

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

In re:

NORTH PHILADELPHIA HEALTH SYSTEM,¹

Debtor.

Chapter 11

Case No. 16-18931-MDC

FOURTH PATIENT CARE OMBUDSMAN REPORT

SUBMITTED SEPTEMBER 13, 2017

BY:

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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 Fourth 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]; his Second Patient Care Ombudsman Report (“Second Report”) on May 12, 2017. [ECF Docket No. 376]; and his Third Patient Care Ombudsman Report on July 12, 2017 [ECF Docket No. 443].

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).

NPBS 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 Third Report, NPBS’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 NPBS and the level of safety and quality of care provided to its patients during the period from July 13, 2017 through September 11, 2017 (the “Fourth Reporting Period”) included the following:

- On-site visits on the following dates:
 - July 31, 2017 (primarily for: (i) reviews of the charts of thirteen patients; and (ii) inspections of the four non-residential out-patient treatment programs, but also included conferences with NPBS’s Vice President for Behavioral Health Services and Admissions Coordinator); and
 - September 7, 2017 (primarily for: (i) interviews of (a) the Chairman of NPBS’s Behavioral Medicine/Medical Executive Committee, (b) NPBS’s director of Pharmacy Services, and (c) four nurses from the residential care programs; and (ii) inspections of (a) the patient and medication refrigerators, and (b) the storage, supply and utility rooms, 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 committees occurring during the Fourth Reporting Period of the:
 - Management Committee;
 - Department of Behavioral Medicine/Medical Executive Committee; and
 - Behavioral Operations Committee.
- A review of factual information relevant to patient care and safety contained in:
 - The Daily Census Reports as of July 31, 2017 and August 31, 2017 for the residential and inpatient programs at NPHS;
 - NPHS's Inpatient/Residential Significant Incident Reports for July and August, 2017;
 - NPHS's Outpatient Psychiatry Significant Incident Reports for July and August, 2017;
 - NPHS's Confrontational Behavior Summaries for July and August, 2017;
 - NPSH's Staff Vacancy Reports for July 31, 2017 and August 31, 2017;
 - NPHS's Reports of staff resignations during July and August, 2017;
 - NPHS's New Hires reports for July and August, 2017;
 - Employee Health Department Monthly Assessments for July and August, 2017;
 - Falls Analyses prepared by NPSH for July, 2017 and August, 2017;
 - Reports on employee disciplinary actions reports for July and August, 2017;
 - Fire Drill Evaluations for July and August, 2017;
 - Elopement reports for July and August, 2017; and

- Medication error reports for July and August, 2017.

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 Monthly Reports and Other Materials Regarding Quality of Care and NPHS's Operations That Could Affect Resident Quality of Care Will Provide a Reasonable Basis to Monitor Whether the Quality of Care (including Patient Safety) Provided by 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. **The Minutes of the Meetings of the Management, Behavioral Health and Behavioral Medicine/Medical Executive Committees at NPHS Conducted during July and August 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 the three NPHS committees identified above that occurred during July and August 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 July 5, 2017 and August 1, 2017, which covered the months of June and July, 2017, respectively, this Committee addressed the following issues that could impact patient care and safety:

- The minutes of the July 5, 2017 meeting reflect NPHS's continuing efforts to push physicians to complete and sign their charts, which seem to have been reasonably successful by the time the PCO reviewed a sample of patient's charts on July 31, 2017.
- During June, 2017, NPSH's Director of Pharmacy Services in-serviced nurses concerning the use of Lantus® insulin pens and was advised that the nurses felt more comfortable using them. Nevertheless, based on the recommendations of nurse supervisors, it was subsequently decided that nurses would use Lantus® vials for dispensing insulin. During rounds conducted in June, the Director of Pharmacy Services found and removed from a medication refrigerator in one treatment unit an expired insulin bottle, four open and undated insulin bottles or pens and a bottle of water. A second bottle of water was found in a medication refrigerator in another treatment unit. An undated open bottle of insulin and an undated open TB test were found in another medication refrigerator. As noted below, the PCO found no expired or opened and undated medications in medication refrigerators on his September 7, 2017 inspection of those refrigerators.
- During rounds conducted in June, the utility room in one treatment facility in which urine drug screens are stored was found unlocked. Although a serious event, leaving utility rooms in clinical treatment units appears to be uncommon at NPHS. The PCO did not uncover any storage and utility rooms and supply closets that were unlocked and unattended on his September 7, 2017. In fact, one clinical employee complained that urine samples were stored in the staff break room which is locked when not in use by staff.
- Further attention to the timely reading and proper recording of TB tests of patients was required. The tests are being conducted but not documented or documented in the incorrect section of the applicable record. Some tests are not being read or are being read late. Further complicating the documentation process is for TB tests is the tendency of many on the clinical staff to use paper records rather than the electronic Medhost record for documentation. Based on the PCO's review of patient records, the TB test documentation issue does not seem to be a common problem at NPHS and is being caught in a

relatively timely manner. Indeed, the minutes of the August 1, meeting of the Management Committee reflects the diligence of the Director of Pharmacy in monitoring the TB tests. Because the TB tests have a shelf-life of only twenty-eight days, they are often discarded after only one or two uses. The Director of Pharmacy has, therefore, paired treatment units so that two units will use the same vial of TB test solution.

- Environmental rounds conducted during June and July revealed the same types of problems found during earlier rounds—broken ceiling tiles, non-functioning lights, leaks, dripping faucets/leaking faucets—that are not universal but reflect the age of and wear and tear on the NPHS facilities and, of most importance, are, in the PCO’s experience, timely remediated. The environmental rounds conducted during June and July do not reflect an increase in those problems. In addition to the foregoing problems, the rounds revealed that one storage room needed to be cleaned out and there were boxes on the floors of two storage areas, which is on par with environmental rounds conducted during the first five months of the year. Similarly, there were also incidences of clothing or towels being left on floors or in other inappropriate places, but not with a frequency that indicates a problem. During July, food cart was left in a utility room. Of concern to the PCO is that the environmental rounds in June picked up several incidences of incomplete refrigeration logs and one missing refrigeration log. Those occurrences marked an increase in the frequency of such incidences from earlier in the year.
- The minutes of the August 1, 2017 meeting reflect NPHS’s continued focus on recruiting and hiring necessary clinical personnel, in this case two Nurse Practitioners.
- During June, 2017, NPHS continued its practice of testing patients (especially upon admission) for infectious diseases and treating patients suffering, with the result that there were no infectious disease outbreaks at NPHS during July or August.

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 July 19, 2017 and August 16, 2017, which covered the months of June and July, 2017, respectively:

- At the July 19, 2017 meeting of the Committee, the Chairman noted that there were a high number of verbal orders still requiring a physician sign-off and recommended a “warning” system to notify physicians of the need to sign the orders. As noted below, however, that situation resulted as much from an error in entering the orders into

the Medhost system—since corrected—as it did from physicians actually failing to sign verbal orders. In any event, the PCO’s review of medical records on July 31, 2017 did not reveal evidence of unsigned verbal orders.

- Also addressed at the July 19, 2017 meeting of the Committee was a concern about the number of calls to the physician on call from the nursing staff in residential treatment units at night regarding patients’ medical issues. The matter was resolved by having nurses contact their nursing supervisor in the event of a medical issue with the nursing supervisor tasked with determining whether the matter was serious enough to require contacting the physician on call.
- Addressed at the August 16, 2017 were staffing issues, particularly the open counsellor and nursing positions. Nurse Supervisors are now working on the floors to alleviate the problem. As noted below, there was also some success in filling nursing positions in August.
- Also addressed at the August 16, 2017 meeting were options to ensure adequate supplies of antipsychotic medicines in light of the limited availability of one medication.

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

Due to illness of a member, this Committee did not meet during August. This Committee focused on the following issues related to patient care and safety at its meeting held on July 12, 2017, which covered the months of May and June, 2017 (there was no meeting in June, 2017):

- the upcoming annual Drug & Alcohol Inspection by the Pennsylvania Department of Health in September;
- current patient census, maintaining appropriate staff-to-patient ratios, and efforts to maintain positive staff morale at The Goldman Clinic; and
- current and anticipated staff vacancies and the efforts being made to fill those positions.

B. **On July 31, 2017, the PCO Reviewed the Medical Files of Thirteen of NPHS’s Patients for Completeness and Currency and Found That Those Files Were Substantially Complete and Current.**

The PCO’s review of a sample of inpatient medical files demonstrated substantial compliance with applicable regulations and NPHS’s policies and procedures. Each file contains the following:

- An intake assessment completed within seven days of admission that includes assessments by an attending physician, psychiatrist (if applicable), social worker (if one has been assigned to the treatment unit) counsellor and nurse that address the patient's: (i) medical history; (ii) psychiatric and mental health history; (iii) psychosocial history; and (iv) addictive disease history;
- Where required, an intake physical examination, as well as an intake psychiatric evaluation (together with the psychiatrist's signed note);
- Admission orders;
- Initial and updated treatment plans signed by the patient addressing: (i) the frequency of treatment; (ii) the type of treatment; (iii) the proposed services for the patient; (iv) evidence of patient involvement in the formulation of the plan;
- A consent to treatment signed by the patient;
- A copy of the Patient's Rights and Responsibilities signed by the patient, that advises the patient of his or her right to review, inspect and correct his or her records, as well as various appeal rights;
- Authorizations for the use and disclosure of patient medical information that have been signed by the patient and comply with applicable federal and state law;
- For patients admitted involuntarily, initial and updated elopement risk assessments; and
- Progress notes by psychiatrists, psychologists, case managers (if applicable and for both group and individual sessions), nurses, counselor (for both group and individual sessions); mental health workers (if applicable); addiction recovery assistants (if applicable) and community recovery specialists (if applicable).

For the most part, the PCO found the patients' medical records to be complete. Three documents scanned into the records were not legible. In those cases, paper records were provided to the PCO. Two of the patients had been admitted so recently that there were no follow up treatment plans. One patient's electronic file was not accessible, but the PCO was able to review the paper file.

C. On September 7, 2017, the PCO interviewed (a) the Chairman of NPHS's Behavioral Medicine/Medical Executive Committee, (b) NPHS's director of Pharmacy Services, and (c) four nurses from the residential care programs at NPHS.

On September 7, 2017, the PCO interviewed (a) the Chairman of NPHS's Behavioral Medicine/Medical Executive Committee, (b) the director of NPHS's Pharmacy Services, and (c) four nurses from the residential care programs at NPHS. The primary purpose of these interviews was to investigate certain problems noted in the minutes of the various NPHS Committee Meetings. To ensure a representative sample of nurses, the PCO requested—and NPHS provided—as nurse-interviewees NPHS nurses 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.

Chairman of NPHS's Behavioral Medicine/Medical Executive Committee. In response to questions concerning physician compliance with continuing professional education requirements, the Chairman of NPHS's Behavioral Medicine/Medical Executive Committee advised that there was almost 100% compliance as of the date of the interview. The Chairman also advised that what appeared to be a high number of verbal orders lacking physician sign-off were actually errors in recording those orders. The cause of those errors has been remedied. The Chairman clarified a statement made in the minutes of the July 19, 2017 meeting that the calls by nurses from residential units concerning patient's medical issues were by and large for minor issues which did not require the intervention of a physician. To address that concern, NPHS has instituted a policy whereby a nurse supervisor will review the medical issue and determine whether it is serious enough to require a physician's attendance. The Chairman made clear to the PCO that the number of calls did not result from either (i) increased patient agitation; or (ii) continued discomfort with treating patients suffering from substance abuse disorders and/or mental illness on the part of nurses who had transferred to Girard Medical Center from medical-surgical units at St. Joseph's hospital when it closed. The Chairman also advised that staffing was adequate, if not generous, in the residential units of NPHS and that there were no deficiencies in the delivery of care. The Chairman characterized the nursing staff as stable during the day and evening hours during weekdays, with a heavier reliance on flex staffing at night and on the weekends.

Director of Pharmacy Services. In response to questions concerning the use of Lantus® insulin pens, the Director of Pharmacy advised that NPHS had resumed the use of Lantus® insulin vials, with which the nurses were more comfortable. The vials were being stored properly and expired

medications are being disposed of properly (which the PCO was able to confirm on his September 7, 2017 inspection of medication refrigerators). NPHS put in place a new policy designed to ensure that the treatment units had adequate and timely supplies of Narcan. The Director of Pharmacy also advised that patient at NPHS were not kept on benzo medications too long.

Nurses. The nurses interviewed by the PCO concurred that, although the patient census at NPHS fluctuated, it had remained relatively constant in 2017. Staffing was viewed as adequate in that all shifts met Pennsylvania staffing requirements, although full staffing may have required mandated overtime. Staff is, however, taking paid time off out of fear of losing it. Morale was seen as low with staff members concerned about the uncertainty of the future. The approval of the sale of NPHS, however, has been a source of encouragement for some employees. There was general agreement that clinical employees were properly trained and were meeting their continuing professional education requirements. The interviewees saw little or no difficulty in recruiting new staff in 2017, although many new staff members are part-time or flex employees. The interviewees agreed that: (i) patients are not getting sicker while at NPSH than in the past, although one interviewee stated they were sicker upon admission to Girard Medical Center than in the past;² (ii) because NPHS acts proactively if a patient demonstrates signs of an infection, there have no infection outbreaks in 2017; (iii) there have been no rodent or insect infestation; (iv) there has been no change in the number or seriousness of falls or injuries suffered by patients; (v) given staff training in de-escalation, there has been no increase in aggressive activity by the patients, although some are anxious because of the bankruptcy; (vi) NPHS has remained a restraints- and seclusion-free facility; (vii) patients are properly vaccinated either before or upon admission to Girard Medical Center; (viii) medical records are complete and current for current patients, although sometimes the most current paperwork is not scanned into the MedHost system; (ix) medical records are maintained securely; (x) the general quality of patient care is at least good; (xi) there are sufficient supplies of adequate quality for patient care (although one interviewee stated that staff had to buy office and administrative supplies); (xii) dietary and pharmacy support was adequate; (xiii) medication errors, accident, incidents or injuries, if any, are properly reported; (xiv) NPHS clinical staff did not mistreat or abuse patients; (xv) patients were, for the most part, matched to the correct treatment program; and (xvi) NPHS was a safe place to work. All of the interviewees agreed that more staff would be helpful, but they also agreed that NPHS met state standards. One interviewee said that the nurses needed more support from their

² This factor may explain the increase in the number of hospitalizations resulting from illness and injuries discussed below.

supervisors. According to one nurse increased reliance on per diem and flex employees increased the risk of breaks in continuity of patient care. However, even this interviewee agreed that the quality of patient care had not suffered. Three of the interviewees were unaware of any medication errors at NPHS during 2017, and one was aware of an error in the Acudose system that was corrected before a patient was harmed. The only potential patient safety issues were the periodic breakdown of elevators and, in one case, what appears to be a malfunctioning HVAC unit. The elevators were working on September 7, 2017, indicating NPHS's timely responses to the breakdowns. Additionally the troublesome HVAC unit did not appear to be malfunctioning that day, also indicating NPHS's timely responses to the problems inherent in older buildings.

D. On July 31, 2017 and September 7, 2017 the PCO Inspected Specific Parts of the NPHS facility.

1. July 31, 2017, Inspection of the Residential Psychiatric Treatment Facilities.

On July 7, 2017, the PCO inspected the facilities of the non-residential outpatient treatment programs at NPHS, which include:

- the Goldman Clinic (outpatient substance abuse treatment program, includes a Methadone-maintenance component)
- CAP-Outpatient (outpatient substance abuse treatment program that does not include a Methadone-maintenance component, although some patients are prescribed Vivitrol);
- CAP-IOP (Outpatient substance abuse treatment program with a Methadone maintenance component); and
- Out-patient Psychiatry.

The PCO inspected all public areas of the facilities and the meeting rooms and offices in which patients were not then present. The facilities were generally clean, although showing signs of wear and tear. There was evidence of recent repairs and there were ongoing repairs being conducted during the PCO's July 31, 2017 tour of the outpatient facilities.

There were no boxes on the floors and no trash. Lights were working and had the covers. There were no clogged drains. There were no fresh leaks, although there was evidence of a few older leaks and some water damage to two or three walls. There were no bad odors. There were no holes in the walls. There were a few cracked or missing tiles in floors and ceilings. There was no missing furniture or parts to furniture. There were no spills on the floors. There were no broken windows. The doors functioned.

Storage rooms and closets, electrical and mechanical equipment rooms, supply rooms and janitorial closets were locked. Counselling (group and individual) was conducted behind closed doors. There was a visible positive rapport between staff and patients. There did not appear to be any tension between patients. Counsellor's offices were locked when the counsellor was not present. Medical records were kept in locked rooms or cabinets.

2. **September 7, 2017 Inspection of NPHS's (a) patient and medication refrigerators, and (b) storage, supply and utility rooms and closets.**

These inspections were triggered by concerns raised in the minutes of the July meetings of the Management, Behavioral Operations and Behavioral Medicine/Medical Executive Committee Meetings. For the most part, the inspection reflected that the concerns had been remedied.

The PCO inspected the medication refrigerators. All of the refrigerators were clean, had working thermometers. The refrigerator logs were complete except the log for the Labor Day holiday for one refrigerator. With one exception, all of the refrigerators were locked or kept in a locked room. As to the one exception, a nurse had left one medication refrigerator unlocked when called away, but returned to the nurse's station while the PCO was still making notes. In any event, a review of the minutes of committee meetings and the findings of a 2016 regulatory inspection of NPHS indicates that the unlocked medication refrigerator was likely an aberration. There were no expired medications in any of the refrigerators and opened medications were both dated and had the patient identified. The refrigerators contained only medications, water in a pitcher for giving medications and food supplements provided to patients needing them. There was no other food in the refrigerators.

The patient's refrigerators were generally clean. All but one refrigerator had a complete log available for review. About half of the food in the refrigerators (other than that available to all patients) was labeled to identify the patient to whom it belonged. With the exception of some frozen snacks in one refrigerator, the food was securely wrapped or in a closed container. There was no spoiled food in the refrigerators.

All supply, utility and storage rooms and closets were clean and trash-free. Supplies and equipment used in caring for patients was kept off the floor.

E. **Based upon His Investigation in the Fourth 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 relatively stable. As of August 31, 2016, there were 174 patients in the residential programs at NPHS as opposed to 184 as of July 31, 2017, and 185 as of June 30, 2017. Daily admissions were down on average in August with an average of three admissions per day as opposed to nine admissions per day as of both June 30, 2017 and July 31, 2017. Daily discharges in August averaged ten as opposed to thirteen discharges per day in July 31, 2017 and fourteen discharges per day in June 30, 2017. The average occupancy rates have remained stable, with occupation rates of 86.5% as of August 31, 2017, 87.9% as of July 31, 2017 and 87.79% as of June 30, 2017. The PCO has been advised that inpatient census at NPHS usually drops somewhat during warmer months when it is easier to live outdoors, which may explain the decline in census during August. In any event, when all census information is considered, NPHS's patient census is not in a death spiral.
2. **Services Provided.** NPHS did not eliminate any of its programs during the Fourth Reporting Period.
3. **Staff to Patient Ratios/Fully Staffed Shifts.** NPHS has continued to meet Pennsylvania staffing requirements, albeit not without some difficulty. During the Fourth Reporting Period, employees took paid time off at an increased rate, although NPHS has declined to advance paid time off to its employees as a result of the bankruptcy case. In his visits to NPHS's clinical facilities on July 31, 2017 and September 7, 2017, the PCO was able to confirm that the programs were fully staffed on those dates. Maintaining full staffing has sometimes required that staff members work a second shift or be called in to cover a shift and a resort to locum tenens staffing agencies to maintain adequate staff. In sum, although stable, staffing remains fragile at NPHS.
4. **Staff Qualifications.** During the Fourth 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. Most clinical staff members have met their mandatory continuing professional education requirements.
5. **Employee Vetting, Hiring, Training and Supervision.** The PCO's investigation during the Fourth Reporting Period reflected no decline in

the quality of employee vetting, hiring, training and supervision at NPSH, although one employee told the PCO that Community Recovery Specialists could be better trained not to get into arguments with patients.

6. **Immunization, Physical Exams and TB Testing of Clinical Staff.** The PCO's investigation during the Fourth 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 and, in fact reflects a slight improvement on the TB testing.
7. **Employee Conduct and Discipline.** During July, 2017, disciplinary action was taken against nine employees of NPHS, including seven clinical employees. During August, 2017, disciplinary action was taken against eleven employees, including two clinical employees. NPHS's experience during July and August, 2017 was consistent with NPHS's experience during May and June, 2017, when nineteen employees were disciplined. What did change, however, was that clinical employees was just shy (nine out of 20) of a majority of the employees disciplined during July and August. In fact, two of the five terminations during those two months were of clinical employees—one Addiction Recovery Assistant for harassment of co-workers and a Community Recovery Specialist for excessive absenteeism. One Behavioral Specialist received a three-day suspension for disrupting a meeting and a nurse received the same sanction for excessive lateness. The remaining five disciplined clinicians received written or verbal warnings: (i) one for untimely charting or notes; (ii) a second for missing a shift without calling; (iii) a third for failure to follow proper Acu-dose procedures; (iv) a fourth for excessive lateness; and (v) a fifth for reckless driving in the parking lot. None of the disciplinary actions against clinical employees involved the mistreatment of a patient, although failure to follow Acu-dose procedures could have harmed one or more patients. The significant increase in the number of clinical employees being disciplined during July may reflect stress as the NPHS bankruptcy case has continued, but does not appear to reflect a breakdown in employee discipline that puts patients at risk. Instead, given the substantial reduction in the number of clinical employees disciplined during August, the increase in July appears to have been an aberration.
8. **Infection Control/Patient Hospitalizations/Patient Deaths.** There were no outbreaks of infectious diseases at NPHS during the Fourth Reporting Period. NPHS has continued to test patients (particularly upon admission) infectious diseases and treatment is administered upon any positive response to a test. The testing and treatment seems to be preventing outbreaks of infectious diseases.

During the Fourth Reporting Period, there were no insect or rodent infestations at NPHS. On his two visits to the NPHS facilities on July 31,

2017 and September 7, 2017, the PCO saw no evidence of either insect or rodent infestation of the facility. One interviewee emphasized the precautions taken to prevent such infestation and the quick action taken if there is any indication of the presence of rodents or insects.

There was an increase in the number of NPHS patients suffering injuries or illnesses requiring hospitalization at a facility other than NPHS, rising from five in June to twenty-one in July, but dropping back to fifteen in August. NPHS's experience in August is consistent with its experience in April and May of 2017, when twelve patients were hospitalized for injuries or illnesses and January, 2017 when more than twelve patients were hospitalized. Hence, the experience in June may be the exception to the general rule. The PCO's review of other NPHS records and interviews of staff and patients does not indicate that the hospitalizations resulted from negligence or failure to care by NPHS staff and may corroborate the statement by one interviewee that patients are sicker upon admission to Girard Medical Center than they have been in the past.

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

9. **Dietary and Nutrition Support.** There was no decline in the quality of dietary and nutrition support at NPHS during the Fourth Reporting Period. The lack of such a decline was confirmed by all four of the nurses interviewed by the PCO on September 7, 2017.
10. **Pharmacy Support.** There has been no decline in the quality of pharmacy support at NPHS during the Fourth Reporting Period. Moreover, the new Director of Pharmacy Services had demonstrated diligence in maintaining an appropriate level of pharmacy support to NPHS, in pointing out and remedying deficiencies in the handling of medications and in proactively addressing situations in which there is a potential for a reduced supply of a medication.
11. **Laboratory Support.** There was no decline in the quality of laboratory support at NPHS during the Fourth Reporting Period.
12. **Altercations/Confrontations Involving Patients.** During July and August, 2017, there were fourteen interpersonal altercations or confrontations involving patients. During July, two clinical staff members were assaulted by patients and received injuries requiring medical treatment. Both staff members are back at work. There were six patient-on-patient assaults during July, 2017. Three resulted in no apparent injury. The other three resulted in minor injuries to the victim. The patient-assailant in one altercation was arrested. Three patient-assailants received medication. In the remaining cases, staff intervention defused the situation. During August, a patient assaulted several staff after becoming agitated during an injection of medication with no serious injuries to the

staff and the patient being subject to monitoring. The remaining five altercations and confrontations during August were between patients. Staff members were able to defuse the situations before they resulted in serious injuries. In four cases, the assailant was given medication, and in the fifth case, the assailant was redirected to the assailant's room. The eight acts of violence in July and the six in August reflect an increase over the five assaults during June, 2017. The PCO has been advised that assaults increase during the summer as the weather gets warmer.

13. **Restraints and Seclusion.** As confirmed by the four nurses the PCO interviewed on September 7, 2017, NPHS remained a restraints/seclusion-free facility during the Fourth Reporting Period.
14. **Elopement.** There were four elopements from NPHS during the Fourth Reporting Period: (i) two from the facility; (ii) one from an off-facility doctor's appointment; and (iii) one by climbing a fence during a fresh air break. Police and CBH were notified in all cases, and the patients were returned within twenty-four hours. NPHS's experience in this regard represents a minor increase in elopements as compared to its experience in 2016, but not a breakdown in staff discipline or competence.
15. **Patient and Facility Safety Issues.** A review of NPHS's fire drill logs for July and August 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 still awaits the remainder of its fire alarm system to be inspected by the vendor. The inspection is scheduled for September 11-14, 2017.

A planned switch gear cleaning resulted in a power outage in NPHS's main building. The building continued operating on a generator. The outage lasted only three hours.

As a result of a two-hour computer outage on August 17, 2017, NPHS's e-mail and phone system were down for two hours. A back-up plan has been established. On his September 7, 2017 visit, for example, the PCO was advised that the phone system had been replaced.

16. **Falls and Patient Injuries.** During the Fourth Reporting Period, there were ten patient falls at NPHS, only one of which resulted in an injury requiring medical intervention. Even that fall did not result in a significant injury. Intervention in other falls was limited to aspirin or a band-aid. In comparison to the ten patient falls during the Fourth Reporting Period, there were only five falls during the Third Reporting Period. With the possible exception of an incident in which a chair broke when the patient sat in it, however, none of the reported falls reflect negligence or inattentiveness on the part of NPHS's staff.

17. **Medication Errors.** During the Fourth Reporting Period, one agitated residential patient received the wrong medication from a nurse distracted by the agitated. The patient was not harmed. NPHS's experience in that regard does not reflect a change in its past experience of medication errors.
18. **Grievances/Complaints by Patients and Families.** There was no increase in the number of grievances or complaints filed against NPHS by patients or their families during the Fourth Reporting Period.
19. **Equipment and Supply Issues.** There has been no change the availability of equipment and supplies at NPHS during the Fourth Reporting Period.
20. **Maintenance and Environmental Issues.** The PCO's experience during his visits to the NPHS facility on July 30, 2017 and September 7, 2017 confirmed the general cleanliness of the NPHS facility, although with the facility suffering from wear and tear.
21. **Facility Security.** The bankruptcy filing has not negatively impacted security at the NPHS facility. 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. The four nurses interviewed by the PCO on September 7, 2017 advised that they felt safe working at NPHS.
22. **General Quality of Care.** The staff members interviewed by the PCO on September 7, 2017 agreed that the general quality of the care they received at NPSH was at least good.

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

Despite significant turnover, during the Fourth Reporting Period the number have clinical has remained reasonably stable. NPHS has had difficulty recruiting new employees since the bankruptcy filing, but has been able to replace most of its departing clinical employees. There were nine clinical staff resignations and one clinical staff retirement during June and July, 2017. Twenty-three clinical new clinical staff members (including five psychology interns) were hired during July and August, 2017. As of August 31, 2017, eight clinical staff positions remained open. That number does not reflect a significant increase over the number of clinical vacancies as of May 31, 2017, when there were six clinical employee vacancies at NPHS, which was an improvement from April 30, 2017.

Under the circumstances human resources have remained relatively stable at NPHS since the bankruptcy filing 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.

Nevertheless, given the turnover of clinical staff during June and July, the situation is fragile.

G. Equipment, Supply and Service Vendor Relationships.

During the Fourth Reporting Period none of NPHS major vendors for goods or services relating to patient care and safety threatened to withhold goods or services.

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.{ TC \l “4”}

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 July 31, 2017 and September, 2017. The attentiveness was noted by all of the administrators and staff members the PCO interviewed in February, March, June, July and September and was echoed by almost all of the patients the PCO has interviewed in this case. 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.

Finally, the Court has approved the sale of the NPHS facilities. The buyer is conducting pre-closing due diligence. Consequently, the buyer’s presence at NPHS will provide another set of “eyes” on the situation that may serve as an early warning system for care quality and safety issues and an incentive to NPHS’s management to maintain the quality of patient care and safety.

Finding #3: Having the PCO Receive Information Regarding Quality of Care and NPHS’s Operations That Could Affect Resident Quality of Care Will Provide the PCO with a Reasonable Basis to Monitor Whether the Quality of Care Provided by NPHS, as well as Patient Safety, Is Declining or Otherwise Materially Compromised{ TC \l “4”}

To assist the PCO in monitoring patient care and safety at NPHS, on October 6, 2017, NPHS should provide the PCO with the following:

- Minutes of any meetings that occurred during September, 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 September, 2017;
- Fire Drill Evaluations for drills conducted during September, 2017;
- Correspondence to or from any federal, state or municipal governmental entity concerning patient safety issues that is dated on a date in September, 2017;
- The patient census as of September 30, 2017;
- A schedule or summary of patient hospitalizations (including the reason for hospitalization and the diagnosis) during September, 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 September, 2017;
- A schedule or summary of any infections developed by inpatients at NPHS (other than seasonal colds) during September, 2017;
- A schedule or summary of patient deaths during September, 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 September, 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 September 30, 2017;
- A summary or report of disciplinary actions against NPHS employees during September, 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 September, 2017;
- A Confrontational Behavior Summary for September, 2017;
- A summary or report of reportable medication errors and adverse medication events for September, 2017;
- Elopements and attempted elopements during September, 2017;
- A summary or report of any fires or other serious emergencies at NPHS and NPHS's response to the emergency during September, 2017;
- Communications dated on a date occurring during September, 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;

Unless the court-approved sale of NPHS's assets is closed by November 1, 2017, NPHS should provide the PCO with the same information to the extent that it relates to the month of October, 2017 on November 6, 2017.

In light of the anticipated inspection of NPHS by the Pennsylvania Department of Drug and Alcohol Programs in September, 2017 and the due diligence that will be conducted prior to the expected closing of the sale of NPHS's assets by October 31, 2017, the PCO does not currently plan a visit to the facility in October.

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 remained evident to the PCO during the Fourth Reporting Period as a result of his inspections of NPHS's clinical facilities, his interviews of medical and nursing staff, his review of patient medical records and his review of performance information provided by NPHS: (i) the

continued cooperation between members of the staff, including staff members in different NPHS programs; (ii) the continued attentiveness and competence of the clinical staff; (iii) the continued absence of the use of physical or medical restraints on or seclusion of patients; (iv) the continued visible rapport between the staff and patients; (v) the continued cleanliness of the facility (notwithstanding its age and the wear and tear on the facility) and (vii) the continued 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. Additionally, as noted above, the pre-closing due diligence of the buyer will provide another set of “eyes” on the situation at NPHS’s facilities. 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. NPHS’s finances are tight. The situation at NPHS is, therefore, very fragile. 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, 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 September 13, 2017 by:

/s/ David N. Crapo
David N. Crapo, Esq.
Patient Care Ombudsman