

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

5	IN RE:	§	CASE NUMBER:
6		§	
7	HUMBERTO VELA, JR.	§	17-50111-L-11
8		§	
9		§	
10	DEBTOR	§	CHAPTER 11

**Second Patient Care Ombudsman Visit to
San Agustin Home Health Services in Laredo, Texas**

Background

Humberto Vela, Jr. (the “Debtor”) filed for relief under Chapter 11 of the Bankruptcy Code in early July 2017. Dr. Thomas A. Mackey was appointed as the Patient Care Ombudsman (PCO) with the intent of evaluating and reporting to the Court on the quality and safety of patient care. Dr. Mackey is a Registered Nurse and Nurse Practitioner with 43 years of clinical, teaching, business and administrative experience. Dr. Mackey has provided PCO services since 2012. The PCO was directed to submit bi-monthly reports on his evaluation pursuant to §333(b) regarding the patient care, safety, and quality provided post bankruptcy petition by the Debtor through the San Agustin Home Health Services (Facility). Dr. Mackey served as the PCO in the Debtor’s prior Chapter 11 case. The prior visit was on July 10, 2017.

Professional literature research indicates quality and safety of care from home health care agencies are linked to medication error avoidance, fall prevention, hospital re-admission reduction, nurses work environment (shared decision making regarding patient care

33 processes), outcomes based quality improvement programs, and high patient satisfaction
34 scores. The PCO visit concentrated on assessing how well the Debtor's organizational
35 structure and functioning addresses the above indicators.

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37 **Executive Summary**
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39 For the sake of the Court, the following summarizes the PCO visit on September 13,
40 2017.
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43 1. Patient care at the Facility continues to be delivered in a manner equal to what
44 was delivered prior to filing Chapter 11. There has been no apparent decrease in
45 quality, safety or types of services from what existed prior to the filing.
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47 2. The staff is still operationalizing patient safety and quality of care programs
48 suggested by the PCO and put in place during the previous visits.
49
50 3. The Debtor's license from the Texas Department of Aging and Disability Services
51 (DADS) is current and will not expire until May 31, 2019. The Facility's most
52 recent DADS compliance summary score dated April 19, 2017 was 97.56%.
53
54 4. The Debtor is able to document how recommendations of the
55 Joint Commission Official Accreditation Report from a June 13, 2017 visit
56 pertaining to multiple nursing documentation errors/omissions are being
57 addressed at the Facility.
58
59 5. Patient census has decreased since the last visit. The Skilled
60 Services area had a census of 82 and the current census is 73. The Provider
61 Services area had a census of 98 and the current census is 83.
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Facility Overview

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78 There have been no changes in the Facility since the previous visit. The Facility is a
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80 home health care agency in a one-story office building located at 1001
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82 Corpus Christi Street, Laredo, Texas. Mr. Humberto Vela, RN (Debtor) is the founder
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84 and sole owner since 2006. The Facility, while operating under one license from the State
85
86 of Texas, is actually divided into two sections: Skilled Services and Provider Services.
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89 The Skilled Services area cares for approximately 73 patients (down from 82 at the last
90
91 visit) with some six office personnel, five (5) part-time field registered nurses (RN) and
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93 eight (8) part-time licensed vocational nurses (LVN). Services provided to patients
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95 include those for which the Facility is licensed: licensed and certified home health
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97 services, licensed home health services and personal assistance. Specifically, services
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99 provided to patients include typical home health care nursing: medication management,
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101 follow up post-hospitalizations care, patient education, etc.
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104 The Provider Services area cares for approximately 83 patients (down from 98 patients at
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106 the last visit) with 94 personal assistants (down from 101 at the last visit) and three office
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108 staff. The personal assistants range from part to full time workers. The employees are not
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110 licensed, nor are they required to be, and provide personal assistance services such as
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112 bathing, assisting with medications, laundry, shaving, grooming, etc.
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115 **Acknowledgement of Debtor Cooperation**

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117 The PCO consistently experienced cooperation and candor at all levels of the Debtor's
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119 organization, both in the Skilled Services and Provider Services areas. Staff are
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121 knowledgeable about the Chapter 11 proceeding and provided the PCO with sincere

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123 responses to questions asked.

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Goals and Description of PCO's Visit

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128 The PCO visited the Facility on Tuesday, September 13, 2017 for the second time during

129 the current Chapter 11 process. The goals of the visit were:

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131 1. To determine and document any changes in the safety and quality of care being

132 provided to patients by the Facility since the previous visit.

133 2. To assess progress on the recommendations mentioned in Executive

134 Summaries from previous visits.

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136 To achieve the above goals the PCO met with the Debtor, Performance Improvement

137 Coordinator/Scheduler/Billing Clerk, Quality Assurance Coordinator and Assistant Case

138 Manager Coordinator over a three-hour period of time.

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140 During the on-site visit the PCO examined the following: up-to-date organizational chart

141 for the Facility, in-service training log, infection control log, incident report log, patient

142 charts, CAHPS Q2 2017 report and quality improvement plans. The DADS and Joint

143 Commission reports and a CMS report. The PCO was told there are no changes in the

144 Policy and Procedure or Safety Manuals.

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Operations and Personnel

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148 The number of personnel in the Skills Services area is still 23. No employees have

149 terminated or been released since the last visit. However, prior to filing for Chapter 11 in

150 July the Debtor terminated three office employees (coder, performance improvement
151 coordinator and medical records clerk) due to financial reasons. Since then, other office
152 personnel have absorbed the work performed by the terminated employees. The PCO
153 believes the reduction in staff does not interfere with patient quality and safety of care.

154

155 Nurses making home visits are hired on a part-time basis and have a caseload of 8-10
156 patients per day. The Texas Board of Nursing (BON) has no authority over workplace or
157 employment issues, such as staffing ratios. However, “home health is a growing sector in
158 U.S. health care. Staffing models fall somewhere between acute care hospitals and long-
159 term care in terms of the proportions of unlicensed personnel and practical nurses.

160 Allocation of nursing time to patients presumably influences quality and thoroughness of
161 nursing acts and assessments. There may be skill-mix issues as well. However, to date
162 there have been no studies of home health agency staffing models, nurse workloads, or
163 skill mix. OASIS (Outcomes Assessment and Information Set) data gathered by home
164 health providers by mandate from the Medicare program, skillfully analyzed and
165 interpreted, will offer opportunities to examine safety in home care in relation to staffing
166 decisions. Similar statements can be made about nurse staffing in most other ambulatory
167 and community settings as well.” From: **Patient Safety and Quality: An Evidence-
168 Based Handbook for Nurses. Chapter 25 Nurse Staffing and Patient Care Quality
169 and Safety.** Sean P. Clarke; Nancy E. Donaldson.

170 <http://www.ncbi.nlm.nih.gov/books/NBK2676/> accessed 7/10/17

171

172 “Home health executives and supervisors have described pressure to increase nurse
173 workload due to budget constraints. Nurses are reporting “...we will go to our
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176 supervisors and say I'm at my max...I can't take anymore (cases) and to me that should
177
178 be addressed by the head, and I don't think it is." These qualitative findings underscore
179
180 a recent national study of over 1000 home health agencies that found nurse caseloads ≥ 27
181
182 were associated with lower patient satisfaction scores, and **productivity expectations ≥ 8**
183
184 **visits/d were associated with lower quality of care.**"

185
186 From: **Home Health Agency Work Environments and Hospitalizations**

187
188 [Olga Jarrín](#), PhD, RN,^{✉*} [Linda Flynn](#), PhD, RN,[†] [Eileen T. Lake](#), PhD, RN,^{*‡} and [Linda](#)
189 [H. Aiken](#), PhD, RN^{*‡} <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4174033/>

190
191 [accessed 7/10/17](#)
192

193 The number of personnel in the Provider Services area fluctuates with the number of
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195 patients enrolled. Currently there are 83 patients enrolled (down from 98 at the last visit)
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197 and 94 employees (down from 101) who work on a part and full time basis. High
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199 turnover of personnel is common in the industry. Since the last PCO visit the Assistant
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201 Supervisor self-terminated employment. Given the decrease in number of patients the
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203 Supervisor has been able to absorb the Assistant's job duties. The PCO believes this
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205 change does not interfere with patient safety or quality of care.
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208 The on-call system (24/7) remains the same as during previous visits. There are at least
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210 three persons accountable for maintaining the on-call system. There are approximately
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212 five after hour calls per day.
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216 **Patient Care, Safety and Quality Control**

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218 The Joint Commission (JC) first accredited the Facility on June 29, 2013 for a three-year
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220 period of time. The JC recently visited for a re-accreditation and the Facility is addressing
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222 the deficiencies discovered by the site visitors. Most notably, the deficiencies were
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224 related to such matters as nursing documentation, not submitting discharge summaries to
225
226 physician offices in a timely manner, medication reconciliation between the electronic
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228 medical record and what is actually in a patient's home, unsigned nurses' notes, etc.

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230 While the JC findings are of low to moderate concern they are not out of bounds in the
231
232 home health care industry.

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234
235 The Debtor has addressed the deficiencies by increasing chart audits on nursing notes to
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237 make sure they are completed in a timely fashion (48 hours after seeing the patient).

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239 Additionally, the Debtor has addressed the issue in at least two staff meetings and is
240
241 attempting to create a culture among nurses to complete charts as soon as the patient is
242
243 visited. The PCO was told that recently two nurses had been taken off the schedule due to
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245 incomplete charting. Once charts were complete the nurses were allowed to return to
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247 making home visits.

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249
250 The Debtor's license from the Texas Department of Aging and Disability Services
251
252 (DADS) is current and will not expire until May 31, 2019. The Facility's most recent
253
254 DADS compliance summary score dated April 19, 2017 was 97.56%. Another site visit is
255
256 planned in April of next year.

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258
259 As discussed in the previous report to the Court, the Centers for Medicare and Medicare
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261 Services (CMS) Quality of Patient Care Star Rating is very low (1.5 out of 5 stars).

262
263 Additionally, the OASIS C Quality Measure Scores for outcome measures were
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265 significantly lower than the state and national averages on seven out of eight quality

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267 measures. Both the ratings and scores are from the same survey conducted from 1/1/16
268
269 through 12/31/16 and are of some concern. The results were discussed with the Debtor
270
271 and Performance Improvement Coordinator and, as indicated in the JC responses, process
272
273 improvement action will occur. For example, in-service sessions and individual provider
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275 discussions happen on a regular basis. The Debtor is attempting to create a culture of
276
277 process improvement related to bettering patient outcomes by addressing the issue in staff
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279 meetings.

280
281
282 Patient satisfaction is not a clearly defined concept, although it is identified as an
283
284 important quality outcome indicator to measure success of the services delivery system.
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286 Instrument validity aside, the Facility regularly performs patient satisfaction surveys on
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288 patients served. The PCO viewed dozens of the surveys during the previous visit and
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290 there were no outstanding concerns.

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293 **Summary and Recommendations**
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295 In general, systems and personnel are in place to continue to provide quality safe care to
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297 patients of the Facility. The PCO believes the Facility is currently providing quality safe
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299 care to patients. The Facility continues to address and made excellent progress on patient
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301 safety and quality issues previously discussed by the PCO. Currently, the PCO is satisfied
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303 with corrective actions on those issues and believes the infrastructure now in place is an
improvement from the past.

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302 Patient census continues to decrease and is undoubtedly impacting the agency finances in
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a negative fashion. To date, the Debtor has not decreased staff or Facility infrastructure

304 impacting the safety or quality of care. However, if finances continue to decline the
305 infrastructure will definitely change and effect care delivery. Consequently, the Debtor
306 and PCO discussed marketing strategies to increase patient volume and services.

307

308 The PCO has one recommendation to the Debtor concerning patient safety and the
309 upcoming flu season. The recommendation meets ‘best practices’ standards for health
310 care personnel having contact with patients.

311

312 RECOMMENDATION

313 All staff with patient contact must show proof of being immunized with the current flu
314 vaccine by a specific date (chosen by the Debtor) in October or November. Personnel
315 unable to show proof will not be allowed patient contact until proof of immunization is
316 provided.

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318 At the next visit in September the PCO will review continued progress on the above and
319 previous recommendations to determine if overall levels of patient safety and care are
320 being maintained or improved.

321

322 Respectively submitted by

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329 September 14, 2017

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