

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

In re:

NORTH PHILADELPHIA HEALTH SYSTEM,¹

Debtor.

Chapter 11

Case No. 16-18931-MDC

THIRD PATIENT CARE OMBUDSMAN REPORT

SUBMITTED JULY 12, 2017

BY:

DAVID N. CRAPO, ESQ.

PATIENT CARE OMBUDSMAN

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

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I. INTRODUCTION

This Third 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’s operations constitute “health care businesses” for purposes of the Bankruptcy Code. *See* 11 U.S.C. §101(27A). Pursuant to 11 U.S.C. § 333(b)(2), the PCO issued and filed his Initial Patient Care Ombudsman Report (“Initial Report”) in this case on March 13, 2017 [ECF Docket No. 242] and his Second Patient Care Ombudsman Report (“Second Report”) on May 12, 2017. [ECF Docket No. 376]

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 currently 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. On any given day, NPHS treats approximately 200 patients on an inpatient basis and approximately 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);
- Torre De La Raza—Women Helping Other Women (Hispanic Women) (in-patient, non-hospital substance abuse treatment);
- Miracles in Progress I (Chronically Homeless Men) (in-patient, non-hospital substance abuse and psychiatric disorder treatment);
- Miracles in Progress II (in-patient, non-hospital substance abuse detoxification and rehabilitation treatment);
- Return Programs I and II (in-patient, non-hospital substance abuse treatment, including non-Methadone and Methadone maintenance programs);
- RFTA Program (in-patient, non-hospital treatment for patients with a dual diagnosis of psychiatric and substance abuse disorders);
- CAP/IOP (outpatient substance abuse treatment);

- Goldman Clinic (outpatient substance abuse treatment, includes a Methadone-maintenance program);
- Adult Inpatient Psychiatry (psychiatric treatment program; majority of patients are transferees from Norristown State Hospital);
- Extended Acute Psychiatry (longer-term psychiatric treatment program);
- New Acute Psychiatry (shorter-term but intensive psychiatric treatment); and
- Outpatient Psychiatric Unit (outpatient psychiatric/mental health treatment).

NPHS has continued to maintain 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 maintained the 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”). The American Psychiatric Association has voted to accredit the psychological internship program at Girard Medical Center, effective December 2, 2016.

PCO’s Methodology. Based on the conclusions reached in his Second Report, 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 level of safety and quality of care provided to its patients during the period from May 13, 2017 through July 11, 2017 (the “Second Reporting Period”) included the following:

- On-site visits on the following dates:
 - June 30, 2017 (primarily for: (i) interviews of one behavioral specialist, two counsellors, two addiction recovery assistants and one community recovery specialist; and (ii) inspections of the five residential substance abuse treatment programs, but also included conferences with NPHS’s Vice President for Behavioral Health Services and Admissions Coordinator); and
 - July 7, 2017 (primarily for: (i) interviews of three mental health workers, one social worker, one behavioral specialist and one music therapist, but also included conferences with NPHS’s Vice President for Behavioral Health Services and Admissions Coordinator).
- Reviews of the minutes of meetings of the following NPHS boards or committees occurring between May, 2017 of the:
 - Management Committee;

- Department of Behavioral Medicine/Medical Executive Committee; and
- Department of Behavioral Medicine/Operations Committee.

The PCO anticipates receiving the minutes for the June meetings shortly and will revised this report accordingly.

- A review of factual information relevant to patient care and safety contained in:
 - The Daily Census Reports as of May 31, 2017 for the residential and inpatient programs at NPHS;
 - NPHS's Inpatient/Residential Significant Incident Reports for May, 2017;
 - NPHS's Confrontational Behavior Summaries for May, 2017;
 - NPSH's Staff Vacancy Reports for May 31, 2017;
 - NPHS's Reports of staff resignations during May, 2017;
 - Falls Analyses prepared by NPSH for May, 2017;
 - Reports on employee disciplinary actions during the May, 2017;
 - Annual and Quarterly Certifications for Sprinkler/Standpipe and Fire Alarm Systems issued during May of 2017;
 - Fire Drill Evaluations for May of 2017; and
 - Elopement reports for May of 2017.

The PCO anticipates receiving the foregoing information for June, 2017 shortly and will revise his report upon receipt.

II. PRIMARY FINDINGS

The PCO has made the following primary findings:

Finding #1: Although the Situation at Girard Medical Center Remains 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 Continued 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 Monthly 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 at Girard Medical Center Remains Fragile, the Quality of Care (including Patient Safety) Provided to NPHS's Patients Is Adequate, and Is Not Declining or Otherwise Materially Compromised.

A. On June 30, 2017 and July 7, 2017, the PCO Interviewed a Sampling of Thirteen Members of NPHS's Clinical Staff, Including a Social Worker, two Behavioral Specialists, two Counsellors, a Music Therapist, two Addiction Recovery Assistants, three Mental Health Workers and a Community Recovery Specialist.

In performing his duties as a patient care ombudsman, the PCO is authorized to interview NPHS's clinical staff. To that end, on June 30, 2017, the PCO interviewed a behavioral specialist, two counsellors, two addiction recovery assistants and a community recovery specialist from NPHS's residential substance abuse treatment programs, which were also scheduled for inspection that day. On July 7, 2017, the Ombudsman interviewed a social worker, a behavioral specialist, a music therapist and three mental health workers from NPHS's residential psychiatric treatment programs, which were also scheduled for inspection that day. To ensure a representative sample, the PCO requested—and NPHS provided—as interviewees members of the clinical staff the PCO had not previously interviewed. Each staff member was interviewed separately and privately. There were no group interviews. There were no members of NPHS's management present at any of the staff interviews.

At the beginning of each interview, the PCO advised the interviewee of the purpose of the interview and that the interviewee's name would not be revealed in any reports.

All interviewees met Pennsylvania state educational and credentialing requirements; NPHS has not taken to hiring provisional or less than fully

certified clinical employees. All interviewees had received a complete orientation upon being hired. All were currently employed in residential treatment programs at NPHS. Reflecting the general stability in employment at NPHS, nine of the twelve interviewees had been working at NPHS in one capacity or another for between four and twenty-seven years. Several interviewees had worked in more than one of NPHS's treatment programs. Three of the interviewees had been hired since the bankruptcy filing. There was general agreement that members of clinical staff were adequately trained. It bears noting, however, that one interviewee, whose first language is not English, stated that some of the some of the Addiction Recovery Assistants did not speak English well enough.

None of the interviewees indicated that there had been a drop in patient census. One interviewee stated that, as soon as a staffed² bed was empty, there was a patient for the bed. Interviewees indicated that the Miracles in Progress I (Chronically Homeless Men) program has a particularly good reputation on the street. There was also a general consensus among the counselor and behavioral specialist interviewees that the Adult Inpatient Psychiatric program (in which patients transferred from Norristown State Hospital make up a substantial majority of the patients) was the most challenging program at NPHS.³

Although maintaining adequate staffing has become more difficult as the bankruptcy has progressed, particularly in the programs with more challenging and assaultive patients, the interviewees agreed that staffing was adequate, if not generous. One interviewee expressed a concern that turnover negatively impacts care during the time a new employee acclimates to NPHS by interrupting consistency in treatment, but has not seen patients endangered by any of the staff turnover. According to the interviewees, NPHS has relied on conversion of part-time staff to full-time, flex staff and staff willing to work extra shifts to minimize the use of part-time or *per diem* employees. One employee also noted a shift of some administrative tasks to clinical personnel. In contrast to the situation earlier in the bankruptcy case, however, it appears that fewer staff members are maximizing their use of accrued paid time off, although this

² The number of authorized treatment beds at NPHS is greater than its staffed beds. Both management and clinical staff have advised the PCO that NPHS does not admit patients for which it lacks *staffed* beds, a fact that is almost universally corroborated by the census reports reviewed by the PCO.

³ It bears noting, however, at least three members of the clinical staff that the PCO has interviewed in this case commented on the progress NPHS had made with the patients transferred from Norristown State Hospital (who are treated in the Adult Inpatient Psychiatry program) and that some have been discharged and are doing well. One of those interviewees noting this success also recommended more staffing for that program given the challenging nature of the patients.

may reflect the fact that many of the staff may have already done so. There was no indication from the interviewees (or the reports provided by NPHS to the PCO) of mass clinical staff departures from NPHS, although there have been departures. In that regard, one interviewee noted that NPHS was down one or two counsellors, two other interviewees noted that NPHS is down a couple of nurses, and a fourth stated that some nurses, particularly single mothers, were leaving NPHS for other positions.

Staff morale at NPHS remains stable, if not high. There was generally agreement among the interviewees that staff members were concerned about the future viability of NPHS and a reduction in pay earlier this year, although the recent offer to purchase the facility has increased hope in many of the staff. All interviewees agreed, however, that NPHS's clinical staff has continued to work together cooperatively in a patient-focused family- or team-based approach to their work, modeling that cooperation for the patients. One interviewee stated that there was a core group of committed workers at NPHS but that some workers are not as committed. It appears from the interviews and the PCO's inspections, that most clinical staff remain committed to patient care. Concerns about the future viability of NPHS are not taken out on—or even expressed to—the patients. The PCO was able to confirm the continued professionalism of NPHS's clinical staff in his inspections of the residential programs. The interviewees agreed they had sufficient time in which to provide patient care and, with one exception, were not prohibited from doing so by non-clinical administrative duties.

Per the interviewees, there has been no decline in the quality of operations and maintenance at the NPHS facilities. None of the interviewees were aware of medication errors in their treatment units during the last six months. NPHS's patients are no more likely to become ill than in the past. One interviewee noted that NPHS does not “play games” with infections and responds to them quickly and effectively. In that regard, interviewees were not unaware of patients lacking required vaccinations. The interviewees were aware of any infestations by vermin (insects or rodents), although one interviewee had seen a mouse on the premises. One interviewee commented on NPHS's monthly pest control activities. Another interviewee stated that, if an insect or rodent were seen, measures were taken to quarantine the area and control the issue before it accelerated into an infestation. In that regard, the PCO noticed no evidence of rodents or insects in the NPHS facilities during either of his inspections on June 30, 2017 or July 7, 2017.

The interviewees were in agreement that there had not been an increase in the violent behavior between patients since the bankruptcy filing, although one interviewee that the level of such behavior was high at the beginning of the year, but had decreased since then. The interviewees acknowledged the occurrence of heated arguments, particularly (but not exclusively)

between male patients. According to the interviewees, however, the staff is trained to redirect and defuse the situation on a team basis, even if it means separating the parties to the argument. The interviewees saw no increase in the incidence of physical altercations, which remain rare and are largely confined to the psychiatric treatment programs, particularly the Adult Inpatient Psychiatric program. One interviewee stated, however, that the incidence of physical altercations in that program does not exceed mental health expectations. Interviewees working in the drug and alcohol treatment program stated that there were no physical altercations between patients in those programs, a fact corroborated by NPHS's incident reports for May and June. Physical altercations are resolved quickly, and, in the substance abuse treatment programs, NPHS has a "no tolerance" approach towards them. There is some verbal abuse of staff by patients, particularly if the patient didn't agree with a decision by a staff member. One interviewee has seen a reduction of such abuse in the treatment program in which the interviewee works. Only one interviewee reported a physical assault of staff member by a patient. The relative rarity of physical attacks on staff members is corroborated by NPHS's incident reports.

There was general agreement that the NPHS facility was adequately maintained, a fact the PCO was able to confirm in his inspections on June 30, 2017 and July 7, 2017. However, some interviewees noted that maintenance could be more proactive. One interviewee noted the age of the facility and the equipment.

Medical record-keeping appears to have improved with NPHS's move to an electronic health record. Those interviewees with access to patients' medical records indicated that they were able to find the information they needed and that the records were substantially current and complete. The interviewees stated that they were able to find care plans, medication information, mental and physical health evaluations and care notes when they need to review them. One interviewee noted that the medical records were constantly being updated, so that the most recent records might not have been entered into the electronic health records. Another interviewee admitted to questioning staff if something appears to be missing from a patient's records. The nurses take care of the patient charts "pretty well" according to one interviewee. Some interviewees are more comfortable using NPHS's Medhost electronic health record than others, but all agreed to having received help from the information technology when necessary. All interviewees agreed that patients' medical records are kept secure.

The interviewees rated the overall quality of the care provided by NPHS to its patients as at least very good—in one case, "pretty exceptional" and in another, "the best in Philly," and in a third, "above and beyond." There was general agreement that NPHS does the best job it can with constrained resources. There was general agreement that the patients receive enough to eat, with double portions available and ensure provided when necessary.

One interviewee felt that food portions “could be a little larger,” and another interviewee questioned NPHS’s practice of limiting snacks for patients who were overweight, diabetic or suffered from other co-morbidities. That interviewee’s concern was that the snacks were often one of the few things the patients could enjoy. Patients get the medical and psychological and psychiatric care they need, and efforts are made to meet their cultural and linguistic needs, although one interviewee stated that the food could be more culturally sensitive. All twelve interviewees agreed that NPHS had remained a restraints and seclusion free facility during 2017. With one exception, they also stated that they were not aware of NPHS staff abusing or mistreating patients. One interviewee was aware of an incident of patient abuse many years ago, but stated that the perpetrator was immediately terminated.

The interviewees agreed that patients are generally placed in an appropriate treatment program. Occasionally, patients need to be transferred to different programs within NPHS. For example, one interviewee stated that on occasion patients admitted to the drug and alcohol programs need more psychiatric and psychological assistance than those programs are able to provide. On very rare occasions, NPHS cannot meet the needs of admitted patients, who need to be transferred to another facility.

Some interviewees noted that elevators at NPHS did not always work. However, there was agreement that they were repaired quickly. On the days he visited the NPHS premises, with one exception, the Ombudsman found all of the elevators working. Except for problems with the elevators, none of the patients were aware of patient safety issues. Accidents, incidents, medication errors, falls, injuries were properly and promptly reported. Employee policies are almost universally enforced, particularly the annual training requirement. All interviewees felt safe at the NPHS facilities.

As for improving the quality of care at NPHS, two interviewees stated that clinical staff needed more affirmation from management when they are doing a good job. Although acknowledging that NPHS had remained fully staffed notwithstanding the bankruptcy, four interviewees recommended hiring additional clinical staff and one recommended hiring more administrative staff. Several interviewees felt particular need for additional staff in the Adult Inpatient Psychiatry unit. None of the interviewees recommending more staffing, however, indicated that resident patients were in any danger from current staffing levels. In fact, one interviewee indicated that NPHS did not so much need more clinical staff as to make better use of its clinical staff.

One interviewee recommended that NPHS obtain more feedback from patients, particularly when they leave the facility. After praising the

clinical performance of NPHS, another interviewee recommended more recreational therapy to increase patients' social skills. That interviewee expressed a concern that NPHS tells patients that they need positive social interactions for a full recovery from substance abuse disorder, but doesn't adequately expose patients to models of positive social interactions. For similar reasons, another interviewee felt that patients needed more opportunities for physical exercise. Not to diminish the value of those suggestions, however, they do not demonstrate a decline in the quality of care and patient safety at NPHS, but rather challenges to behavioral/mental health providers as a whole.

Four interviewees stated that NPHS needed more funding. Another interviewee recommended a more holistic approach to treatment at NPHS with less reliance on medication, although that interviewee acknowledged the lack of resources for such an approach for providers of mental/behavioral health services in general.

B. On June 30, 2017 and July 7, 2017 the PCO Inspected the Residential Treatment Program Facilities at NPHS.

1. June 30, 2017 Inspection of the Residential Drug and Alcohol Treatment Facilities.

On June 30, 2017, the PCO inspected the residential drug and alcohol treatment facilities at NPHS, which include:

- Torre De La Raza;
- Torre De La Raza-Women Helping Other Women;
- Miracles in Progress;
- Miracles in Progress II; and
- Return Programs I and II.

The PCO inspected all public areas of the facilities and the rooms in which patients were not then present. The facilities were clean, although showing signs of wear and tear. In several patient bathrooms, some of the tile caulking was showing age and a need for replacement. In two or three areas, there appeared to be mold on the caulking. There were missing tiles in one bathroom and cracked tiles in two other bathrooms. There were three leaking sinks. There was rust on the metal framing in the ceiling in one bedroom, but no evidence of a current leak. There was paper trash in one alcove. In other words, the deficiencies the PCO noted were of the same type as those noted in NPHS's Management Committee Meeting Minutes. The PCO's experience is that NPHS cures those deficiencies in

a timely manner. In that regard, following his inspection of NPHS's residential drug and alcohol treatment facilities, the PCO advised NPHS's Director of Behavioral Services of the deficiencies and was advised that Environmental Services would be advised of the need to repair them.

There was no smell of urine, vomit, feces, spoiled food or disinfectant. Except as noted above for caulking, there was no sign of mold. There were no holes in the walls, although there was evidence of repairs to the walls. There were no spills on the floor. There were no exposed wires. All lights were working. Nurse's offices, medical records storage rooms, medication storage rooms, medication refrigerators, supply rooms, mechanical rooms and porch doors were locked. There were no unattended medication carts or cleaning supply carts. With one exception, patient refrigerators were clean and the refrigerator logs were up to date. All refrigerators were working. All toilets were working properly; none were clogged, leaking or running continuously. Group sessions were being conducted at the time of the PCO's inspection, but were not audible in the hallway. There was no evidence of patients being sedated or over-medicated.

2. **July 7, 2017, Inspection of the Residential Psychiatric Treatment Facilities.**

On July 7, 2017, the PCO inspected the facilities of the four residential psychiatric treatment programs at NPHS, which include:

- RFTA Program;
- Adult Inpatient Psychiatry;
- New Acute Psychiatry; and
- Extended Acute Psychiatry.

The PCO inspected all public areas of the facilities and the rooms in which patients were not then present. The facilities were generally clean, although showing signs of wear and tear. In several patient bathrooms, some of the tile caulking was showing age and a need for replacement. However, there was no evidence of mold on the caulking. Nor was there evidence of mold in kitchen areas or on bathroom fixtures. In the Adult Inpatient Psychiatry Unit, one bedroom needed cleaning and two lights were out. In another room, a patient had left soiled undergarments in the bathroom, but was told to remove them. Three of the six showers were being repaired and were not at that point functional. In the Extended Acute Psychiatry, one wall in a common unit showed water damage and was in need of repair. One patient refrigerator lacked a log. The PCO

found no deficiencies in the other two residential psychiatric treatment programs.

With the exception of the one patient bathroom in which the patient had left a soiled undergarment, there was no smell of urine, feces, vomit, spoiled food or even disinfectant. There were no holes in the walls, although one wall in a common room needed repair for what appeared to be water damage but there was no evidence of a current leak. There were no spills on any of the floors. There were no exposed wires. With the two exceptions noted above, lights were working. Nurse's offices, medication storage rooms, medication refrigerators, medical records storage rooms, supply rooms/closets and mechanical rooms were locked or under supervision. There were no unattended medicine carts or cleaning supply carts. All toilets were working properly; none were clogged, leaking or running continuously. Sinks also functioned properly. A music therapy session was being conducted in a common room in the Extended Acute Psychiatry program facility. The furniture in the patients' rooms was plastic for safety. There was no evidence of patients being over-sedated or over-medicated.

C. The Minutes of the Meetings of Various Committees at NPHS Conducted during May and June 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 three NPHS committees that occurred during May and June of 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.

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 meetings on May 2, 2017 and June 6, 2017, which covered the months of April and May, 2017, this Committee addressed the following issues that could impact patient care and safety:

- The need for all treatment programs to input TB test information into the Medhost system and identifying treatment programs needing more regular TB testing;

- The development of protocols to ensure the proper use of Lantus pens for the treatment of diabetes;
- Continuing efforts to push physicians to complete and sign their charts;
- The credentialing of a new psychiatrist;
- Employee health statistics for April, 2017, which reflected, among other things, one assault on a staff member and the fact that no employees tested positive for Hepatitis C;
- The retention of a Nurse Practitioner;
- Infection testing and control with respect to patients;
- Environmental deficiencies, which tend to reflect ordinary wear and tear to an older building and appear to be corrected as they are discovered;
- The need to secure urine tests (which appears to have been done);
- The need to encourage staff to update their CPR training; and
- Upcoming in-house education and Mandatory sessions.

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

This Committee focused on the following issues related to patient care and safety at meeting held on May 17, 2017 and June 21, 2017, which covered the months of April and May, 2017:

- The efforts being made to retain a physician and two psychiatrists and to ensure coverage of the patients of those two psychiatrists, including providing incentives to current staff psychiatrists to ensure patient coverage;⁴
- The potential for Hahnemann Hospital to admit patients to NPHS;
- Retention of additional Addiction Recovery Assistants to assist in patient transportation;
- The patient census;
- Addition of thirteen new employees during April, 2017; and

⁴ As of June 30, 2017 that search continued.

- NPHS's compliance with regulations concerning controlled substances.

3. **The Department of Behavioral Health/Operations Committee**

This Committee focused on the following issues related to patient care and safety at meetings held on May 10, 2017, which covered the month of April, 2017 (there was no meeting in June, 2017):

- The failure of physicians to sign treatment plans and complete charts;
- The need for Mental Health Workers, Addiction Recovery Assistants and Community Recovery Specialists to be more thorough in their notes in patients' charts;
- The need for staff to comply with an existing CBH correction plan;
- The patient census (which is up, except in the Miracles in Progress and Intensive Out-patient programs); and
- Filling vacant positions.

D. **Based upon His Investigation in the Third Reporting Period, 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 (i) Staff Interviews, (ii) Inspection of NPHS's resident treatment facilities, (iii) Discussions with the Director of Behavioral Health and the Admissions Coordinator; and (iv) the 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**

The patient census at NPHS fluctuates. However, the overall inpatient/residential program census has continued to remain stable. As of June 30, 2017, there were 185 patients in residential, detoxification and psychiatric programs at NPHS as opposed to 198 as of April 30, 2017. However, admissions and discharges are up from April 30, 2017, and average occupancy rates remain stable. Moreover, census usually drops during warmer months. In any event, NPHS's patient census is not in a death spiral.

2. **Services Provided**

NPHS did not eliminate any of its programs during the Third Reporting Period.

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

There were three clinical staff resignations and one retirement during May and June, 2017—one psychiatrist, a behavioral specialist, a counselor and an intake worker. Two of those positions have been filled. NPHS has continued to meet Pennsylvania staffing requirements, albeit not without some difficulty. In fact, clinical staff vacancies at NPHS dropped from eleven in April, 2017 to seven in June, with seven new clinical hires made in June. During May and June, employees not seem to be taking paid time off at an increased rate. Moreover, in his visits to NPHS's clinical facilities on June 30, 2017 and July 7, 2017, the PCO was able to confirm that the programs were fully staffed on that date. Maintaining full staffing has sometimes required that staff members work a second shift or be called in to cover a shift.

4. **Staff Qualifications and Training**

During the Third Reporting Period, clinical staff member licenses remained current. All clinical staff members had completed the required orientation process and staff members. NPHS also provides in-service training and education to both management and staff. Clinical staff members are required to meet certain requirements by participating in Mandatory Day in-house education.

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

The PCO's investigation during the Third Reporting Period reflected no decline in employee vetting, hiring, training and supervision at NPSH.

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

The PCO's investigation during the Second Reporting Period does not reflect a decline in compliance with the NPSH's policies requiring physical exams for new hires current TB tests for all clinical staff and current flu vaccines of all clinical staff not eligible for a religious or medical exemption.

7. **Employee Conduct and Discipline**

During May and June, 2017 there was a decline in the incidence of employee discipline from April, 2017. Tardiness, absenteeism, and inefficiency remain the major causes of disciplinary action, accounting for thirteen of the nineteen disciplinary actions taken during May and June, 2017. The only two safety-related actions resulted from the failure to use wet floor signs. One employee received a warning for unauthorized use of NPHS's internet connection. Eight of the nineteen disciplinary actions involved clinical employees. Two of those disciplinary actions arose from the staff member's inefficiency, another two involved absenteeism and

one involved negligence. Three disciplinary actions resulted conduct unbecoming of an NPHS employee, resulting in the termination of one employee. In one case, the employee received a warning as a result of a patient complaint. In the other case, the employee made threats and, consistent with NPHS's "no tolerance" position on violent actions, was terminated, evidencing NPHS's concern for patient safety.

It bears noting that NPSH's 2017 Inpatient/Residential Significant Incident Report for May reflect that there were no allegations or suspicions of patient abuse by staff members. Similarly, the reports also indicate that there were no instances of staff negligence resulting in patient injury.

8. Infection Control/Patient Hospitalizations/Patient Deaths

There were no outbreaks of infectious diseases at NPHS during the Third Reporting Period; nor were there insect or rodent infestations. On his two visits to the NPHS facilities on June 30, 2017 and July 7, 2017.

There were twelve instances of injury requiring hospitalization at other facilities during the May of 2017, the same as in April, but a reduction from January, 2017. Five patients were hospitalized in June. None of the hospitalizations reflected negligence or failure to care by NPHS.

There were no patient deaths at NPHS during the Third Reporting Period.

9. Dietary and Nutrition Support

There has been no decline in the quality of dietary and nutrition support at NPHS during the Third Reporting Period, although one interviewee indicated that portions could be a little larger and another questioned the limitation on snacks. One interviewee felt that the food be more culturally sensitive.

10. Pharmacy Support

There has been no decline in the quality of Pharmacy support at NPHS during the Third Reporting Period.

11. Laboratory Support

There has been no decline in the quality of laboratory support at NPHS during the Third Reporting Period.

12. Altercations/Confrontations, Accidents and Other Serious Incidents

According to a Confrontational Behavior Summaries prepared by NPHS, during May of 2017 there were thirteen incidents involving physical

confrontations at NPHS. All thirteen incidents occurred in a psychiatric unit: (i) ten in the Adult Inpatient Psychiatry program; (ii) two in the Extended Acute Psychiatry program; and one in the Acute Psychiatry program. None of the physical altercations occurred in the any of the substance abuse treatment units. In one case, a patient assaulted a nurse. In another, the patient assaulted a mental health worker. In two cases, the patient (one of whom was agitated) engaged in significant property damage. In one case, the patient engaged in self-injury. In one case, an assault was alleged, but there were no witnesses or injuries. In the remaining four cases, one patient assaulted another. There were either no injuries or minor injuries involved in twelve of the thirteen incidents. In one incident, a patient had to be taken to the emergency room of a hospital. NPHS security was called in connection with one incident and police⁵ were called in connection with another incident.

NPHS's experience of physical confrontations during May and June of 2017 reflects a slight improvement over the second half of 2016 when physical confrontations averaged eleven (11) per month. However, the incidence of physical confrontations remains higher than the rate during January and February of 2017. As was the case in 2016, the altercations occurred in the psychiatric treatment programs and not in the substance abuse treatment programs, with the bulk of the altercations occurring in the Adult Inpatient Psychiatry program, which contains a particularly challenging population of patients. The information contained in the Confrontational Behavior Summary is consistent with the statements of the staff members interviewed by the PCO on June 30, 2017 and July 7, 2017. In sum, the PCO's investigation did not reveal an incidence of physical confrontations at NPHS that indicated a decline in patient safety.

13. Restraints and Seclusion

As noted above, NPHS has remained a restraints/seclusion-free facility during the Third Reporting Period. On one occasion, a patient who was acting out agreed to spend time in a quiet room

14. Elopement

There were three elopements from NPHS during the Third Reporting Period: one from the Adult Inpatient Psychiatry program and two from the Extended Acute Psychiatric program. Police were notified in all cases, and the patients were returned within twenty-four hours. NPHS's experience in this regard is consistent with its experience of elopements in 2016.

⁵ Per NPHS's 2017 Inpatient/Residential Significant Incident Report for May, 2017, this was the only time police had to be called to NPHS during May.

15. Patient and Facility Safety Issues

A review of NPHS's fire drill logs for May and June of 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 or no incidents. NPHS passed an inspection of its fire alarm and sprinkler system that commenced on May 8, 2017. The report of an inspection on June 28 and 29, 2017 of the fire alarm and sprinkler systems in Girard Medical center remains pending.

During the Third Reporting Period, there were five patient falls at NPHS, neither of which resulted in injury. NPHS's experience in during the Third Reporting Period reflects an improvement over its experience in March and April, 2017. None of the reported incidents reflected negligence or inattentiveness on the part of NPSH's staff.

16. Medication Errors

During the Third Reporting Period, a patient received the wrong medication, but refused treatment at an emergency room. The patient responded to treatment through hydration. Another patient suffered an adverse reaction to medication and was treated at an emergency room.

17. Grievances/Complaints by Patients and Families

There has been no increase in the number of grievances or complaints filed against NPHS by patients or their families during the Third Reporting Period.

18. Equipment and Supply Issues

There has been no change the availability of equipment and supplies at NPHS during the Third Reporting Period.

19. Maintenance and Environmental Issues

NPHS's policies and procedures include policies and procedures for maintaining the NPHS facility. The staff members interviewed by the PCO agreed that the NPHS facility was generally kept clean, although one interviewee expressed the opinion that Housekeeping could be more proactive. With that one exception, housekeeping generally received positive ratings in interviews. The PCO's experience during his visits to the NPHS facility on June 30, 2017 and July 7, 2017 confirmed the general cleanliness of the NPHS facility.

20. **Facility Security**

The bankruptcy filing has not negatively impacted security at the NPHS facility. All of the staff interviewed by the PCO stated they felt safe at the premises. 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.

21. **General Quality of Care**

The staff members interviewed by the PCO agreed that the general quality of the care they received at NPSH was very good.

E. **Human Resources Have Remained Reasonably Stable and will Likely Continue to Remain Stable for the Immediate Future.**

During the Third Reporting Period has remained reasonably stable. Although NPHS has had difficulty recruiting new employees since the bankruptcy filing, it has been able to replace most of its departing employees. In total, as of May 31, 2017, there were six clinical employee vacancies at NPHS, an improvement from April 30, 2017.

As of the date of this report, although the situation is fragile, 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.

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

During the Second Reporting Period the vendor testing and evaluating NPSH's fire alarm and sprinkler systems ceased doing business with NPHS. That vendor has been replaced, and inspecting and evaluating those systems on May 8, 2017.

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 visits to NPHS on June 30, 2017 and July 7, 2017. The attentiveness was noted by all of the administrators and staff members the PCO interviewed in February, March, June and July and was echoed by almost all of the patients the PCO interviewed in April. 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 Information Regarding Quality of Care and NPHS's Operations That Could Affect Resident Quality of Care, together with Monthly 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 assist the PCO in monitoring patient care and safety at NPHS, on August 4, 2017, NPHS should provide the PCO with the following:

- Minutes of any meetings that occurred during July, 2017 of the: (i) Management Committee; (ii) Department of Behavioral Medicine/Medical Executive Committee; and (iii) Department of Behavioral Medicine/Operations Committee;
- The results of any HIPAA Security Rule Risk Assessment conducted during July, 2017;
- Fire Drill Evaluations for drills conducted during July, 2017;
- Correspondence to or from any federal, state or municipal governmental entity concerning patient safety issues that is dated on a date in July, 2017;
- The patient census as of July 31, 2017;
- A schedule or summary of patient hospitalizations (including the reason for hospitalization and the diagnosis) during July, 2017;
- A schedule or summary of accidents at the NPHS facility involving patients or staff, including the cause of the accident and the nature and seriousness of any resulting injury, that occurred during July, 2017;
- A schedule or summary of any infections developed by inpatients at NPHS (other than seasonal colds) during July, 2017;

- A schedule or summary of patient deaths during July, 2017 (or a statement that there were no patient deaths);
- A schedule or summary of resignation of clinical staff (Psychiatrists, Psychologists, Counsellors, Behavioral Specialists, Social Workers, Case Managers, Nurses (NP, RN and LPN), Mental Health Workers, Addiction Recovery Assistances and Community Recovery Specialists) during May, 2017, which also indicates whether the clinical staff member has been replaced (including evidence of proper licensure, criminal background check, exclusion list check, current physical and immunizations);
- A clinical staff vacancy report as of July 31, 2017;
- A summary or report of disciplinary actions against NPHS employees during July, 2017, (including a description of the action taken, the action triggering the disciplinary action and the position held by the staff member);
- Inpatient/Residential Significant Incident Reports for July, 2017;
- A Confrontational Behavior Summary for July, 2017;
- A summary or report of reportable medication errors and adverse medication events for July, 2017;
- Elopements and attempted elopements during July, 2017;
- A summary or report of any fires or other serious emergencies at NPHS and NPHS's response to the emergency;
- Communications dated on a date occurring during July, 2017, 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;

The NPHS should provide the PCO with the same information to the extent that it relates to the month of August, 2017 on September 6, 2017.

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 Chief Technology Officer can arrange for secure transmission.

During the Month of July, the PCO will visit NPHS once. One half of the visit will consist of an inspection of outpatient treatment units. The other half of each visit will consist of a review of twelve medical files for completeness and currency.

During the Month of August, the PCO will visit NPHS to inspect the kitchen facilities and to interview ten inpatients.

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, 2016 bankruptcy filing. 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.

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 remained reasonably stable for some time and has remained so in the four months since the bankruptcy filing. However, like many debtors in bankruptcy, NPHS is facing continued employee attrition, as well as increased difficulty in recruiting new employees. The situation at NPHS is, therefore, very fragile. NPHS's finances are tight. As noted in the Initial Report the closure of St. Joseph's hospital last year significantly reduced NPHS's revenues. Medicare is not currently a revenue source. The longer the case lasts, the more fragile the situation will become. Consequently, 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 near future, however, other than having the PCO receive the information outlined above and visit NPHS on the basis set forth above, 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 July 12, 2017 by:

/s/ David N. Crapo

David N. Crapo, Esq.
Patient Care Ombudsman