise machines in the hall.

The kitchen is located in an old restaurant across the street from the rest of the facility. It is clean and spacious. The refrigerators and coolers were clean and maintained at the correct temperature. Refrigerator logs were up to date. Food was stored properly and food items that had been opened (as well as prepared food) were dated and labelled. A log of patients' dietary needs was kept in the kitchen. Patients were escorted to the kitchen for meals.

Houston weather generally ranges from very warm to hot. The city is always humid and it is low lying. As one interviewee pointed out, insects

and rats are an ongoing problem in Houston. However, maintenance at this Operating facility is on top of the problem and there is little problem with vermin inside the buildings. The PCO did not see any evidence of either rodent or insects inside (or, in the case of rodents, outside) any of the buildings on his tour of this Operating Facility.

7. **July 18, 2018 Tour of Journey Healing Centers (UT)**. On this tour, the PCO met with most of the management and clinical staff of the facility, including the Executive Director, the Business Director, 4 counsellors and 2 nurse practitioners. The Executive Director took the PCO through the patient admission process, the employee vetting and hiring process and the required content of a patient record. The Executive Director also provided the PCO with the opportunity to quickly review policy manuals. This facility is licensed for both primary substance abuse disorder treatment and for primary mental health treatment. The facility does not, however, admit patients who could harm themselves or others. To that end the facility does not admit seriously psychotic, suicidal, violent or non-adherent patients. The facility does admit patients who need to undergo detoxification with respect to alcohol or benzenes. The facility does provide massage therapy, but does not provide other ancillary therapies.

Clinicians are not present at the facility every weekend. On weekends, behavioral health technicians run group activities. There are volunteer work projects every other weekend. There are also store runs on Thursday and Saturday. The Executive Director advises that the facility moved away from a punitive approach to treatment during the last four years. The focus is now more on reward than punishment.

The facility was clean and well maintained, with little wear and tear. Only one bathroom sink was damaged. The Administration, Human Resources and Admissions offices are kept locked if staff members are not present. Admissions records are kept locked. Old client records are kept securely locked in a storage closet. The multi-purpose group room is clean and spacious. The edges of the steps down into the room are marked with fluorescent tape to prevent slips and falls. The medication room is kept locked if staff members are not present. Medications are similarly kept locked. The recreation area is clean and spacious. It is used for group sessions in which a power point is used. The computer room is available for patients to make post-discharge plans. The computer is monitored and there are fire walls.

The campus is well maintained. There is an outside area for rest and relaxation by individuals and groups. Also outside is a Native American Sweat Lodge which is used once a month. The outside area is safe, but would be difficult to navigate by a patient with mobility limitations. There is no gym at the facility, but the facility maintains a membership at a local gym for patients.

The kitchen is clean. The edges of the steps in and out of the kitchen are marked with fluorescent tape for safety. The sharps closet is locked for safety. Dry food storage is clean and the food is properly stored. There was no food left open or unwrapped. Refrigerators are clean and operated at appropriate temperatures. They are checked multiple times each day and temperature logs are kept up to date. The medication refrigerator is also monitored. A cleaning closet with cleaning chemicals is kept locked.

The patients' rooms are clean and spacious. Patients are responsible for making their beds. Housekeeping is responsible for any cleaning requiring chemicals. One patient room had a deck; two patients' rooms had working fireplaces. In response to the PCO's concerns, the Executive Director advised that management is aware of the risks of using the rooms, and patients assigned to those rooms are carefully vetted.

The boilers at the facility are only 18 months old and are serviced regularly. However, the closet in which they are located is not locked.

8. **July 19, 2018 Tour of Promises Scottsdale (AZ)**. At this Operating Facility, the PCO met with and interviewed the Executive Director, the Operations Director, a psychiatric nurse practitioner, a counselor-intern, a nurse and two patients. This facility provides both substance abuse and mental health treatment. The facility does not admit to its mental health program patients with sex addictions or suicidal ideations. In addition to standard treatment programs, the facility provides an executive/professional program. Standard therapy is supplemented by psychodrama, yoga, massage therapy, equine therapy and art therapy. Participants in the executive/professional program are permitted computers and cellphones in their rooms and may continue working (from the facility) when they are not in treatment sessions or activities. The facility does not generally provide acute detoxification treatment, and attempts to transfer patients needing acute detoxification treatment to more appropriate treatment facilities. With the exception of psychodrama therapy and equine therapy, programming is gender specific. Residential facilities are gender specific. The patient census generally averages 20 per day, with the census generally lower in July and August than it is during the remainder of the year. On the date of the PCO's tour, the census was 11 with a new patient expected the following day.

The campus was clean and well-maintained. Cleaning and maintenance is done by contractors. The campus contains a basketball court, athletic equipment and a barbecue stove. There was a pool which was clean. Patients may not use the pool without staff supervision. The campus contains a gym facility with clean functional equipment that is checked and serviced regularly. A service log confirmed the regular servicing. On the date of the PCO's visit, there were no conditions on the campus that

would pose a danger to most patients. However, the campus is not well designed for patients with mobility limitations.

Male patients are housed in one of two facilities—a larger residential facility that houses most of the male patients and a smaller residential facility that houses up to four patients participating in the executive/professional program.⁵ Both of the men's residential facilities are clean, spacious and well-maintained. There were no leaky faucets or pipes. Both contain spacious family/relaxation rooms. They are staffed at all times, with the smaller facility staffed only if there are patients in residence. The smaller facility has a gas fireplace (although the gas line has been shut off and a kitchen for preparation of snacks and for use by experiential kitchen group. Generally patients in the smaller residential facility eat with the rest of the patients. Patients are housed one to a bedroom in this smaller residential facility. Patients are housed two to a bedroom in the larger facility. Each bedroom has a private bath. The bathrooms were clean and well maintained. The men's residence contains a laundry.

Individual therapy is conducted in therapy offices. Those offices are clean, comfortable and private. Group sessions are conducted in privacy. There is a group therapy room located in a separate building. It is spacious and clean. Group sessions (particularly psychodrama) are sometimes conducted in the executive/professional residential facility if there are no patients in residence. The art therapy room utilized by the men was also clean and the art supplies kept locked up. There is a client work room, with computers, that the male patients can use when making arrangements and appointments for post-discharge care. Medications for male patients were kept locked in a cabinet in a locked room. Controlled substances were locked in a locked metal box in the locked medical cabinet. The medical refrigerator was clean and kept locked when no one was in the medicine room.

The women's residence was clean, spacious and well maintained. There were no leaky faucets or pipes. The only necessary repair the PCO noticed was the need to replace the track for the doors to one of the bedroom closets. The residence contains three triple bedrooms and one private bedroom (used by women in the executive/professional program). The bedrooms were spacious, and the fireplaces in the bedrooms have been disabled. The women's residence contains a family/relaxation room a therapy office and a group therapy/meeting room. All were clean and spacious. The group therapy/meeting room was did not have a door. The Executive Director told the PCO, however, that the only people in the

⁵ Women participating in the executive/professional program are housed in the women's residence in a room with accommodations for a participant in that program.

women's residence during group sessions were the women patients and the clinicians, which ensured the privacy of the group sessions. The kitchen in the women's residence is clean. The refrigerator temperature log was up to date. Most of the food in the refrigerator was labelled and dated. The kitchen in the women's residence is used for preparation of a continental breakfast and snacks and for cooking classes and projects. Lunch and dinner are prepared in the kitchen in the larger of the men's residences and brought over to the women's residence. The women's residence contains space for art therapy. The women's residence also contains a computer that the women can use on their free time and to make arrangements and appointments for post-discharge care. Like the computer available for the men, this computer is protected by firewalls and sites deemed harmful are blocked. As is the case with the Men's residence, the cabinet containing medications is locked, and controlled substances are kept in a locked metal container in the medicine cabinet. The medicine container is kept in the laundry room. Laundry cannot be done while medications are being distributed. Only one patient at a time can be in the laundry room to receive medication, and patients are not permitted in the laundry room without a staff member being present.

The primary kitchen for this Operating Facility is located in the larger of the two men's residences. It is spacious and clean. The Operating Debtor determines whether a patient has special dietary needs upon the admission of the patient. The information is then transmitted to the kitchen and retained on a computerized list. Food is stored properly. Opened food is kept closed or wrapped and is dated. The refrigerators, coolers and freezers are clean and kept at appropriate temperatures. Temperatures are checked twice a day. The temperature logs were up to date on the date of the PCO's tour. A dietician approves menus and snack foods, although the Operating Debtor may order out for food on the weekends. Sharps are kept locked up.

Other facilities include a massage room, which is private and was clean the day the PCO inspected it. Equine therapy is conducted off campus

9. **July 20, 2018 Tour of Promises Malibu and Promises Malibu Vista (CA).** On this tour of these facilities, the PCO met with the Executive Director, the Program Director, the Operations Director and the Practice/Compliance Director of both facilities, as well as a behavioral health technician and two patients of the Promises Malibu facility. On the date of the PCO's visit the census at the Promises Malibu was 7 and the census at Promises Malibu Vista was 8.

Promises Malibu focuses on substance abuse disorder treatment; it is not a primary mental health treatment facility. Promises Malibu Vista focuses on providing mental health treatment to women, many of whom have been abused. The PCO was able to tour the Promises Malibu facility.

However, the reaction of one of the patients at the Promises Malibu Vista, to a male tradesman on campus the week before the PCO's visit made the PCO's tour of that facility imprudent.

The Malibu Vista campus is clean, spacious and well maintained. The buildings are similarly clean, spacious and well maintained, evidencing minimal wear and tear. Staff and patients share a good rapport.

Therapist/counsellors' offices are private and privacy is enhanced by white noise machines. Stairs are marked with reflecting tape to minimize falls. Storage rooms that should be locked are locked. All buildings contain fire extinguishers and other necessary safety equipment.

Main House contains the facility's kitchen in which all meals for the facility's patients are prepared. The kitchen is clean. The refrigerators are operated at an appropriate temperature. Temperature logs are up to date. Food was dated and labelled. The Dry Storage facility is clean. Food is dated and labelled and is properly stored. Coolers and freezers are operated at appropriate temperatures as evidenced by the thermometers. They are clean. Food is properly wrapped, and prepared food is dated and labelled.

Main House also contains the main nurses' station for the Promises Malibu facility. It is locked when there is not a nurse present. Medications locked up. The medication refrigerator is clean, does not contain food, but is not locked. The temperature log is up to date. Patients undergoing detoxification are housed near the nurses' station. There are additional residential facilities in Main House. Some of the rooms have fireplaces, but the gas lines to the fireplaces have been turned off.

Coy House contains offices and residential facilities. Bedrooms are either singles or doubles. Male and female patients do not share bedrooms or bathroom facilities. Coy house a kitchen in which the residents can prepare snacks. The gas line to the stove has been turned off, but there is a functioning microwave. Pool House, which was not in use on the date of the PCO's tour, contains five bedrooms and a kitchen. As with Coy House, the gas line to the stove in the Pool House kitchen has been turned off. Behavioral health technicians are present in Coy and Side house any time there are patients present. Side House contains the therapy rooms, a break room, the nurses' station and a group room and a neurofeedback facility

There is a pool on at the Promises Malibu facility. The pool is clean. Patients are always supervised when using the pool. Men and women use the pool at separate times. The tennis court is properly maintained. There is a boxing bag.

10. July 24, 2018 Tour of Lucida Treatment Center (FL). The PCO met with and/or interviewed the Executive Director, the Acting Clinical Director, the Nurse Manager the Resident Manager, the Operations Director and a patient at this facility. This facility appears to have experienced more turnover than other Operating Facilities. The Executive Director joined the facility this year. The facility is in the process of onboarding a new psychiatrist. The facility nevertheless meets state requirements for staff.

This facility is licensed for both primary substance abuse and primary mental health treatment. The facility does not provide day treatment, but provides partial hospitalization. Similarly, the facility does not provide either outpatient or intensive outpatient treatment. Downtime for patients is limited and they are never completely unsupervised.

This facility consists of several adjacent townhouses. The townhouses are spacious and clean, with minimal wear and tear. They contain functional kitchens, and patients prepare their own meals with staff assistance. Stairs are marked with safety tape. The townhouses are kept locked while the patients are in treatment during the day. Patients are not expected to be in the townhouses when they are in treatment.

Upon admissions, patients are assigned to one of two “close observation” townhouses, one for men and one for women. Also assigned to those townhouses are patients needing one-on-one or “line of sight” monitoring by behavioral health technicians. After treatment programming is completed and patients return to the close observation townhouses, there is a behavioral health technician in the townhouse throughout the night.

Once a patient no longer needs to be in a “close observation” townhouse, (s)he moves to a townhouse providing more independent living. There are no behavioral health technicians resident in those townhouses. However, a behavioral health technician checks on the patients every 60 minutes.

In addition to standard substance abuse and mental health treatment, the facility provides a gardening project for patients, a pool, a recreation house, an outdoor recreation area, a gym and a barbecue for community meals. Patients are always supervised by behavioral health technicians when using the pool and the barbecue. The gym equipment is clean and functional.

The nursing station is secure and clean. The medication refrigerator is clean and contained no staff food. Medications are stored in locked medication cabinets. Controlled substances are stored in a locked metal box. The doors to the nursing station are kept locked if there are no nurses in the station, as is the door to the medical directors’ office. The group

therapy rooms are clean and private. Therapist offices are also private, with white noise machines in front of the offices to further insure privacy.

- 11. July 25, 2018 Tour of The Ranch Mississippi.** PCO met with and/or interviewed the Executive Director, the Operations Director, a nurse practitioner, two therapist/counselors and two current patients of this facility. Additionally, the PCO had a conference call with a former patient of the facility. Programs at this facility are conducted almost completely on a gender-specific basis. In addition to standard substance abuse treatment, The Ranch Mississippi provides art therapy, music and expressive therapy and mindfulness therapy. The facility also provides spiritual counselling

The PCO first inspected the men's unit. The unit was clean and spacious. Patients have the primary responsibility for keeping the facility clean, although the facility cleans the unit once a week. The kitchen area of the men's unit was clean. The patients fix their own meals. Food storage was proper. The refrigerator was clean and the temperature logs were up-to-date. Bathrooms were clean. The men's unit was showing more wear and tear than other Operating Facilities. The Operations director advised the PCO that, once the sale of the Operating Facility was closed, he would be renovating the whole Operating Facility to address the wear and tear.

The Operating Facility's gym contains a basketball court and a weight room. Male and female patients use the gym at different times. The facilities were clean and the equipment in the weight room was functional. The bathrooms in the gym facility showed wear and tear and the shower facilities were apparently not used. The Gym contains a medical records room which is not currently in use.

The men's administration building contains counselling offices. They are private, with white noise machines outside the office. There is a part-time music therapist on staff who conducts expressive therapy in this building. Also in the men's administration building is a clinical assistance office, which is kept clean and the refrigerator for urine samples is kept locked. The nurses' station is kept locked when a nurse is not present. Patients receive medications at a half door. Medications are marked and dated and kept in locked medication cabinets. The medication refrigerator is clean, does not contain food, contains a thermometer and has an up to date temperature log.

Like the men's unit, the women's unit is clean and spacious. The kitchen is clean. Food storage is proper. Bedrooms are clean and spacious. The group room is large, clean and private. The therapy rooms are private, with white noise machines in the hall to provide additional privacy.

The detox unit is spacious and clean. Nurses are on staff in the unit 24/7, and the medical director's office is located in the unit. Male and female bedrooms are located on different sides of the unit. The patient rooms contain hospital beds as well as regular beds. This Operating facility tries to limit each bedroom to one patient. There is an observation window in the door to each room to allow for easier monitoring. The kitchen is stocked with frozen and other easy to prepare food. The nurse practitioner acknowledged that the food is not the most nutritious, but noted that patients are not in the detoxification unit very long. Even in the detoxification unit, patients are largely responsible for preparing their meals, although they do receive assistance.

- 12. August 28 and 29, 2018 Tour of The Ranch on the Piney River.** This is the most extensive of the Debtors' Residential Facilities. Currently, eleven buildings are used for treatment. At this facility, the PCO was invited to attend a "Flash" meeting, the primary focus of which was discharge and after care planning for patients nearing discharge. Present at the meeting were the facility's Executive Director, the Director of Residential Services and several counsellors/therapists and case managers. The PCO separately interviewed the Executive Director and Medical Director and had the opportunity to confer with the Director of Residential Services during part of his tour of the facility. The PCO also interviewed a nurse, three counsellor/therapists and four patients.

Adjacent to the main administration building at The Ranch on the Piney River are The Shed and Spirit House. These buildings contain venues for large group sessions or educational programs. The group/educational rooms in both buildings are spacious and clean and provide sufficient privacy for the participants in any group or educational sessions. Spirit House shows some wear and tear. The shed contains therapist offices that are private, with privacy enhanced by the placement of white noise machines outside the office doors.

Also adjacent to the main administration building is Piney House, an acute care facility. All patients at The Ranch on the Piney River begin their treatment at Piney House, whether as patients with a primary mental health diagnosis in need of stabilization before transferring to one of residential treatment centers or as patients with a primary substance abuse disorder diagnosis needing detoxification. The Nurses' Station at Piney house is clean and staffed on a 24/7 basis. Access to medications is controlled by a computer and requires the clinician (usually a nurse) to log in to obtain access to medication. The medication refrigerator is locked, clean, contains only medication and has a working thermometer. A log for counting narcotics is maintained. The lab room provides storage for bloodwork and urine samples and can be accessed only by employees assigned to Piney House and then only by password. The bedrooms are clean and house two patients to a room. The size is adequate for two

patients to spend a few days. Men and women are housed at separate ends of the facility. The therapy/assessment room is clean and private; only one patient is present in the room at a time. The group/recreation room is spacious and clean; the furniture is in good repair.

Once a patient is stabilized, (s)he is transferred to a residential house. Treatment at The Ranch on the Piney River is almost completely gender specific and largely conducted in the residential facilities. Efforts are also made to limit the movement of patients from one building to another for treatment. Men are currently housed in three residences: Deerfield, River and Spring Houses. Women are housed at Windsong, Creek, Hilltop and Mill Houses.

Windsong House houses the largest number of women. The facility is clean and spacious. The nurses' station was clean and secure. The nurse on duty advised the PCO that medications are passed at the door to the station. Patients must show an ID to obtain medication and there is a camera in place to monitor the passing of medications. Medications are accounted for every week, with every pill counted. If there is a shortage or an overage, an incident report is filed. Employees are educated on the policies and procedures for medication distribution and security. Scheduled medications are kept locked. The medication refrigerator was not labeled as such, but was clean and contained only medications and no food. Refrigerator/cooler/freezer logs are kept in the nurses' station. Temperatures are checked every night and the results are entered into the logs. The kitchen was clean with some wear and tear, including some pitting on the outside of the dishwasher. The refrigerator was clean, contain a thermometer, and opened food was labeled. The freezers were clean, contained thermometers and open food was labeled. As with the other houses at The Ranch on the Piney River, patients are screened for food allergies and dietary needs (including needs based on religious requirements). The house is advised of any such allergies or needs before the patient arrives and accommodations are made on a case by case basis. A separate kitchenette was clean and the refrigerator was relatively clean, but open food was not labeled. The laundry room was clean. The bedrooms were clean, spacious and the furniture was in good repair. Bedrooms housing 2 or 3 patients each had a private bathroom. Single rooms shared a bathroom. The bathrooms were clean, with no leaky faucets. The common room was spacious, with the furniture in good repair. That room services as a living room, break room, hobby room and dining room. The closet providing access to the duct system was locked. The therapy rooms were clean, spacious and private, with privacy enhanced by white noise machines.

Creek House was clean with some wear and tear when inspected by the PCO. The house contains the only gym at The Ranch on the Piney River. The gym was clean with some wear and tear and some mildew on the

safety strips in the shower. The equipment was clean and functional. The group room was large, spacious and private. Therapists' offices were also private. A storage room was left unlocked, but the mechanical room was locked. The kitchen was properly maintained and safe: sharps were kept locked; patients' food needs were logged; chemical cleaners were not stored in the kitchen; and food storage was generally proper, although some opened food was not dated. The living and dining rooms were spacious and the furniture was in good shape. The deck was safe. The nurses' station is kept locked when a nurse is not present. Medications were locked up, and the medication refrigerator was clean, equipped with a thermometer and contained no food. All refrigerator temperature logs for the house are kept in nurses' station and were up to date when the PCO inspected them. The bedrooms can each house two patients and were of an adequate size for two people. The bathrooms were clean and the appliances functional.

Hilltop House was clean with some wear and tear. The common room and the activity room are spacious, with furnishings and furniture in good repair. The group therapy room and therapists offices are private, with the group room being spacious as well. The kitchen/laundry room was properly maintained and safe: sharps are kept locked; food storage was generally proper, although some open food was not dated; the refrigerators were equipped with working thermometers and clean, although not all open food was dated. The bedrooms house either 3 or 4 patients each and are adequately sized for the number of residents. The furniture is in good repair and the bedroom on the second floor had a fire escape. The bathrooms are clean and the appliances functional. The Resident Assistants' office is kept locked when not staffed. Medications are kept locked in the office, and the medication refrigerator was clean, equipped with a working thermometer and contained no food. All refrigerator temperature logs are kept in the Resident Assistants' office and were up to date when the PCO inspected them. Information concerning food allergies and patient dietary needs are posted in that office. A stairs going from the first to second floor were equipped with safety tape.

Mill House was also clean, with some wear and tear. The group room was spacious and could be used as a break room. Both the group room and the therapists offices (some of which could be used by small groups) were private, with privacy enhanced by white noise machines. The Resident Assistants' office is kept locked when not staffed, and patients must show their ID to obtain medication. Patient dietary needs are recorded on the computer in the office. The medication refrigerator was clean, equipped with a working thermometer and contained no food. Refrigerator temperature logs are kept in the Resident Assistants' office and were up to date on the day the PCO inspected them. The common and dining rooms are spacious with the furniture in good shape. The kitchen and laundry room were properly maintained and safe: sharps are kept

locked in a closet with contraband; food was properly stored; the refrigerator was clean and equipped with a working thermometer. The bedrooms spacious and the furniture were in good shape. The bathrooms were all clean with working appliances.

Deerfield House was clean with some wear and tear. It is the largest of the men's residences at the Ranch on the Piney River. The Resident Assistants' office is kept locked with no one is present. The medication cabinet is kept locked in that office and is itself locked. Scheduled Medications are kept in a locked container in the medication cabinet. The medication refrigerator was clean, equipped with a working thermometer and contained only medications and did not contain food. The Common Room was spacious, but the furniture showed significant wear although nothing dangerous. The group room and therapists offices were private, with privacy enhanced by white noise machines. Bedrooms house between 1 and 3 patients and are all adequately sized for the number of patients housed in them. Bathrooms were all clean with all of the appliances being functional. The kitchen was spacious, properly maintained and safe (although a bag of flour had been torn and flour had leaked into the cabinet): sharps were locked up; chemical cleaners were not stored under the sink; the dishwasher was clean; the refrigerator and the freezer were clean, with open food dated.

River House was clean with some wear and tear. The Resident Assistants' office is kept locked when it is not staffed. Medications are kept locked, and there is a medication schedule on the wall. The medication refrigerator was clean and equipped with a working thermometer, but contained a soda and a bottle of Tobasco Sauce. The temperature logs for all refrigerators at River House are kept in the Resident Assistants' office and were up to date at the time of the PCO's visit. Sharps are kept locked in that office. Policy manuals are also kept in the office. The therapy room was spacious and private. Storage closets were generally locked on the day of the PCO's inspection. The bedrooms were generally single occupancy and were adequately sized. The bathrooms were clean, although the grouting in one bathroom needed touching up and another bathroom was accessed by a step up that should have been marked with reflecting tape. Dividers on the floors between rooms should have been similarly marked. The was properly equipped and safe: chemical cleaners were not stored in the kitchen; food was stored properly; the refrigerator was clean and equipped with working thermometers; a sign on the refrigerator required opened food to be dated, although not all such food was dated. The freezer was clean, equipped with a working thermometer and the food contained in it was properly stored. All appliances (including faucets) were functional and in good repair. There were two spacious group/break rooms. Large group sessions are conducted in the Smoke House about 20 feet from River House. The Smoke House is private.

Spring House was clean with some wear and tear. The Resident Assistants' office is kept locked when it is not staffed. Medications are stored in that office in a locked cabinet. The medication refrigerator was clean, equipped with a working thermometer and contained no food. Policy and procedure manuals, together with the temperature logs for all refrigerators kept in the Resident Assistants' office. The logs were up to date on the date of the PCO's inspection. The bedrooms were spacious, and the furniture was in good shape. The common room/group room is spacious, with the furniture in good shape. The kitchen was generally clean (there was one unwashed pot in the sink). Food was properly stored, although some open food was not dated. Sharps are locked up. The refrigerators, freezers and coolers were clean, equipped with working thermometers and the food contained in them was stored properly.

Equine Therapy. Equine Therapy is available at The Ranch on the Pine River. The equine therapy facility includes a spacious therapy room and an indoor arena for group activities and exercise, both of which are well maintained. Rules specific to equine therapy (*e.g.*, the requirement that riders wear helmets) are posted. Patients must be cleared medically before participating in equine therapy. The horses appear well cared for. They have proper vaccinations, and their medical records are kept onsite.

G. Equipment, Supply and Service Vendor Relationships.

On interviewee indicated that there had been some difficulty in dealing with vendors immediately after the bankruptcy. However, the Operating Facility at which the interviewee worked only had to scale back on "creature comforts." In all other cases, staff members stated that they had the equipment and (in the case of nurses) medications necessary to do their jobs. According to the patients interviewed by the PCO, medication shortages have not been a problem at the Operating Facilities.

H. HIPAA Compliance

All administrative and staff interviewees agreed that the Operating Debtors placed a high emphasis on compliance with HIPAA and other healthcare data privacy and security records. New hires are trained on HIPAA and training is ongoing. Electronic and paper health records are kept secure. On his tours of the Operating Facilities, the PCO was able to confirm that paper records were kept under lock and key. There were no records sitting out in the open unintended. One staff member told the PCO that there had been no data privacy and security breaches at the facility at which that interviewee worked for a long time. In the future, the PCO will review the Operating Debtors' formal HIPAA policies and risk assessments to confirm what he learned on his tours.

A report of security incidents (which are not necessarily reportable breaches) occurring after the Petition Date, reflects only 3 small breaches, none of which

involved the infiltration of the Debtors' electronic information systems. On involved paperwork given to the wrong patient who returned the information upon discovering that the information did not refer to the patient. Another was a mailing error involving only 1 patient. The third was an authorized visit of 25 minutes by a former patient (who was attending a patient alumni function) to current patients in a patient residential facility. It is not clear that the visitor accessed, obtained or viewed protected health information. However, the Behavioral Technician who allowed the former patient to enter the residence was terminated.

I. Medical and Clinical Records

The PCO was advised that, with the exception of the two Operating Facilities in California that use paper records, the Operating Debtors utilize an electronic health record ("EHR") for patient records. At Right Step Dallas, it appears that patient records are kept on paper until the patient leaves, at which point they are entered into the electronic health record. At present, the Operating Debtors (except for the California facilities) utilize four different EHR Systems. Patient records are not centralized. Personnel records are maintained at a centralized location in California

Staff members at Operating Facilities that use an electronic record who were interviewed by the PCO agreed that they have received adequate training on the electronic health records. One interviewee thought more training on the electronic health record would be helpful. One interviewee characterized the electronic health record as user friendly and simple to use. The PCO's inspections revealed that electronic records are stored securely. One interviewee commented in that regard that the Operating Facility at which the interviewee worked did not lose its electronic records, even in the aftermath of a power outage.

There are policies in place to ensure that medical and clinical records are current and complete, although one staff member advised the PCO that some staff needed more training on proper documentation. Another interviewee, a nurse, told the PCO that nurses need to do a better job in recording medical information. There was almost universal agreement among staff members interviewed by the PCO that medical and clinical records and medical charts are reviewed regularly to determine currency and completeness. Four staff members interviewed by the PCO made keeping medical records current and complete an important part of their duties—one of those staff members was characterized as "relentless" in that regard by another staff member. Staff members interviewed by the PCO stated that the clinical records they consulted were current and complete, although one staff member stated that records are not "100%," but are very close. It appears to the PCO that the Mock Surveys have encouraged Operating Facility staff to improve the maintenance of medical records.

Finding #2: The Oversight and Supervision Provided by the Management of the Operating Debtors and the Elements Behavioral Health Corporate Office and the Competence, Attentiveness and Loyalty of the Operating Debtors' Clinical Staff Will Likely Uncover Quality of Care Deficits if They Arise.

As noted above, particularly through the Mock Surveys, the Elements Behavioral Health corporate office exercises significant oversight over the operations of the Operating Debtors and diligently evaluates those operations to identify areas requiring improvement. The management of the Operating Debtors similarly evaluates the performance of the Operating Debtors and exercises significant oversight over the performance of clinicians and behavioral health technicians. The clinicians are well trained, competent and dedicated to their work. Despite an initial uncertainty resulting from the bankruptcy filing, the clinicians have remained focused on their work. The PCO found a significant rapport between staff and management and the clinical staff (including behavioral health technicians) and the Operating Debtors' patients. Under the circumstances, it is likely that the corporate parents of the Operating Debtors, management and the clinical staff will uncover any deficits in patient care and safety and remedy those deficits.

Finding #3: Once the PCO Has Reviewed the Remaining Documents He Needs to Obtain from the Debtors, Having the PCO Receive Bi-Weekly Reports and Other Materials Regarding Quality of Care and the Operating Debtors' Operations That Could Affect Resident Quality of Care Will Provide a Reasonable Basis to Monitor Whether the Quality of Care Provided by the Operating Debtors, as well as Patient Safety, Is Declining or Otherwise Materially Compromised.

The PCO still needs to receive from the Debtor and review the following additional documents:

- The minutes of the final pre-petition meeting of any performance improvement and quality assurance committee overseeing and reviewing the operations of any of the Operating Debtors, as well as the minutes of any such post-petition meetings of such committees.
- New employee training materials used for the training of employees of any of the Operating Facilities during any portion of calendar year 2018.
- Written HIPAA and other data protection and security policies in force during any portion of 2018 for any of the Operating Debtors.
- Documentation for the period beginning on the Petition Date through October 15, 2018 addressing the Operating Facilities performance with respect to: (i) clinical hours per patient; (ii) clinical staff effectiveness; (iii) completion of chart audits; and (iv) timely completion of treatment plans.

- The updated Emergency Management and Safety and Security Plans for The Ranch Pennsylvania, Right Step Houston and Right Step Dallas.
- Documentation that the licenses or certifications of any employees at Operating Facilities that expired during the time after June 1, 2018 have been renewed.
- Documentation that any TB tests of any employees of Operating Facilities that expired after June 1, 2018 have been renewed.

Additionally, except that the report due November 2, 2018 must cover the months of September and October of 2018, commencing November 2, 2018, and continuing every other Friday thereafter until the PCO is discharged, each of the Operating Facilities should provide the PCO with a report containing the following information:

- The current patient census;
- Patient hospitalizations (including the diagnosis but not patient name or gender) for the two-week period preceding the report;
- Accidents at the Operating Facility involving patients or staff during the two weeks immediately preceding the report, including the cause of the accident and the nature and seriousness of any resulting injury;
- Staffing levels during the two weeks immediately preceding the report
- Any new infections developed by patients other than seasonal colds or influenza (diagnosis, source, prognosis, but not patient name or gender) developed during the two weeks immediately preceding the report;
- Incidents of physical aggression or violence on the part of a patient occurring during the two weeks immediately preceding the report and the Operating Facility's response to such the incidents;
- Incidents of significant verbal aggression on the part of a patient occurring during the two weeks immediately preceding the report and the Operating Facility's response to the incident;
- Reportable medication errors occurring during the two weeks immediately preceding the report;

- Patient deaths occurring during the two weeks immediately preceding the report;
- Staff resignations and replacements (including evidence of proper licensure, criminal background check, exclusion list check, current physical and immunizations) occurring during the two weeks immediately preceding the report;
- A summary of disciplinary actions taken against staff members (including a description of the action taken, the action triggering the disciplinary action and the position held by the staff member) during the two weeks immediately preceding the report;
- Formal patient or family complaints submitted during the two weeks immediately preceding the report;
- Communications from vendors providing goods or service related to patient care or safety advising of their intent to cease doing business with the Operating Facility during the two weeks immediately preceding the report and the Operating Facility's proposed response;
- Fire drills conducted during the two weeks immediately preceding the report; and
- Fires and other serious environmental emergencies occurring during the two weeks immediately preceding the report and the Operating Facility's response;

The foregoing information should not include the name, room number or age of any referenced patient and should be sent via secure method. In that regard, the PCO's law firm and the Operating Facility's CIO can arrange for secure transmission.

Additionally, to adequately monitor the quality of patient care and safety at the Operating Facilities, the PCO would need to receive in connection with the bi-weekly reports copies of the following documents every other Friday, commencing November 2, 2018:

- Minutes of the meetings of any committees addressing performance improvement and quality assurance for any of the Operating Facilities conducted during the two weeks immediately preceding the report;

- Any HIPAA Security Rule Risk Assessments concerning the Operating Debtors prepared since the last bi-weekly report; and
- Any correspondence or other communications the Debtors has received from any federal, state or municipal governmental, administrative or regulatory agency concerning patient care or safety issues since the last bi-weekly report, as well as any response by the Debtors.

Until guided otherwise by the Court, the PCO will continue to monitor all information provided and make immediate inquiry into any item or potential issue that may come to his attention regarding the quality of patient care rendered by the Operating Debtors and their patients.

III. CONCLUSION

An analysis of multiple sources of information regarding the current performance of the Operating Debtors and their existing structures and policies and procedures reveals that the mental and behavioral health facilities they operate continue to provide the same level of patient care and safety it historically provided since before the Petition Date. Moreover, that level of patient care and safety are adequate and stable.

Several factors likely to result in the maintenance of the current level of patient care and safety became evident to the PCO as a result of: (i) his tour of the Operating Facilities, (ii) his interviews of management, staff, and patients; (iii) his review of performance information provided by the Debtors; (iv) the cooperation between members of the staff; (v) the absence of any evidence of either physical or medical restraints; (vi) the cleanliness and demonstrated maintenance of the Operating Facilities and (vii) the focus on the return of the patient to life in the community. The Operating Debtors' senior management and the clinical staff emphasized in their interviews the dedication, attentiveness and the hard work of staff members working directly with the Operating Debtors' patients. The loyalty of the Operating Debtors' staff is underscored by the long tenure of many staff members.

Additionally, adequate systems are in place to monitor the quality of patient care and safety at Operating Facilities and to respond to any shortcomings. The Mock Surveys discussed above reveal that the Elements Behavioral Health corporate office and Operating Debtors are generally on top of the patient care and safety issues and respond to them promptly. The Operating Debtors also enjoy the benefit of a loyal and competent workforce who see their primary focus as the care and safety of their patients. The loyalty and competence of the workforce should serve as a break against a sudden decline in the quality of patient care and safety, as well as an expeditious source of notice of any problems.

Because patient care and safety is not likely to be compromised in the immediate to mid-term future, however, other than having the PCO receive the information outlined above, the PCO does not at this point recommend any remedial action or external intervention at this time regarding additional monitoring of clinical or administrative matters at the Operating Facilities.

Respectfully submitted to the Court on October 19, 2018 by:

/s/ David N. Crapo

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