

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

In re:

NORTH PHILADELPHIA HEALTH SYSTEM,<sup>1</sup>  
Debtor.

Chapter 11

Case No. 16-18931-MDC

**INITIAL PATIENT CARE OMBUDSMAN REPORT**

**SUBMITTED MARCH 13, 2017**

**BY:**

**DAVID N. CRAPO, ESQ.**

**PATIENT CARE OMBUDSMAN**

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<sup>1</sup>The last four digits of Debtor North Philadelphia Health System's federal tax identification number is 0538.

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## I. INTRODUCTION

This Initial Report of the Patient Care Ombudsman (“PCO”) is issued pursuant to the author’s January 12, 2017 appointment as the PCO by the United States Trustee for Region 3 for Debtor North Philadelphia Health System (“NPHS”). The appointment arises under section 333 of the United States Bankruptcy Code, 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.” NPHS currently operates Girard Medical Center and The Goldman Clinic. NPHS’s operations constitute “health care businesses” for purposes of the Bankruptcy Code. *See* 11 U.S.C. §101(27A).

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 NPHS; (2) NPHS’s policies, procedures and protocols related to patient care and safety, and (3) NPHS’s operations and performance. Accordingly, variables such as staffing, policies and procedures, supplies, and facility structure were thoroughly analyzed and evaluated. Additionally, this report analyzes and discusses clinical activities pertaining to direct care of NPHS’s patients.

**NPHS Programs and Licensing.** NPHS operates the Girard Medical Center and the Helen L. Goldman Rehabilitation Center (“Goldman Clinic”) at 802 Girard Avenue in Philadelphia. NPHS treats on an inpatient and outpatient basis patients suffering from: (i) substance abuse disorders; and/or (ii) psychiatric disorders. NPHS generally treats approximately 200 patients on an inpatient basis and more than 1,000 patients on an outpatient basis.

NPHS is currently licensed to operate, and operates, the following twelve (12) programs:

- Torre De La Raza (Hispanic Men) (In-patient, non-hospital substance abuse treatment: 18 licensed beds; 16 staffed beds);
- Torre De La Raza-Women Helping Other Women (Hispanic Women) (In-patient, non-hospital substance abuse treatment: 16 licensed and staffed beds);
- Miracles in Progress I (Chronically Homeless Men) (In-patient, non-hospital substance abuse and psychiatric disorder treatment: 44 licensed and staffed beds);
- Miracles in Progress II (In-patient, non-hospital substance abuse detoxification and rehabilitation treatment: 30 licensed and staffed beds);
- Return Programs I and II (In-patient, non-hospital substance abuse treatment, including non-Methadone and Methadone maintenance programs: 40 licensed beds; 34 staffed beds);
- RFTA Program (In-patient, non-hospital treatment for patients with a dual diagnosis of psychiatric and substance abuse disorders: 16 licensed beds);
- CAP/IOP (Outpatient substance abuse treatment; authorized for 160 patients);

- Goldman Clinic (Outpatient substance abuse treatment, includes a Methadone-maintenance program: Authorized for 752 patients; 685 slots staffed (including 90 intensive treatment slots));
- Adult Inpatient Psychiatry (Psychiatric treatment program; patients transferred from Norristown State Hospital: 29 licensed and staffed beds);
- Extended Acute Psychiatry (Longer-term psychiatric treatment program: 22 licensed and staffed beds);
- New Acute Psychiatry (Shorter-term but intensive psychiatric treatment: 14 licensed and 10 staffed beds); and
- Outpatient Psychiatric Unit (Outpatient psychiatric/mental health treatment: 120 therapy patients; 310 patients only for medication-monitoring).

The PCO confirmed that NPHS had current Certificates of Licensure and/or Compliance for all the programs it operates issued by the Pennsylvania Department of Drug and Alcohol Programs (“DDAP”) (for substance abuse treatment programs) and the Pennsylvania Department of Human Services (for psychiatric treatment programs). Additionally, the Goldman Clinic has current approvals required to operate outpatient methadone maintenance program issued by DDAP and the Substance Abuse and Mental Health Services Administration (“SAMHSA”) of the United States Department of Health and Human Services (“HHS”) and CARF International.<sup>2</sup>

Before the Bankruptcy filing NPHS also operated St. Joseph’s Hospital, which was located approximately one mile away from Girard Medical Center and Goldman Clinic. St. Joseph’s Hospital ceased operations in March, 2016. The Commonwealth of Pennsylvania did not permit the transfer of St. Joseph’s Hospital to Girard Medical Center, but required a new surveys and licensure inspections. The Centers for Medicare & Medicaid Services (“CMS”) of the United States Department of Health and Human Services (“HHS”) did not permit the transfer of St. Joseph’s Hospital’s Medicare Number to Girard Medical Center and Goldman Clinic. Additionally, CMS will not accept an application by NPHS for a Medicare number until NPHS houses substance abuse treatment programs and psychiatric treatment programs in separate buildings. NPHS currently lacks the funding to make the renovations necessary to do so. Consequently, NPHS relies almost solely on reimbursement through Medicaid and various state and municipal reimbursement programs.

**PCO’s Methodology.** Based on NPHS’s size and complexity, the nature and mix of services it offers, and the requirements of section 333 of the Bankruptcy Code, the PCO’s methodology for assessing the structure and operations of NPHS and the quality of care provided to its patients included the following:

- On-site visits on the following dates:

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<sup>2</sup>HPFS’s Director of Behavioral Health advised that NPHS would no longer seek accreditation by CARF International, because it is not an accreditation agency recognized by governing state and federal agencies.

- February 2, 2017 (for interviews of senior management and a tour of the IT department);
  - February 10, 2017 (tour of clinical programs);
  - February 27, 2017 (clinical staff interviews); and
  - March 1, 2017 (medical staff interviews and an inspection tour of the kitchen).
- A telephone conference/interview with NPHS's Chief Information Officer ("CIO") and the Information Technology ("IT") team.
- Reviews of NPHS's policies and procedures concerning:
  - Intake, Admission and Discharge of Patients;
  - Behavioral Health Operations;
  - Outpatient Psychiatric Clinic Operations;
  - Environmental Maintenance;
  - Patient Safety: General;
  - Patient Safety: Restraints;
  - Patient Safety: Elopement;
  - Human Resources (including Ethical Code of Conduct, Staffing Guidelines, Staff Conduct and Staff Evaluation);
  - HIPAA and Data Privacy and Security;
  - Medical Records;
  - Infection Prevention and Control;
  - Pharmacy and Medication Management; and
  - Sedative Safety and Benzodiazepines and "Z" Drugs.
- Reviews of the most recent surveys or inspections concerning NPHS conducted by:
  - Philadelphia Department of Health/Office of Food Protection;

- Pennsylvania Department of Health; and
  - Pennsylvania Department of Human Services: Office of Mental Health & Substance Abuse Services
- Reviews of the minutes of meetings of the following NPHS boards or committees occurring between June 30, 2017 and January 31, 2017 of the:
  - Board of Directors;
  - Executive/Finance Committee;
  - Department of Behavioral Medicine/Medical Executive Committee;
  - Behavioral Operations Committee;
  - Management Committee; and
  - Safety/Emergency Management/Hazcom Committee.
- Review of factual information relevant to patient care and safety issues contained in:
  - Patient census reports;
  - Incident report summaries for the period from July 1, 2016 through January 31, 2017;
  - Fire drill reports;
  - Summary of, *inter alia*, employee licenses, certifications, educational level attained, Pennsylvania criminal history check, Pennsylvania child abuse history clearance and FBI background checks;
  - Summary of employee compliance with flu shot and TB test requirements;
  - Employee discipline summary;
  - IT Reclamare Response List; and
  - Audit of the Security Claims of Medhost, NPHS' cloud services provider.

- Interviews of the following officers and staff members of NPHS:
  - President and CEO (2/2/2017);
  - Director of Behavioral Health (2/2/2017);
  - Chief Financial Officer (2/2/2017);
  - Chair of Behavioral Medicine (2/2/2017);
  - Interim Director of Nursing (2/2/2017);
  - Director of Social Services (2/2/2017);
  - Director of Human Resources (2/2/2017);
  - Retiring and incoming Directors of NPHS's Pharmacy (2/2/2017);
  - Director of Information Technology and three staff members (1/31/2017);
  - Three members of the nursing staff (2/27/2017);
  - Three members of the counseling staff (2/27/2017);
  - Three members of the ancillary clinical staff (2/27/2017);
  - Three members of the medical staff (3/1/2017);

Because NPHS is a healthcare provider, it is a "covered entity" 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 by HHS pursuant to HIPAA, prohibits NPHS's disclosure of the protected health information ("PHI") of its patients absent the consent of the affected patient (or a personal representative) or authorization by HIPAA or other applicable law. Federal and Pennsylvania state law more stringent protect the privacy of PHI related to the treatment of mental illness and substance abuse disorders. Section 333 of the Bankruptcy Code contemplates the patient care ombudsman's access (albeit limited) to PHI in connection with the performance of the ombudsman's duties. However, none of the Bankruptcy Code, HIPAA (even as amended by the HITECH Act), the HIPAA Privacy Rule, the federal confidentiality of substance abuse treatment records statute found at 42 U.S.C. § 290dd-2, the Federal Confidentiality of Alcohol and Drug Abuse Patient Records regulations found at 42 C.F.R., part 2, the Pennsylvania Mental Health Procedures Act and the Pennsylvania Drug and Alcohol Abuse Control Act expressly authorize the disclosure of PHI to a patient care ombudsman. Accordingly, on February 15, 2017, the PCO filed a motion for limited authorization to access the medical records of NPHS's residence to the extent necessary to



perform his duties. There has been no objection to the motion, which is scheduled for hearing on March 22, 2017. Once an Order on the PCO's motion has been entered, the PCO will have limited authority to review the medical records of NPHS's residents and interview a sampling of those residents able to be interviewed. The information gleaned from those interviews will be included in subsequent reporting by the PCO.

## II. PRIMARY FINDINGS

The PCO has made the following primary findings:

**Finding #1:** Although the Situation is Fragile, the Quality of Care Provided to NPHS's Patients (including Patient Safety) Is Acceptable, and Is Not Currently Declining or Otherwise Materially Compromised.

**Finding #2:** The Oversight and Supervision Provided by NPHS's Senior and Supervisory Personnel, the Competence of NPHS's Clinical Staff and the Demonstrated Attentiveness and Loyalty of NPHS's Clinical Staff to NPHS's Patients Will Uncover Quality of Care Deficits if They Arise.

**Finding #3:** Having the PCO Receive Bi-Weekly Reports and Other Materials Regarding Quality of Care and NPHS's Operations That Could Affect Resident Quality of Care, together with Bi-weekly Inspections of the NPHS premises by the PCO Will Provide a Reasonable Basis to Monitor Whether the Quality of Care (including Patient Safety) Provided by NPHS Is Declining or Otherwise Materially Compromised.

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

**Finding #1: Although the Situation is Fragile, the Quality of Care (including Patient Safety) Provided to NPHS's Patients Is Adequate, and Is Not Declining or Otherwise Materially Compromised.**

A. **The PCO Reviewed Surveys of NPHS Conducted by Various Governmental Entities and Those Surveys Do Not Demonstrate a Decline in or Material Compromise of Either Patient Safety or the Quality of Care at NPHS.**

1. **Pennsylvania Department Human Services, Office of Mental Health & Substance Abuse Services ("OMHSAS")**

OMHSAS conducted a Licensing Inspection of NPHS's Extended Acute Psychiatry program on January 17-19, 2017. In a Licensing Inspection Summary, OMHSAS noted three closed medical files that did not contain information related to restraints used on patients. OMHSAS's inspectors also noted that treatment plans and treatment plan updates in patient charts were "too lengthy and cumbersome for [patients] to understand." As discussed above, the PCO is not yet authorized to review patient medical

records and, therefore, is not yet able to determine whether those deficiencies have been corrected.

The inspectors also observed one medication issue and several easily remediated physical plant and environmental issues. As discussed below, on his February 10, 2017 inspection of NPHS's clinical programs, the PCO found NPHS's clinical facilities were in good order: (i) the facility (including the floors and fixtures) was clean, although showing significant wear and tear; (ii) the equipment, appliances and machinery appeared intact without missing or loose parts; (iii) damage to the walls had obviously been patched; (v) there were no bad odors, although there was the smell of disinfectant in part of the detoxification unit; and (vi) there were no soiled linens or rubbish in the clinical areas. The OMHSAS Report does not contain any corrective action plans, even though one observation was that nursing policies categorizing medications were not current and not in sync with NPHS's electronic medical record requirements. This latter issue appears to have been resolved as NPHS has expanded the use of MEDHOST.

In sum, although OMHSAS' inspectors observed deficiencies requiring correction, the observed deficiencies do not indicate a decline in or material compromise of patient safety or the quality of care at NPHS. Indeed, it appears that most, if not all of them have been remediated.

**2. Department of Drug and Alcohol Programs ("DDAP") of the Pennsylvania Department of Health ("PADOH")**

Between August 12, 2016 and August 18, 2016, PADOH/DDAP conducted inspections of six of NPHS's programs. Six Deficiency Listings were issued.

The majority of the listed deficiencies related to the completeness of medical records and the documentation contained therein. The most common deficiency cited was missing or non-compliant patient authorizations for release of records. One deficiency—ensuring that patients acknowledge receipt of a copy of NPHS's Policy of Patient Rights appears to have been remedied by a plan of correction. As noted above, however, the PCO does not yet have authorization to review patient records, but will review a sampling of those records for completeness once he is authorized to do so.

A plan of correction is in place to ensure that all NPHS staff members complete—and document their completion of—required annual professional continuing education or training. A plan of correction is also in place to ensure the proper documentation of performance reviews of NPHS's staff members. The PCO has, however, confirmed that all clinical personnel have the appropriate license, certification and

educational background. The PCO will review a sampling of employee files to confirm the existence of performance reviews and compliance with annual professional continuing education requirements.

PADOH/DDAP noted that NPHS's clinical lab permit had expired in August, 2016. However, with the closing of St. Joseph's Hospital, NPHS began utilizing an outside vendor for lab work. Additionally, the PADOH observed that some closed patient records were not stored in locked containers. That deficiency appears to have been remedied. During his February 10, 2017 tour of the clinical facilities, the PCO noted that all medical record rooms in the clinical program areas were kept locked. On a future tour, the PCO will ensure that all patient medical records are stored securely.

The outside trash compactor was overfull and could not be closed. The PCO will look in on this issue in his next visit to NPHS.

Other deficiencies noted by NPHS appear to have been cured. Based on his February 10, 2017 tour of NPHS's clinical programs, the PCO has concluded that damage to the walls, floors, ceilings, appliances, equipment and furnishings has been repaired. The facilities the PCO inspected showed signs of repairs and did not reflect the damage that PADOH/DDAP found. It appears from the Minutes of the September 21, 2016 Behavioral Medicine/Medical Executive Committee Meeting that the repairs of the environmental damaged noted by the PDOH/DDAP in its August, 2016 surveys were likely completed in October, 2016.

Counselling sessions, group and individual, were conducted privately behind closed doors.

In sum, like the OMHSAS inspectors, PADOH's inspectors observed deficiencies at NPHS requiring correction. However, the observed deficiencies appear to have been cured and do not indicate a declining quality of patient safety or care.

**3. Center For Medicare and Medicaid Services of the United States Department of Health and Human Services ("CMS")**

CMS has not conducted a survey at NPHS since St. Joseph's Hospital closed in March, 2016. Hence, there is no CMS survey of NPHS that is sufficiently current to be used in this report.

**B. The Minutes of the Meetings of Various Committees and the Department of Behavioral Medicine/Medical Staff at NPHS Conducted between July of 2016 and January of 2017 Reflect (i) Attentiveness on the Part of NPHS Management and Staff to Potential Care Quality and Safety Issues; (ii) Awareness of Those Issues When They Arise; and a (iii) Willingness and Ability to Take Remedial Action when Those Issues Arise.**

The PCO reviewed the minutes of the meetings of five NPHS committees, and the Board of Directors that occurred during the second half of 2016 and January, 2017. The Minutes demonstrate that NPHS's management and staff are attentive to potential issues concerning patient safety and the quality of patient care. They are generally aware of the issues when they arise. Within the financial limits imposed on NPHS, they take the actions necessary to remediate those issues. Of most relevance to the PCO's report are the minutes of the Management Committee, the Department of Behavioral Medicine/Medical Executive Committee and the Behavioral Operations Committee.

**1. Management Committee**

The Management Committee is made up of the directors of the Pharmacy, Medical Records, Laboratory, Performance Improvement, Medical Staff, Employee Health, Infection Control, Education and Behavioral Health departments. At the meetings Pharmacy addressed, *inter alia*, NPHS's DEA Inventory and the 50% medication discrepancy decrease in December, in part resulting from the adoption of the Accudose program. Medical Records addressed deficiencies in medical records and actions taken to cure those deficiencies, including the increased use of the electronic health record ("EHR") adopted by NPHS. For example, NPHS scans documents into the EHR. Medical Staff addressed the need for log books for patient complaints. Laboratory addressed the transition from verbal orders to electronic orders and the fallout from the closure of St. Joseph's Hospital. Employee Health kept track of, among other things, staff compliance with TB testing and flu vaccination requirements. Infection Control monitored and responded to the same type of environmental deficiencies noted by OMHSAS in its surveys with the same level of detail as OMHSAS. Education addressed ongoing staff training, including training in confidentiality, CPR, Narcon administration, Vital signs and STD's. Behavioral Health considered new policies and procedures and the need to revise or supplement existing policies.

**2. Department of Behavioral Health/Medical Executive Committee**

Between June 30, 2016 and January 31, 2017, the Committee focused on:

- The need to improve chart review and methods for doing so;
- Services and counseling offered to new patients at the time of admission (*e.g.*, smoking cessation information and assistance);
- Consideration of how newer medications could be used;
- Benzodiazine and "Z" drug policies;

- The need to accelerate the transition from verbal to electronic orders;
- The restraints policy;
- Preparation for visitation by accreditors and determining which were the proper accreditors;
- Staff education;
- Credentialing, particularly procedures for encouraging staff to keep licensing and certification current; and
- The death of a patient at the BAC facility and the subsequent root cause analysis.

Like the Management Committee, the Department of Behavioral Medicine/Medical Executive Committee acknowledged NPHS's need for improvement in certain areas and addressed various steps to implement those improvements.

3. **Behavioral Operations Committee**

This Committee addressed, *inter alia*, the following issues in its meetings:

- Continuing response to a bedbug infestation, a problem that arises because many of NPHS's patients have been living in shelters or on the streets before entering a program at NPHS;
- Repairs to the NPHS's facilities;
- Remediation of deficiencies noted by PADOH/DDAP;
- Challenges posed by the patients transferred to NPHS from Norristown State Hospital; and
- Two patient elopements.

4. **Safety/Emergency Management/Hazardous Material Committee Meetings**

This Committee meets every six months. The minutes of the December 14, 2016 meeting of this Committee reflect that between July 1, 2016 and November 30, 2016:

- There were no reportable safety incidents at NPHS;
- There were no spills of hazardous materials;

- 37 employees were trained in fire, safety and emergency preparedness;
- Code 777 calls for security personnel decreased throughout the NPSH facility;
- Rescue calls decreased;
- Installing a scanner at the Tower Building reduced the number of weapons entering the building;
- Staff was in-serviced not to leave carts with cleaning or other chemicals unattended;
- 90% of the pager speakers in the Tower Building were replaced; and
- Lights were replaced in the top and lower parking lots.

**C. Based upon His Investigation to Date, the PCO Has Concluded That Patient Safety and the Quality of Patient Care at NPHS 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 Management and Staff and Factual Information Provided to the PCO with Respect to the Safety and Care of Patients at NPHS are as follows:**

**1. Patient Census and Mix**

Although the patient census at NPHS fluctuates, the overall census has remained steady since before June 30, 2016. As patients are discharged, there are others to take their place. In particular, the current opioid crisis has ensured a steady supply of patients for NPHS's substance abuse treatment programs. There are some program vacancies. For example, as of February 2, 2017, the Miracles in Progress I program had a 15% vacancy. Nevertheless, NPHS patient census is not in a death spiral.

**2. Services Provided**

NPHS did not eliminate any of its programs after the bankruptcy filing. With one exception, NPHS did not eliminate any of its programs during the six months immediately preceding the bankruptcy filing. In March, 2016, at the request of the City of Philadelphia Department of Community Behavioral Health and after St. Joseph's Hospital closed, NPHS initiated a Behavioral Access Center program ("BAC"). The BAC functioned analogously to the emergency department of an acute care hospital and was operated twenty-four hours a day, seven days a week. At the BAC,

under physician supervision, nurse practitioners evaluated patients for admission to behavioral and/or mental health programs. Reimbursements for the program were insufficient to fund it, and it was terminated on October 9, 2016 after the death of a patient.

3. **Average Length of Stay**

As evidenced by NPHS's records concerning inpatient and residential treatment, average length of stay of residential patients fluctuated during the six months immediately preceding the bankruptcy filing. However, there was neither a steady reduction nor a steady increase in the average length of stay. Management and staff interviewed by the PCO confirmed that overall the average length of stay for NPHS patients has remained constant. Hence, there is no indication that NPHS is either prematurely discharging patients or increasing rates of stay beyond patient needs merely to inflate revenues.

4. **Staff to Patient Ratios/Fully Staffed Shifts**

Management and staff interviewed by the PCO agreed that the staff to patient ratios at NPHS have continued to meet Pennsylvania state requirements since the bankruptcy filing. A review of staffing policies confirmed NPHS's compliance with Pennsylvania staffing regulations in that regard. Several interviewees noted, however, that there has been an increase in employees taking paid time off since the bankruptcy filings, probably reflecting a fear that they could lose the financial benefit of that paid time off if it was not taken fairly quickly. Nevertheless, in his tour of NPHS's clinical facilities on February 10, 2017 was able to confirm that the programs were fully staffed on that date. Indeed, clinical staff agreed that all shifts have been fully staffed since the bankruptcy filing, although maintaining full staffing has sometimes required that staff members work a second shift or be called in to cover a shift.

As one interviewee noted, given the number of staff, NPHS is at peak capacity for patients. Staff usage is being maximized. The interviewee noted that the quality is there, but there is a danger of burn-out. The danger of having staff work extra shifts or taking on other clinicians' files is burnout. However, there are also problems arising from too heavy a reliance on temporary or *per diem* clinical staff.

At least in one context, NPHS actually exceeds Pennsylvania's staff to patient ratio requirements. The nursing staff for the two Torre de la Raza programs: (i) the Women Helping Other Women Program (Tower Building 9<sup>th</sup> Floor) and (ii) the Latino Men's program (Tower Building 7<sup>th</sup> Floor) floats between the two programs. Because the programs are non-hospital substance abuse treatment programs for which the patients are expected otherwise to be relatively healthy upon entry, Pennsylvania law

does not require nursing staff and, for that reason, the City of Philadelphia does not reimburse for nursing staff in those programs. However, a number of the patients in those two programs require medication for such things as diabetes, high cholesterol, hypertension, Hepatitis C, HIV and obesity related conditions. Patients are not permitted to keep medications in their rooms, and there has to be some record of them taking their medications. NPHS's solution to the problem has been to have LPN's observe patients as they take their medications, even though NPHS is not reimbursed for the LPN's services in that regard.

To avoid violation of staff-to-patient ratio requirements in a program, NPHS may temporarily limit new admissions if there is insufficient staff to treat newly admitted patients. For example, when a counsellor was out on maternity leave, her caseload was shared among other counsellors. However, no new patients were admitted to the program until her return.

**5. Staff Qualifications and Training**

The PCO was able to confirm from NPHS's records that management and clinical staff had the appropriate education, training and licensing. Interviewed clinical staff agreed that, to the best of their knowledge, the staff was properly educated, trained and licensed, although one interviewee felt that some (but not all) of the security personnel were not adequately trained. Staff member licenses are current. All clinical staff members had completed the required orientation process and staff members interviewed by the PCO were familiar with NPHS's policies and procedures, particularly those relating to patient care and safety. NPHS also provides in-service training and education to both management and staff. Most staff members are in compliance with continuing education requirements.

The only criticism concerning the qualifications of the clinical staff was a concern expressed by one interviewee that some (but by no means all) of the nurses who transferred from St. Joseph to Girard Medical Center still take a medical view of mental health and substance abuse treatment. Not as familiar with techniques to de-escalate a tense situation, they are not always proactive and sometimes resort too quickly to medication as a response to patient agitation (although not as a restraint).

NPHS works with an employment agency when seeking new employees. However, there is a definite policy of not relying on *per diem* or temporary workers for staffing clinical positions.

**6. Employee Vetting, Hiring, Training and Supervision**

Per the clinical staff the PCO interviewed, 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. The Director of Human Resources advised that the process for vetting is being updated. NPHS requires new hires to provide a physical examination. New hires must provide NPHS 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 NPHS's residents.

The PCO's interviews of members of clinical staff and the Director of Human Resources confirmed that NPSH follows its training procedures and that all current employees have been through employee orientations. Each interviewee confirmed that they were trained 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) NPHS's employee substance abuse and non-smoking policies. The interviewees each confirmed that training in each of those areas was ongoing. One interviewee noted that the training for handling situations in which a patient and become uncooperative, aggressive or violent included role playing exercises in de-escalation.

One interviewee stated that, for the most part, staff members were adequately supervised. The PCO noted the presence and availability of supervisory staff during his February 10, 2017 tour of NPHS's clinical programs. Interviewees also noted that, staff members were very cooperative and supportive of each other, including with staff in other programs at NPHS.

#### **7. Immunization, Physical Exams and TB Testing of Clinical Staff**

As a condition to employment at NPSH, staff members must submit to a physical examination. A review of NPHS's records and interviews of clinical staff confirmed that all of NPHS's clinical staff had the required physical. Those records also reflect that, as of March 1, 2017: (i) 99% of NPHS's employees had current (less than one year old) tuberculosis screenings; and (ii) 96% were in compliance with NPHS's annual flu shot

requirement. NPHS excuses from the requirement of an annual flu vaccination employees with either religious objections to receiving the vaccination or allergies or medical conditions that preclude them from receiving the vaccination. However, NPHS requires those to employees to wear surgical masks during flu season when working with patients.

Employees are not required to have annual physicals. However, employees who have been out sick need medical clearance to return to work.

#### 8. **Employee Conduct and Discipline**

As noted above, NPHS has developed extensive policies and procedures governing staff behavior, with a focus on the proper treatment of and relation to patients. Interviewees were generally in agreement that NPHS enforces those policies.

One interviewer advised that there were numerous checks and balances in place to ensure that staff treated patients properly. Another interviewee advised that the psychologists and psychiatrists at NPHS were vigilant about any type of attitudinal abuse of patients arising from rudeness or abruptness and hadn't heard of any examples of such abuse for nine months to a year. With only one exception, management and staff interviewed by the PCO said that they had never seen and were never aware of any mistreatment of a patient by a member of NPHS's staff.<sup>3</sup> One interviewee reported that, on occasion, she had heard staff speaking disrespectfully to patients. A couple of other interviewees, however, stated that patients needed stronger guidance in moving towards recovery than were sometimes receiving. The PCO did observe one occasion of a staff member having to encourage a group of patients who were returning from an off-site training program to cross the street in a quicker and more orderly manner. Although abrupt, the tone of the staff member's voice was not disrespectful; nor did the staff member use disrespectful language. The PCO concluded from the interviews he conducted and the occasion he had witnessed that there may be a generational difference between what various staff members may consider respectful or disrespectful vis-à-vis verbal activity.

According to the Human Resources Summary provided to the PCO by NPHS, during the period from July 1, 2016 and December 31, 2016, 89 NPHS employees were subject to disciplinary action. The majority of those actions (63%) addressed attendance issues—absenteeism, tardiness, leaving without permission and early quit. Another 16% of disciplinary actions involved discipline for inefficiency or loafing and loitering. Only

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<sup>3</sup>One interviewee was aware of an accusation of mistreatment, but there was never any evidence of mistreatment.

three employees had to be disciplined for offenses that clearly could have endangered patients, and all three were terminated. Clinical employees made up a small minority of employees disciplined and were likely to have committed relatively minor offenses.

During the last six months of 2016, five employees were disciplined for “conduct unbecoming of a facility employee.” A management interviewee advised the PCO that the concept of “conduct unbecoming of a facility employee” was derived from NPHS’s Code of Ethical Conduct, which, in turn, is informed by the facts that: (i) many of NPHS’s employees live in the same part of Philadelphia from which NPHS draws its patients; and (ii) some of NPHS’s staff were treated in the past for substance abuse disorders. To that end, NPHS disciplines its staff for (i) engaging in romantic or sexual relationships with patients; (ii) physical or emotional abuse of patients; (iii) financial abuse of patients (borrowing or stealing from patients); and (iv) revealing confidential patient information. Staff will also be disciplined for so-called “dual relationships” with patients, including, but not limited to (i) acting as a Social Security Representative Payee; (ii) sponsoring a patient in NA or AA; or (iii) employing a patient. Fraternizing or doing business with a patient (*e.g.* visiting a patient’s home, allowing a patient to visit the staff member’s home, buying anything from or selling anything to a patient or a member of the patient’s family, soliciting or accepting gifts from a patient or a member of the patient’s family or lending money to or borrowing money from a patient). Engaging in conduct (*e.g.*, getting into a shouting match with a patient) that might be permissible in the neighborhood is not acceptable at NPHS. Any prior relationship between a staff member or a patient must be report to the staff member’s supervisor; NPHS’s policy as that such prior relationships preclude the staff member from working with that patient.

None of the management or staff interviewed by the PCO was aware of drug or alcohol abuse by a clinical employee. In fact, one interviewee indicated that NPHS is particularly vigilant about drug or alcohol abuse by staff because many of them live in the same neighborhoods of Philadelphia as NPHS’s patients. One interviewee indicated that there had been illegal drug use by employees in the past but not currently, and that there was an EAP program in place.

## **9. Infection Control**

With the closure of St. Joseph’s Hospital, many potential sources of infection for NPHS patients ceased to exist. Infection control at NPHS has focused on the infection vectors relevant to the patients in substance abuse or psychiatric treatment facilities. For example, many of NPHS’s substance abuse treatment patients come from the shelters or from off of

the street. They bring with them vectors for infection in the form of insect infestation.

Management and staff interviewed by the PCO confirmed that the nature or number of infections has not increased since the bankruptcy filing. As noted above, during the six months immediately preceding the bankruptcy filing, management and clinical staff were aware of and quickly responded to the insect infestations that are the primary vectors of infection at NPHS. The PCO saw no evidence of insect infestation on his tour of NPHS's clinical facilities on February 10, 2017.

**10. Dietary and Nutrition Support**

NPHS has retained Nutrition Management, Inc. ("NMI"), to handle food services. NMI has extensive policies in place to ensure the proper handling, storage and preparation of food. As discussed in more detail in section E below, the PCO's tour of NPHS's kitchen facilities indicated compliance with those policies. The kitchen was clean, albeit suffering from sufficient wear and tear. Food was properly stored, and there were logs of the temperatures in the coolers and freezer. Information concerning patients' specific dietary needs is maintained in an office in the kitchen.

All but one of the management and staff the PCO interviewed believed that patients received sufficient and adequate food. One interviewee noted that patients with special dietary needs got one-on-one consultations. One interviewee thought the portions were not enough for adults. Another interviewee, however, noted that a number of patients gained weight on the food. The weight gain, however, may be a function of patients accustomed to living in shelters and on the street finally receiving three meals a day.

**11. Pharmacy Support**

NPHS has in place policies for: (i) medication control, security and inventory; (ii) medication management (including selection, procurement and storage); and (iii) procedures to be followed in the event of the theft or loss of controlled substance

All management and staff the PCO interviewed agreed that there was adequate pharmacy support. Clinical staff agreed that they had available to them the medications they needed for NPHS patients.

The outgoing Director of Pharmacy advised that the wholesaler delivers medications to NPHS five days a week. The Pharmacy supervises the nursing staff in connection with their administration of medications. The Director of Human Resources advises the Pharmacy as soon as an employee has been discharged to avoid unauthorized acquisition of

medications by employees. The Pharmacy is advised when patients are discharged. All clinical information systems are integrated at NPHS. The Director of Pharmacy was not aware of any thefts of NPHS drugs.

The Pharmacy uses the Accudose system to facilitate the timely provision of medications and the ready provision of pharmaceutical access and utilization records. Guidelines are in place to assure the proper and accurate operation of the system. A drug discrepancy data base, which is reviewed daily, has been established. As of February 2, 2017, there had been no violation of Accudose policy.

**12. Laboratory Support**

With the closing of St. Joseph's Hospital, NPHS retained an outside laboratory. Management and staff expressed their satisfaction with the outside laboratory. Lab tests are usually ordered on certain days of the week. However, lab tests may be ordered on a "stat" basis when necessary. Per one interviewee, lab tests are not a huge expense for NPHS.

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

Almost all interviewees agreed that there had been no change in the frequency or seriousness of altercations or confrontations (whether between patients or between patients and staff) at NPHS since the bankruptcy filing. One interviewee, however, stated that patients had become more verbally aggressive and harder to direct. Nevertheless, a summary of incident reports for January and February, 2017 reflects a decline at NPHS in altercations/confrontations, calls to police and falls and accidents. There has also been a decline in the frequency of patients (who have not been committed to a psychiatric program) leaving NPHS against medical or facility advice.

Interviewees agreed that altercations and assaults are most likely to occur in the psychiatric units, especially if the aggressor is a new patient. Their agreement in that regard was corroborated by an Events Report Summary—2016 prepared by NPHS. During the six months immediately preceding the bankruptcy filing, there were thirty-four altercations and confrontations in the newly created Adult Inpatient Psychiatry/Recovery program as patients arrived from Norristown State Hospital.<sup>4</sup> Another

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<sup>4</sup>A member of NPHS's management team advised the PCO during an interview that: (i) the staff is better trained on dealing with more aggressive patients; (ii) Norristown transferees are being vetted for aggressiveness; and (iii) NPHS has been using a method of cognitive training developed by the Beck Group at the University of Pennsylvania as part of the therapy provided to the Norristown transferees. Those factors appear to have been effective. According to the 2016 Year-To-Date Report prepared by HPFS's Safety Committee the need to call security and the need to call police for the Norristown program started to decline in November, 2016. Confrontations and altercations were significantly reduced by January and February, 2017.

twenty altercations/confrontations occurred in the Extended Acute Psychiatry Unit. Seven altercations/confrontations occurred in the Extended Acute [Psychiatric] Unit. Only seven of the sixty-eight altercations/confrontations during the six months occurred in the substance abuse treatment programs.

Interviewees indicated that most aggressive behavior or assaults are verbal in nature. That is particularly true for aggressive or violent behavior directed at staff, although Employee Health records show that there were five assaults on staff members during the last six months of 2016, with four occurring in December. One interviewee noted that patients would throw things against the wall, although rarely at each other.

At the Goldman Clinic aggressive activity by patients is generally directed at security at the entrance of the clinic. Occasionally, a patient will become verbally aggressive to clinical staff if the patient is impaired and Goldman Clinic attempts to effectuate the protocol for such situations.

NPHS has policies and procedures in place to address aggressive or violent incidents that focus on defusing an incident. If the incident cannot be defused, there are policies for responding, including contacting security and, if necessary, the police. Such incidents must be reported and there is an established procedure to do so. Interviewees agreed that the applicable policies and procedures are followed and that security responds quickly to incidents.

NPHS has in place policies and procedures for responding to accidents and injuries not caused by aggressive or violent behavior. NPHS are also policies and procedures in place for reporting altercations/confrontations and accidents. Management and staff interviewed by the PCO agreed that those policies and procedures are always followed.

During the six months preceding the bankruptcy filing, there was one death at NPHS's facility. A patient housed in the BAC unit died during the night. The patient was transported to Hahneman Hospital and pronounced dead. NPHS was not informed of the cause of death. Nor was NPHS investigated or sanctioned as a result of the death. Similarly, subsequent to the bankruptcy filing, there was another death of a patient at NPHS. NPHS has not been advised either of the cause of death or of any investigation of NPHS in connection with the death. According to one interviewee, those deaths were the first patient deaths at NPHS (not including St. Joseph's Hospital) in more than seven years. According to the same interviewee, there have been only four patient deaths at the NPHS facility (not including St. Joseph's Hospital) in nineteen years.

14. **Restraints and Seclusion**

NPHS initiated a policy to eliminate the use of seclusion and mechanical and physical restraints. In fact, one program, the Extended Acute Psychiatry program, has been restraints-free since its establishment in 2016. Although NPHS's restraints policy contemplates phasing out the use of restraints, the facility has, in fact, been restraints-free since June 1, 2016.

As part of its restraints-free policy, NPHS has eliminated the use of seclusion. Some programs still use "time-out" or "quiet" rooms to decelerate situations in which a patient has become agitated. Patients are not kept in the room for any extended period of time and are supervised the entire time they are in the room.

**15. Activities and Creative Arts Therapy**

In addition to individual and group psychotherapy and medication, patients at NPHS receive training focused on the practical aspects of returning to life in the community. Those services are generally provided by Mental Health Workers, Community Recovery Specialists and Addiction Recovery Assistants. Additionally, patients in certain programs are free to use NPHS's gym. There are common rooms or lounges for leisure activities. NPHS utilizes creative arts therapy, and a number of the walls of NPHS's facility are covered in murals painted by patients.

**16. Elopement**

NPHS's elopement policy details: (i) the procedures for locating the patient; (ii) the notification procedures to be followed if the patient can't be located; and (iii) the procedures to be followed if the patient is returned. As demonstrated by incident report summaries prepared by NPHS for 2016 and January and February of 2017, elopements from NPHS are rare. Two patients left the NPHS facility without either a discharge order or notifying the nursing staff<sup>5</sup> in July, 2016 by crawling through a hole in a in a courtyard. There were no other elopements during the six months preceding NPHS's bankruptcy filing or in January or February of 2017.

**17. Patient and Facility Safety Issues**

NPHS employees receive training on patient safety issues both during their initial employment orientation and on an ongoing basis, although OMHSAS found that not all employees were trained on fire extinguisher use. NPHS also has in place a Safety Officer and Fire Marshall's on each floor.

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<sup>5</sup>Under Pennsylvania law, unless they have been civilly committed, NPHS's patients (mostly the non-hospital patients) may leave NPHS. They are expected to advise the staff that they are doing so.

A review of NPHS's fire drill logs from July 1, 2016 through January 31, 2017, indicates that fire drills are conducted regularly and meet the requirements of Pennsylvania law. There is one drill per shift per month for each building. The logs indicate staff compliance during fire drills and minimal incidents.

The fire alarm system is inspected on a quarterly basis. An inspection was conducted on November 17, 2016, which means that one was likely conducted during the last week of February, 2017. The pipes utilized in the fire sprinkler system are inspected every five years. The last inspection for all three buildings at NPHS took place between October 31, 2016 and November 4, 2016. Quarterly inspections on the sprinkler systems in Girard Medical Center and the ADC Buildings occurred on September 30, 2016. The PCO will confirm that another inspection occurred during December. The annual inspection of the sprinkler system in the Tower building occurred on September 30, 2016.

None of the management or staff the PCO interviewed were aware of any patient safety issues at NPHS. The PCO did not see any situation that would raise patient safety concerns when he toured NPHS's clinical programs on February 10, 2017. As noted above, the minutes of the Safety/Emergency Management/Hazardous Material Committee Meeting on December 14, 2016 state that there were no reportable safety incidents at NPHS during the period between July 1, 2016 and November 30, 2016.

**18. Medication Errors**

NPHS has in place extensive medication error policies and procedures. Members of management interviewed by the PCO admitted that there had been medication errors during the six months preceding the bankruptcy filing and the month following the bankruptcy filing. However, most were not reportable to government agencies and none resulted in any harm to a patient.

The interviewees' characterization of the medication errors is corroborated by a summary report of medication errors prepared by NPHS for the period from June 2016 through February, 2017. The report details twelve medication events. Four events involved lost medications. In another four events, the error was caught before medication was dispensed to a patient. One event involved the waste of medicine. Only three events involved a patient receiving an incorrect dose or, in one case failing to receive a dose. The only medication event that occurred after the bankruptcy filing was a loss of medications. Interviews of clinical staff confirmed the absence of medication errors that harmed patients.

**19. Grievances/Complaints by Patients and Families**



As noted above, NPHS has a grievance and complaint policy. Patients have asserted oral complaints against NPHS staff, but there were no formal, written complaints asserted during the six months immediately preceding the bankruptcy filing. Some physicians have indicated the need for a complaint log in the treatment programs for informal complaints. Nor have there been any formal or written grievances or complaints filed since then. There have been no complaints of physical violence by staff directed against patients.

Informal and verbal complaints are common and usually directed to the staff member against whom the patient has a complaint. Sometimes, patients make complaints to the Philadelphia Department of Community Health to avoid being sent back to jail.

**20. Equipment and Supply Issues**

Beyond its electronic health records, NPHS requires little by way of equipment to treat its patients. For that reason, there are few equipment-related issues. Most clinical staff the PCO interviewed agreed that generally they had the supplies they needed to perform their duties. Two interviewees noted that supplies were kept locked up, making it difficult to access them when necessary. The supplies most likely to be in short supply were paper, towels and urine cups. Some of the clinical employees noted that they paid for some supplies they used in working with patients.

**21. Maintenance and Environmental Issues**

NPHS's policies and procedures include policies and procedures for maintaining the NPHS facility. Most interviewees agreed that the NPHS facility was generally kept clean, albeit subject to wear and tear. As discussed below, that was the PCO's experience during his tours of the NPHS facility.

One interviewee stated that the regular cleaning staff does a good job keeping NPHS clean but that temporary staff does not. Two interviewees find the housekeeping staff to be reactive and not proactive enough, but will do things when asked. Another interviewee indicated that housekeeping may not always have available the supplies it needs.

**22. Facility Security**

Per management and staff, the bankruptcy filing has not negatively impacted security at the NPHS facility. Most interviewees stated they felt safe at the premises. One interviewee noted that security came when called. Another interviewee acknowledged being about to get an escort to the parking garage when necessary. Two interviewees expressed concern about the level of training of some of the security personnel. One interviewee expressed the opinion that NPHS should hire more security

personnel. Another expressed the opinion that patients should be more thoroughly searched when they returned from off site.

Psychiatric care units are kept locked. Security is particularly tight at the Goldman Clinic, where methadone is dispensed to outpatients. Patients and visitors must pass through a metal detector to enter the facility. Per one interviewee, the NPSH staff works with the Philadelphia Police Department to patrol Eighth Street and Girard Avenue.

**23. General Quality of Care**

One interviewee stated that the quality of services, staff commitment and staff relations at NPHS had improved dramatically since 2009. Most of the interviewees gave NPHS at least a score of 8 on a scale of 1 to 10 on the quality of patient care. With one exception, clinical staff interviewed by the PCO agreed that they had sufficient time in which to perform their duties, and that their administrative obligations did not significantly interfere in their ability to do so. They also agreed that NPHS addressed the cultural differences between patients and adequately addressed the needs of English learners and non-English speakers. Two interviewees noted the services made available to the hearing impaired. Interviewees also generally agreed that patients were generally placed in the appropriate treatment program and that, if they weren't they were transferred to an appropriate program.

One interviewee noted that NPHS has been able to discharge patients transferred from Norristown State Hospital into community settings, even though some of the patients from Norristown State Hospital had been hospitalized for many years.

One interviewee awarded NPHS a score of 5 out of 10 for the quality of patient care, acknowledging, however, that NPHS is not "the worst." That interviewee's concerns centered around the lack of supplies (but not medications) in the clinical units (they are stored in a locked room to which few people have the key), too many administrative duties, better communication between staff members and between staff and supervisors, more support when dealing with uncooperative clients, and too much freedom accorded the patients. Echoing one of this interviewee's concerns about administrative duties, another interviewee stated that NPHS should not require clinicians to conduct intake and initial interviews or utilization reviews. Another interviewee expressed the position that the clinical staff should be more supportive to patients when they resume using illicit drugs, and that NPHS should have more resources for homeless patients. Another stated that NPHS needs to create focus groups involving patients to get a true read on their progress by getting patients to speak up more and be more actively involved in their treatment. Another interviewee stated that NPHS needs to engage more with the local

community to focus patients more on recovery than on obtaining an apartment. Another interviewee felt that NPHS should have more leeway to refuse admission to patients it cannot adequately help—medically compromised patients, violent patients or destructive patients—although the interviewee admitted that there had been few of such patients referred to NPHS.

- D. **Human Resources Have Remained Stable and will Likely Continue to Remain Stable for the Immediate Future and Beyond.** During the period beginning July 1, 2016 and ending February 29, 2017, staff turnover at NPHS remained low. During the months of July through October, 2016, staff turnover averaged 2.25% per month. For November, 2016, staff turnover was only 0.5%. Turnover spiked to 3.9% in December largely as a result of purging flex employees who either failed to complete mandatory training or to meet PPD testing or flu shot requirements. Since the bankruptcy filing, average staff turnover has been at 2.4% per month, with the turnover rate for February being only 1.9%.

During the months of December, 2016 through February, 2017 only two psychologists and one or two nurses have left NPHS. There were no other resignations or termination of clinical staff during that period. Only one of the members of management and staff interviewed by the PCO was aware of clinical staff actively looking for other positions. Two interviewees believed that many employees were keeping an eye on the job market. One interviewee advised that others staff members are looking for part-time work to replace the portion of their salaries lost through reduction and increased contributions to their benefits. However, the only clinical positions that currently remain empty are two psychologists and one counsellor.

Management and staff agreed that, for a number of reasons, turnover is likely to remain relatively low, notwithstanding the bankruptcy. Many staff members have worked for NPHS for more than ten years, with some having worked their entire careers at NPHS. Both management and staff acknowledged a relatively strong employee loyalty to NPHS and to keeping NPHS open. It was also clear to the PCO that the clinical staff is particularly dedicated to NPHS's patients and their recovery.<sup>6</sup> Even with the reduction in salaries and the increase in employee contributions to benefits, compensation for most employees at NPHS still remains competitive for the most part with similarly situated institutions in the Philadelphia area. Additionally, many of NPHS's nurses graduated from hospital diploma programs in nursing or associates programs at community colleges. They do not hold the bachelor's or master's degrees required by many hospitals as

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<sup>6</sup>Through his interviews, the PCO learned that Mental Health Workers, Community Recovery Specialists and Addiction Recovery Assistants will pay for the supplies they used in the programs they run.

a condition to employment. Finally, unemployment in Philadelphia still remains relatively high for the types of positions held by a majority of NPHS's employees.

Potential exceptions to the analysis in the immediately preceding paragraphs are counsellors and *younger* psychologists. It would be possible for younger psychologists to find positions that pay better in the Philadelphia area. In fact, NPHS is in the process of replacing two psychologists. One psychologist resigned before the bankruptcy filing. Another resigned after the bankruptcy filing, but was likely looking for another position before the filing. Those positions still remain open. Positions are available for masters-degree level counselors at other institutions, but, according to one interviewee, do not provide greater compensation. In any event, it is more difficult for NPHS to recruit psychologists and counselors than other clinical workers.

Staff morale has suffered in the wake of: (i) the closure of St. Joseph's Hospital in March, 2016; (ii) the uncertainty generated by the bankruptcy filing; and (iii) the reduction in pay and increase in employee contribution to benefits implemented to save costs in February of 2017. Also negatively impacting morale has been the requirement, after the closing of St. Joseph's Hospital, that nurses working at the hospital be provided positions at Girard Medical Center even if a nurse already working at Girard Medical Center had to be let go. The PCO also learned from interviews that many members of the non-nursing clinical staff felt that it was unfair that the nurses, through their union, rejected the proposed wage cuts that were accepted by other staff at NPHS in February. However, all of NPHS's management and staff interviewed by the PCO agreed that the clinical staff has not let the decline in morale negatively impact patient care or safety. As one interviewee pointed out, "we are professionals; we put on our happy faces; we don't let the patients know about our disappointment."

Although there has been an increase in the use of paid time off by NPHS employees in the last few months, worker tardiness has not increased and staff members still cooperate with each other. In his tour of the clinical programs at NPHS, the PCO noted the attentiveness of the staff; their disappointment did not show in their treatment of their patients.

As of the date of this report, therefore, human resources remain stable at NPHS 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.

#### **E. The PCO'S Tours of NPHS's Program Facilities**

##### **1. February 10, 2017 Tour of Clinical Programs—General Observations:**

- The clinical program areas were clean, although showing significant wear and tear. Repairs were often obvious but had been done. There was sufficient furniture in the group rooms, worn but

not torn. There was a marked tendency to avoid using upholstered furniture, which must be discarded if it becomes infested with insects.

- There was the smell of disinfectant in only one area—the Detox Program, which is not uncommon given the nature of detoxification. At no time did the PCO smell vomit, urine, feces or extreme body odor while at NPHS.
- No evidence of the use of either mechanical/physical restraints or seclusion existed. The residential programs had “time-out” rooms where patients could go to calm down. In one program there was a chair, as well as a bed in the time-out room. The patient in time-out would always be supervised. The time-out rooms appear to be used solely to de-escalate situations that could become more serious and not as either punishment for misbehavior or warehousing for difficult patients.
- No evidence existed of the use of medical restraints. Although some of the patients were clearly impaired by the mental illness from which they were suffering, none of the patients appeared to be drugged.
- Collaboration and teamwork between staff members both within and between programs was obvious.
- There was a strong focus on returning patients to the community. The PCO was advised that focus applied to patients transferred to NPHS from Norristown State Hospital, notwithstanding that many of them had been at Norristown for many years. The PCO was later advised by an interviewee that some Norristown patients had been discharged from NPHS to supervised housing.
- The staff was attentive to the patients, with one possible exception, although staff did attend to the needs of that one patient.
- The PCO observed several interactions between patients and the staff demonstrating a significant rapport between patients and the NPSH staff.
- NPSH makes a consistent effort to be sensitive the cultural needs of and differences between patients.
- NPHS housekeeping keeps patient rooms and public areas clean, although patients who are able to do so are expected to assist in keeping their rooms clean.

- Medication rooms were locked and medication carts were locked or under the direct supervision of a member of the nursing staff.
- Paper medical records were secured in locked rooms, with only one exception discussed in the section on HIPAA compliance below.

2. **February 10, 2017 Tour of Clinical Programs—Specific Observations Concerning the Programs:**

- **Miracles in Progress I.** This residential program treats up to 44 chronically homeless men with dual diagnoses of mental illness and substance abuse disorders. Approximately fifteen of the patients in this program are on methadone maintenance and receive methadone at the Goldman Clinic. The anticipated length of stay is between six and nine months.

The program is staffed by three case workers (each with a case load of about fifteen patients). There are twelve behavioral specialists/counselors on the day and evening shifts. There are three nursing stations. Because the clients/participants have both mental illness and substance abuse disorders, there is 24-hour nursing care, with three nursing stations. There is also a treatment team made up of psychiatrists, psychologists and counselors. There are regular team meetings concerning the patients that include: (i) behavioral specialists/counselors; (ii) psychiatrists and psychologists; (iii) Community Recovery Specialists; (iv) case managers; and (v) clinical supervisors. Therapy is delivered on an individual and group basis, with counselors able to conduct both types of therapy in their offices.

In addition to treatment of the patient's mental illness and substance abuse disorders, the program addresses: life skills, legal issues and medical issues. After the fourth month, treatment becomes more intense, with the goal of returning the patient to the community and to stable housing. The type of housing will depend on the needs and abilities of the client/participant. A community recovery specialist assists with off-site help (*e.g.*, getting driver's licenses or other identification documents) follows up with and supports patients post-discharge in the community reintegration process.

The PCO was advised that this program has an 80% success rates. Patients are encouraged to obtain more education. Some 10% of the graduates of the program enroll in community colleges. In that regard, one of the counsellors conducting a group therapy session was a graduate of the program, who has obtained a college degree

and is working towards a Masters of Social Work degree. The program hires its successful graduates back.

Each patient room is set up for two residents and has a private bath. The unit contains a washer and dryer for the patients' convenience. There are common rooms for group activities and relaxations. The unit is decorated, in large part, by artwork created by patients. There is an obvious attempt to create a sense of community. The patients in this program seem to be the happiest at NPHS.

- **Miracles in Progress II/Detoxification Unit.** This 30-bed unit provides detoxification services to men and women. Some of the beds are so-called "flex-beds," meaning that patients can move from detoxification into rehabilitation and remain in the unit. The goal of the program is to detoxify and stabilize patients and then move them into a rehabilitation program. The length of stay for detoxification is generally five days. Patients in the unit for detoxification must remain in the unit until they are detoxified and stabilized. Those patients who are in rehabilitation are free to go to the cafeteria and the gym, which are all on the NPHS campus. However, they must have an NPHS escort when leaving the campus. Therapy is conducted in the unit.

There is round-the-clock nursing coverage. Four therapists conduct individual and group therapy. There are two patients assigned to a room. Women make up a minority of clients/participants in the unit. As a matter of safety, men and women are segregated in this unit, including having their own separate public areas. There is a laundry for patients' convenience. There are lounges for down time. There is a treatment team room for team meetings and for the completion of treatment notes.

- **Return Programs I and II.** Return I is a 16-bed alcohol and drug rehabilitation program for men. Return II is an 18-bed opioid addiction recovery program for both men and women who receive methadone maintenance. Group therapy covering various topics, including reintegration into society occurs in common rooms several times a day. Additionally, counselors conduct individual and group therapy in their offices. There are two patients per room, each of which has a private bathroom. There are lounges for downtime and group activities. Men and women are housed in separate rooms. There is a laundry for patients' convenience. Because the patients in the Return programs are relatively healthy other than suffering from substance abuse disorders, nursing care is provided by LPN's during the days and evenings. There is no

overnight nursing care for the Returns programs. However, there are Addiction Recovery Assistants available at night.

- **Acute Psychiatry Unit.** This program is a ten-bed psychiatric unit for men and women. It provides intense treatment for patients who are not expected to need long-term residential treatment. Many of the patients come from shelters, so a hot box is used to cleanse their belongings from vermin, particularly bed-bugs. There is 24-hour nursing coverage. There are two patients to a room. For the safety of patients and staff, the rooms have plastic furniture. Therapy is conducted by counsellors and therapists from NPSH's out-patient treatment programs. There is a lounge for downtime. There is meeting room for treatment teams and for family. There is a quiet/time-out room.
- **Extended Acute Care Unit.** This 22-bed unit provides long term care for men and women suffering from mental illness, as opposed to substance abuse disorders. Patients remain in the unit and do not have access to other locations in the NPHS campus. For the safety of staff and the patients, the furniture is plastic. There is round-the-clock nursing coverage. There are two nurses and four techs on staff for the day and evening shifts and one nurse and a tech at night. The unit has dedicated to it one social worker, a psychiatrist and a psychologist. Additionally, creative arts therapists and therapists from a program developed at the University of Pennsylvania, assist in treatment. There is a treatment/team meeting room and rooms available for private therapy. There is a room available for creative arts therapy. There is a quiet/time-out room that is not used for seclusion. There are two community rooms for down time and group activities. Two patients share a bedroom. Two bedrooms share a bathroom. Care is taken so that men and women are not sharing a bathroom.
- **Adult Inpatient Psychiatry Unit.** This 29-bed program offers mental health treatment to men and women who have been diverted from the overcrowded Norristown (PA) State Hospital. Patients remain in the unit. A psychiatrist, psychologist, social worker and clinical supervisor are assigned to this unit. Arts therapists also provide services. There is round-the-clock nursing care, with two nurses and four techs assigned for each of the day and evening shifts and 1 nurse and 1 tech assigned to the night shifts.

There is a creative arts therapy room and three common rooms for downtime, meals and group activities. Showers are supervised. There is a schedule for laundry; patients do not do their own



laundry. There is a quiet room that is used for de-escalation and not for seclusion.

- **Dual Diagnosis Unit.** This 15-bed program provides care for men and women with a dual diagnosis of substance abuse disorder and mental illness. There is round-the-clock nursing coverage: (i) one nurse and two mental health workers during the day and evening; (ii) 1 nurse and 1 mental health worker at night. Two therapists provide individual therapy. Client/participants stay on average between three and nine months. Two patients are assigned to a room, and the rooms contain regular furniture. There is a kitchenette, two lounge/group activity rooms, laundry facilities and personal lockers for the client/participants. During his tour of this program, one patient endorsed the program to the PCO for providing the patient with a second chance.
- **Torre de la Raza: Women Helping Women (“WHOW”).** This is a 16-bed program for Latina women. The program focuses on substance abuse disorder treatment. Initial authorization is for thirty days, but stays of ninety days or more may be approved.

Patients in this program are expected to be relatively healthy, outside of the substance abuse disorder. There is round-the-clock nursing coverage, but only one nurse for each shift, assisted by an Addiction Recovery Assistant. The nurses float between this program and the Torre de la Raza: Latino Men program discussed below. There are two counsellors and a clinical supervisor dedicated to the two Torre de la Raza Programs. There are two patients assigned to room, each of which contains regular furniture. There are group rooms with private lockers for the patients. There is a kitchenette and a laundry. Each week, the patients attend programs at the Philadelphia Recovery Center from 12:30 to 3:00 escorted by NPHS staff. There they learn practical skills for reintegration into the community.

- **Torre de la Raza: Latino Men.** This 17-bed unit provides substance abuse disorder treatment to Latino men. This program shares nursing and counselling staff with the WHOW program. As with the WHOW program, the Latino Men program is expected to last thirty days, with the possibility of extensions to ninety or more days.

Two patients share a bedroom. There are no private bathrooms. Patients are provided with laundry facilities. There is a therapy/conference room, as well as a conference room. On the day the PCO visited, all but one of the patients were actively

involved in one of two group therapy sessions. One patient was asleep in his room.

- **IOP/CAP Outpatient.** This program provides either intensive or less intensive outpatient drug and alcohol treatment to approximately 73 patients. It is staffed by three counsellors, with a fourth in the process of being hired. Individual and group therapy is provided. There are three group rooms for group counseling and activities. There is also a recreation room. Patients have painted murals in two of the group rooms and one of the hallways.
- **Goldman Clinic.** This program provides treatment of substance abuse disorders, with an emphasis on treating opiate dependent men and women. Approximately 600 patients are registered in a program whereby they receive methadone to wean them from opioids. To enter that program facility, client participants must pass through a medical detector. Once inside the dispensing station, they must present a two-factor identification to obtain methadone, which must be consumed in the area. The program is supervised by two psychiatrists, who also supervise the counseling program described below.

Goldman Clinic also offers counseling services. One section of the counseling program primarily offers non-intensive outpatient treatment to victims of substance abuse disorder who are not receiving methadone maintenance. That section is staffed by fourteen counselors offering individual and group therapy. There are three group rooms. The other section of the counseling program focuses on intensive outpatient treatment for clients/participants who are on methadone maintenance. Six counselors staff this program providing individual and group counseling. There are three group rooms and one activities room.

- **Outpatient Psychiatry Unit.** This program provides outpatient psychiatric and psychological services to victims of mental illness. The program is staffed by two psychiatrists three psychologists (one position was unfilled as of the day of the PCO's tour) and five pre-doctoral interns. Group and individual therapy is available. There are three group rooms; individual therapy is conducted in clinician's offices. The clinicians function as a team. There are no medications in this unit. Although the medical records room was locked, one clinician had left patient records on the desk in an unlocked office the day of the PCO's tour.

### 3. **Tours of NPHS' Kitchen and IT Department**

- **Kitchen.** The City of Philadelphia Department of Health/ Office of Food Protection (“OFP”) conducted an inspection of NPHS’s kitchen on April 28, 2016. In a Food Facility Report, the OFP enumerated thirteen deficiencies, three of which were easily corrected immediately. NPHS was required to remedy those deficiencies and apparently did so to OFP’s satisfaction.

The PCO toured NPHS’s kitchen on March 1, 2017. By that time the deficiencies noted by the City of Philadelphia Health Department had been cured, although the PCO did not inspect the outside dumpsters. The kitchen was clean, albeit subject to significant wear and tear. The floor still showed significant wear and tear. Each cooler and the freezer had a temperature monitor that reflected an appropriate temperature. The doors to the coolers, the freezer and other food storage areas functioned properly. There was a temperature log attached to the kitchen wall. Food was properly covered, dated and stored. None of the food was stored on the floor. Nothing was accumulating in floor drains. Shelving in the coolers and the freezer were properly constructed to allow for proper air circulation. Information concerning patients’ dietary needs and restrictions was kept in the kitchen office. A leaking dishwasher had been repaired. The drain to one sink was blocked, but was being cleaned. There was, however, a fair amount of standing water on the floor, creating a hazard for the kitchen staff.

- **IT Department.** The PCO visited the IT department on February 2, 2017. The department was clean, but showed wear and tear.

**F. Equipment, Supply and Service Vendor Relationships.**

Per NPHS’s President and CEO and its CFO, vendor relationships were getting problematic prior to the bankruptcy filing, because many vendors had not been paid for services they had provided to St. Joseph’s Hospital. The situation has eased since the bankruptcy filing, because vendors understand that NPHS cannot pay pre-petition invoices at this point. Relationships with vendors who have provided goods for Girard Medical Center and the Goldman Clinic on a long-term basis are very good. Nevertheless, many vendors now insist on deposits, payment in advance, or COD terms. A couple of vendors have renegotiated credit terms.

**G. Information Technology and HIPAA Compliance**

On January 31, 2017, the PCO interviewed NPHS’s Chief Information Officer (“CIO”) and NPHS’s Information Technology team via telephone. The interview focused on NPHS’s system for protecting the privacy and security of patients’ medical data and its HIPAA compliance program.

1. **Information Technology and Data Security and Privacy**

HPFS has in place a detailed Internet Technology Management policy. HPFS also utilizes multiple layers of protection to prevent infiltration of internet-based threats.

Consistent with industry trends, NPHS has moved from reliance on paper records to the use of an EMR. Paper records are still being used, particularly by clinicians for treatment notes, but the practice at NPHS is to scan the paper records and include them in the EMR. Beginning in mid-2016, NPHS moved from an in-facility information technology system to a cloud-based system. NPHS retained MEDHOST® as its cloud services provider and uses the MEDHOST Direct Services system. As a result, MEDHOST now handles most aspects of data privacy and security for NPHS, including data backup, emergency mode operations and disaster recovery.

NPHS provided the PCO with a copy of an Independent Service Auditor's Report prepared by LBMC addressing MEDHOST's description of its MEDHOST Direct Services product, as well as the suitability of the design and operating effectiveness of MEDHOST Direct Services for the period from November 1, 2015 through October 31, 2016. After concluding that MEDHOST had fairly described the MEDHOST Direct Services product, LBMC concluded that the controls included in the product were suitably designed to provide reasonable assurance that the MEDHOST's stated control objectives would have been achieved during the period from November 1, 2015 through October 31, 2016. LBMC further concluded that the controls it tested, if operating effectively, were the controls necessary to provide reasonable assurance that MEDHOST's control objectives were achieved during the period from November 1, 2015 through October 31, 2016. In sum, LBMC concluded that the MEDHOST Direct Services product was suitably designed to achieve its stated purposes, assuming it was used properly.

Clinical staff interviewees confirmed to the PCO that they received training on the Medhost System. They also generally agreed that the IT department answered questions their questions about the system. One interviewee admitted to relying more on a supervisor for information about Medhost, but acknowledged that IT would "come when called" and answer questions.

NPHS is in the process of developing a secure file transfer program.

2. **HIPAA Compliance**

The PCO reviewed HSHS's HIPAA policies. NPHS's HIPAA policies address in detail: (i) the acceptable use of NPHS's electronic information

network and electronic devices to access that network so as to maintain the confidentiality, integrity and availability of protected health information (“PHI”) (including an express prohibition of blocking authorized audit scans); (ii) the accounting of disclosures of PHI to which NPHS’s patients are entitled; (iii) procedures to be followed when obtaining a patient’s authorization to use or disclose PHI; (iv) investigation of confidentiality breaches; (v) HIPAA training for new and existing employees; (vi) sanctions of employee violations of HIPAA; (vii) controlling and monitoring access to hospital information systems; (viii) encrypting or otherwise securing PHI downloaded to a portable storage device; (ix) a business continuity plan; and (x) the form of privacy and confidentiality acknowledgement to be executed by an employee upon hire. All of those policies were updated in 2016 or 2017 and comply with the amendments to the HIPAA Privacy, Security and Breach Notification Rules set forth in the 2013 Omnibus HIPAA Rule.

Consistent with the requirements of the HIPAA Security Rule, HPFS had a security risk assessment conducted by an outside vendor approximately one year ago. The vendor made several recommendations. The biggest threat to the privacy and security of the PHI of NPHS’s patients turned out to be portable devices. In response, NPHS has: (i) locked down USB port; (ii) prohibited storing PHI on flash drives unless they are encrypted; (iii) prohibited the removal of notebooks from the NPHS campus unless they are signed out and returned on the same day; and (iv) prohibiting the use of personal electronic devices to access PHI.

Per NPHS’s CIO and IT team, additional procedures to protect the privacy and security of PHI are in place. Activity on NPHS’s information network is audited on a weekly basis. Among other things, the audit can identify the individuals who print out reports from the system. All portable electronic storage devices are locked down to protect PHI. Only screen shots can be printed. Consequently, the removal of large quantities of data from NPHS’s system is not feasible. NPHS staff members are entitled to access electronic PHI only on a “need to know” basis and can access the electronic PHI of only those patients they are treating and only that type of PHI for which they have authorization. The data center where electronic PHI is stored is kept locked, and the Security Office is next door.

NPHS’s policy is that paper medical records be kept under lock and key. The policy appears, in large part, to be observed. In his February 10, 2017 tour of NPSH’s clinical program, the PCO confirmed that all rooms containing paper medical records were kept locked and stored only patient records. He also confirmed that the clinical staff understood both that those rooms were to be kept locked and the reason for doing so. The CPO came across only one instance of medical records not being kept under lock and key. He saw patient files on the desk in an unlocked clinician’s office. As noted above, the OMHSAS in section team noted that closed

files were stored in the same room as gowns but were not placed in a locked container.

NPHS does not have a formal HIPAA compliance committee. The IT staff function as such a committee on an ad hoc basis. At their January 31, 2016 interview by the PCO, NPHS's CIO and the IT team demonstrated a robust understanding of NPSH's obligations under the HIPAA Privacy and Security Rule to maintain the security of the HIPAA-protected health information of NPSH's patients. NPHS's CIO and the IT team also demonstrated an understanding of how to comply with the requirements of the HIPAA Privacy and Security Rules in light of NPHS's circumstances.

IT personnel train new employees on the requirements of HIPAA and other data privacy and security laws during orientation. Employees are trained annually thereafter. The training materials include hand-outs, lectures and a quiz. Security awareness e-mails are periodically sent out to employees warning them of new threats to data privacy and security like spear-phishing and other forms of social engineering attacks. The PCO's interviews of NPSH's management and clinical staff revealed that they are aware of their obligations to maintain the privacy and security of patients' medical information. The interviewees confirmed that they were trained in HIPAA compliance during their initial orientation and at least annually thereafter.

According to NPHS's CIO and consistent with the requirements of HIPAA, NPHS has developed the practice of requiring Business Associate Agreements with parties having access to residents' PHI. The CIO also understood that the PCO would need to enter into such an agreement as a condition of accessing the PHI of NPHS's patients.

NPHS's HIPAA policies could use some expansion in connection with patients' rights in connection with their PHI. That fact notwithstanding, the privacy and security of the PHI of NPHS's patients are currently being maintained.

#### **H. Medical Records**

The PCO has not yet been authorized to access NPSH's patient's medical records and, therefore, has not been able to review them. Once he is authorized to do so, the PCO will review a sampling of those records and include the results of his review in a subsequent report.

Interviews with clinical staff indicate that records are generally current and complete. Clinical staff interviewed by the PCO stated that they were generally able to find the information they need in the records. One interviewee stated that medical records were generally 90% complete; another characterized the medical records as "for the most part complete, with minor gaps." According to one

interviewee whose duties including scanning charts into the EMR, charts are kept complete because paper records are scanned to be included in the electronic paper records. There is, however, definitely a problem with getting some physicians to dictate and sign their notes.

Per the nurses interviewed, chart reviews are conducted on a nightly basis, although one interviewee indicated that charts were reviewed only “most of the time.” Another interviewee indicated that whether charts were reviewed depended in the diligence of the supervisor reviewing them. Two interviewees made it clear that they prioritized general patient care over chart review completion.

At this point, although not complete, the information available to the PCO at this point does not indicate that the quality of patient care has diminished or has been otherwise materially compromised by the status of the medical records of NPHS’s patients.

#### **I. Patient Interviews**

The PCO is not yet authorized to conduct interviews of NPHS patients. Once the PCO has received authorization to access NPHS’s patient’s medical records and HIPAA-protected health information, he will conduct interviews of a sampling of those NPHS patients able to be interviewed. The results of those interviews will be addressed in subsequent reports.

#### **Finding #2: The Oversight and Supervision Provided by NPHS’s Senior and Supervisory Personnel, the Competence of NPHS’s Clinical Staff and Demonstrated Attentiveness and Loyalty of NPHS’s Clinical Staff to the Patients Will Uncover Quality of Care Deficits if They Arise.**

As demonstrated above, NPHS’s committee structure provides significant oversight over all activities at NPHS that directly impact patient care and safety. The minutes of the committee meetings demonstrates that all operations of NPHS are under committee scrutiny. Additionally, the committee members are not afraid to acknowledge the existence of problems requiring remediation and to remediate those problems. Under the circumstances, the committee system in place at NPHS will likely uncover safety and quality of patient care issues should such issues arise.

Additionally, as noted above, the demonstrated attentiveness of the clinical staff to the needs of NPHS was obvious to the PCO in his tour of the clinical programs at NPHS facility. The attentiveness was noted by all of the administrators and staff members the PCO interviewed. Even staff members who were critical of certain aspects of NPHS’s operations acknowledged the attentiveness and dedication of the clinical staff. The attentiveness and dedication of the clinical staff will, like the committee system at NPHS, likely lead to early reporting of any deficiency in patient care or safety.

**Finding #3: Having the PCO Receive Bi-Weekly Reports and Other Materials Regarding Quality of Care and NPHS's Operations That Could Affect Resident Quality of Care, together with Bi-weekly Inspections of the NPHS premises by the PCO Will Provide a Reasonable Basis to Monitor Whether the Quality of Care Provided by NPHS, as well as Patient Safety, Is Declining or Otherwise Materially Compromised**

To reasonably and effectively monitor patient care and safety at NPHS, commencing March 24, 2016, NPHS and continuing every other Friday thereafter until the PCO is discharged, NPHS should provide the PCO with a report containing the following information:

- The patient census;
- Patient hospitalizations (including the diagnosis);
- Accidents at the NPHS facility involving patients or staff, including the cause of the accident and the nature and seriousness of any resulting injury;
- Any new infections developed by patients other than seasonal colds or influenza (diagnosis, source, prognosis);
- Incidents of physical aggression or violence on the part of a patient and NPHS's response to such the incidents;
- Incidents of significant verbal aggression on the part of a patient and NPHS's response to the incidents;
- Reportable medication errors;
- Elopements and attempted elopements;
- Patient deaths;
- Staff resignations and replacements (including evidence of proper licensure, criminal background check, exclusion list check, current physical and immunizations);
- 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);
- Formal patient or family complaints;
- Communications from vendors providing goods or service related to patient care or safety advising of their intent to



cease doing business with NPHS's and NPHS's proposed response;

- Fire drills;
- Fires and other serious environmental emergencies and NPHS'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 NPHS's CIO can arrange for secure transmission.

Additionally, to adequately monitor the quality of patient care and safety at NPHS, the PCO would need to receive copies of the following documents every other Friday, commencing March 24, 2016:

- Minutes of any NPHS committee meetings, together with any referenced or supporting reports, conducted since the last bi-weekly report;
- Any HIPAA Security Rule Risk Assessments prepared since the last bi-weekly report; and
- Any correspondence or other communications NPHS 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 NPHS.

Together with bi-weekly visits to NPHS, which will be more focused than prior tours, the information outlined above will provide sufficient information for the PCO to determine whether further inquiry is warranted regarding concerns about the quality of patient care rendered by NPHS.

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 NPHS and its patients.

### III. CONCLUSION

An exhaustive analysis of multiple sources of information regarding the current performance of NPHS and its existing structures and policies and procedures reveals a mental and behavioral health facility that continues to provide the same level of patient care and safety it historically provided since before NPHS's December 30, 2017 bankruptcy. 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 his tour of NPHS's clinical facilities, his interviews of management and staff, and his review of performance information provided by NPHS: (i) the cooperation between members of the staff, including staff members in different NPHS programs; (ii) the attentiveness and competence of the clinical staff; (iii) the absence of any evidence of either physical or medical restraints; (iv) the visible rapport between the staff and patients; (v) the cleanliness of the facility (notwithstanding its age and the wear and tear on the facility) and (vii) the focus on the return of the patient to life in the community. NPHS's senior management and the clinical staff emphasized in their interviews the dedication, attentiveness and the hard work of staff members working directly with NPHS's patients. The loyalty of NPHS's staff is underscored by the long tenure of many staff members. Even interviewees who were critical of NPHS's management and operations emphasized the quality and attentiveness of the clinical.

Additionally, adequate systems are in place to monitor the quality of patient care and safety at NPHS and to respond to any shortcomings. The minutes of the various committee meetings reflect that NPHS is generally on top of the patient care and safety issues and responds to them promptly. NPHS also enjoys 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 an additional break against a sudden decline in the quality of patient care and safety, as well as an expeditious source of notice of any problems.

In addition to being loyal and competent, NPHS's workforce has been stable for some time and has remained so in the two months since the bankruptcy filing. With the exception of filling two psychologist positions, NPHS has been able to quickly and efficiently replace departing staff, often from staff who worked for St. Joseph's Hospital in the past. That being the case, NPHS has, to date, been able to avoid relying heavily on *per diem* or temporary staff and the disruption that doing so can cause.

The situation, however, is very fragile. NPHS's finances are tight. The PCO has been advised that the closure of St. Joseph's hospital last year significantly reduced NPHS's revenues. As noted above, Medicare is not currently a revenue source. There is no debtor-in-possession financing in place. Moreover, although staff loyalty and dedication remain strong, morale has suffered as a result of the uncertainty occasioned by the bankruptcy filing. Recent negotiations to reduce wages and increase staff contributions to their benefit plan have only further served to negatively impact morale. There has been some resentment that NPHS's nurses did not vote to accept reductions in salaries and increased employee contribution to benefits, although that resentment has not negatively impacted the quality of patient care. Although the challenges currently faced by NPHS have not negatively impacted patient care and safety, negative impacts on both are possible absent an expeditious resolution of this case.

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 and visit NPHS on a bi-weekly basis, the PCO does not recommend any remedial action or external intervention at this time regarding additional monitoring of clinical or administrative matters at NPHS.

Respectfully submitted to the Court on March 13, 2017 by:

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