

1 UNITED STATES BANKRUPTCY COURT
2 WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION
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6 IN RE: §
7 §
8 ALPHA NURSING & THERAPY, LLC § CASE NO. 17-50668-CAG
9 § CHAPTER 11
10 §
11 DEBTOR §
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15 SECOND PATIENT CARE OMBUDSMAN VISIT TO ALPHA NURSING & THERAPY, LLC. IN
16 SAN ANTONIO, TEXAS
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18 BACKGROUND
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20 On March 24, 2017, the Alpha Nursing & Therapy, LLC (Debtor) entered a case under
21 Chapter 11 of the United States Bankruptcy Code. The Debtor is licensed as a Home and
22 Community Support Services Agency (“HCCSA”) to provide the following categories of
23 services: licensed and certified home health services, licensed home health services and
24 personal assistance services. The failure of Debtor to render the above services
25 even for one day, could potentially place an individual patient in an unsafe environment.
26 Because the population receiving home health care services is so vulnerable to any
27 interruption in care or services, the Debtor’s business operation is regulated by the
28 Texas Department of Aging and Disability Services (DADS) who survey and enforce
29 operations.
30

31 During a survey of the Debtor’s operations conducted by DADS on February 1, 2017, the

32 Debtor had a census of approximately 39 patients. Subsequently, DADS conducted a
33 survey on March 21, 2017 (three days prior to the Petition Date), during which it
34 appeared that the Debtor's patient census had declined to just two (2) patients and
35 recommendations for improvement were made. During the first visit, the Patient Care
36 Ombudsman (PCO) viewed a Notice of Accepted Plan of Correction from DADS dated
37 March 3, 2017.

38

39 Prior to the Debtor's license expiration on April 30, 2017 a renewal application was filed.
40 On June 9, 2017 the Debtor received a letter from DADS indicating the application was
41 found to be incomplete and/or incorrect. Subsequently, the Debtor refilled the
42 application with the requested information and is awaiting a copy of the new license. At
43 the time of the second PCO visit the renewal had not yet arrived. However, the Debtor is
44 still operating within State guidelines.

45

46 On April 26, 2017 Thomas A. Mackey, PhD, APRN-BC, FAAN, FAANP was appointed as
47 the PCO with the intent of evaluating and reporting to the Court on the quality and
48 safety of patient care by the Debtor. Dr. Mackey is a Registered Nurse and Nurse
49 Practitioner with 43 years of clinical, teaching, business and administrative experience.
50 Dr. Mackey has provided PCO services since 2012. The PCO was directed to submit bi-
51 monthly reports on his evaluation pursuant to §333(b) regarding the patient care,
52 safety, and quality of care provided by the Debtor. Dr. Mackey conducted the first visit
53 on April 26, 2017 and reported the following:

54

- 55 1. Staffing – only one registered nurse (RN) comprises the clinical staff. If she
56
57 becomes ill or for some reason is unable to show up for work then patients will
58
59 not receive scheduled care. The PCO was not presented with a plan for coverage
60
61 in the event the RN is unable to attend work.
62
- 63 2. Human resources – present and past employee records lack such basics as
64
65 evidence of screening for tuberculosis, flu vaccinations, and verification of
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67 nursing skills commonly used by nurses in the home health care industry.
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- 69 3. Policies and procedures (P&P) – P&Ps are all over 10 years old and have not been
70
71 updated to reflect changed standards of administration and care.
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- 73 4. Equipment – equipment (blood pressure monitors, glucometers, weight scales,
74
75 etc.) has never been calibrated.
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77
- 78 5. Supplies and medications – some supplies and medications sitting on shelves and
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80 in at least one of the nurses’ travel bags are out of date.
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82

83 After some discussion with the Debtor during the second visit the PCO wishes to clarify
84
85 four of the above points:
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- 87 1. Staffing – on the day of the first PCO visit the Debtor hired a staffing agency to
88
89 manage staffing and human resource issues. Consequently, many of the
90
91 previous issues have been eliminated.
92
- 93 2. Equipment – the Debtor informed the PCO during the second visit that blood
94
95 pressure cuffs are purchased new every three months. Thus, there seems to be
96
97 no need to calibrate blood pressure cuffs. Furthermore, weight scales and
98

99 glucometers are not used by the agency. Rather, both items are given to the
100 patients when they are new. The one machine needing calibrating, PTINR, is
101 self calibrating. Consequently, the equipment concern has been clarified and is
102 no longer of a concern.
103
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- 105
106
107 3. Policies and Procedures have been updated.
108
109 4. Tuberculosis (TB) skin testing – apparently the Debtor is in compliance with the
110 Licensing Standards for Health and Community Support Services regarding the
111 testing of employees. However, the Debtor is not in tune with best practices,
112 for the sake of quality and safety, regarding pre-employment and annual TB
113 skin testing. The PCO still recommends such testing to protect patients from
114 possible exposure to an unsuspecting employee with the disease. The PCO
115 understands the new staffing agency now performs the pre-employment TB
116 testing.
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125 Recent literature indicates quality and safety of care from home health care agencies is
126 linked to medication error avoidance, fall prevention, hospital re-admission reduction,
127 nurses work environment (shared decision making regarding patient care processes),
128 outcomes based quality improvement programs, and high patient satisfaction scores.

129 The emphasis of the second PCO visit on July 5, 2017 related to the above indicators of
130 quality and safety.

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EXECUTIVE SUMMARY FOR SECOND PCO VISIT

The Debtor is still trying to reorganize after filing Chapter 11 on March 24, 2017. The

136 PCO does not feel the quality or safety of patient care has declined since the last visit. In
137
138 fact, the Debtor has made progress on the areas of concern mentioned in the previous
139
140 report to the Court.

- 141
- 142 1. Patient census - has improved from two patients to 20.
- 143
- 144 2. Staffing and Human Resources – now purchased through a professional agency
145
146 rather than managed in-house. The PCO assumes the staffing agency is in
147
148 compliance with all State of Texas rules and regulations related to
149
150 medical/nursing/health care personnel.
- 151
- 152 3. Staffing – previously, there was no back up for the lone registered nurse (RN)
153
154 supervisor. The Debtor hired an Alternate Director of Nursing.
- 155

156
157 Regardless of any DADS’ rules and regulations the PCO recommends the following as
158
159 they are directly related to the quality and safety of patient care:

- 160
- 161 1. Obtain renewal license to operate - DADS has not yet issued a renewal
162
163 license. See above comments related to the issue.
- 164
- 165 2. Perform patient satisfaction in-house surveys on all patients served in
166
167 addition to the CMS surveys.
- 168
- 169 3. TB skin test all employees with patient care responsibilities during the pre-
170
171 employment process and on an annual basis – regardless if the employees
172
173 are directly hired or hired through the staffing agency.
- 174
- 175 4. Assure all clinical personnel (including directly hired or hired through the
176
177 staffing agency) are provided in-service training related to key indicators of
178
179 quality and safety of care for home health care agencies (medication

180 errors, fall avoidance, hospital re-admission reduction).
181
182 5. Concentrate on building organizational structure around shared decision
183 making regarding patient care processes, quality improvement programs
184 and patient satisfaction.
185
186
187

188
189 **Facility Overview**

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191 The Debtor's office is located at 7272 Wurzbach, Suite 302, San Antonio, Texas, 78240
192 and seems adequate for the volume of patients and staff. The facility is clean and
193 seemed to have adequate office equipment (computers, copiers, desks, chairs, etc.) to
194 conduct business.
195
196
197

198
199 **Acknowledgement of Debtor Cooperation**

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201 The PCO consistently experienced cooperation and candor from all staff members
202 in the office. All information requested was provided.
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204

205 **Goals and Description of PCO's Visit**

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207 The PCO visited the Facility on Wednesday, July 5, 2017 for the second time. The main
208 goals of the visit were:

- 209 1. To determine and document the safety and quality of care being
210 provided to patients by the Debtor.
211 2. To review processes and outcomes related to safety and quality of patient care.
212 3. To review progress on suggestions made during the last visit.

213
214 To achieve the above goals the PCO met with the owner, Alternate Administrator (AA),
215 Director of Nursing (DON), and one of the licensed vocational nurses (LVN) over a four

216 and a half hour (4.5) hour period of time. The PCO also examined patient
217 and employee files, the in-service training log, the infection control log, the patient
218 complaint log, reports from DADS, the quality improvement log, and the updated
219 policies and procedures.

220

221

Operations and Personnel

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223 The Debtor had a patient census of two (2) at the last visit. There are now 20 patients
224 listed: six patients were added in May and 12 in June. Most of the patients are confined
225 to an assisted living facility. A new Assistant Director of Nursing was added a few weeks
226 ago and is directly hired by the Debtor. The remaining personnel are hired through an
227 arrangement with a staffing agency. There are currently two RNs and two LVNs on staff.
228

229

230 The PCO now believes staffing is adequate to meet current census patient needs.

231

232

233 Utilizing a staffing agency eliminates many of the human resource issues the Debtor
234 formerly encountered. The PCO believes such an arrangement is to the Debtor's benefit
235 from both the administrative and financial perspective. For example, the staffing agency
236 is now responsible for many of the human resource functions the PCO formerly found
237 deficient with the Debtor. The staffing agency also verifies nursing skills of personnel are
238 up to date prior to starting work for the Debtor.
239

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241

242 The current Director of Nursing (DON) has 39 years of nursing practice experience.

243

244 Many of the years were spent as Director of Nursing at other home health care

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246 agencies. Thus, the DON has the appropriate experience to lead a re-organization of

247

255 clinical services for the Debtor.

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Patient Care, Safety and Quality Control

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260 Four patient charts were reviewed and the PCO found the care delivered and

261

262 documented was appropriate and safe. The PCO also interviewed the DON and one of

263

264 the LVN providers. Both nurses seemed knowledgeable regarding patient safety issues.

265

266

267 During the previous visit two quality measures from the Debtor's past performance

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269 were reviewed. One of the reports (OASIS C Quality Measure Scores for Year January

270

271 2016-December 2016) indicated at least six outcome measures significantly below the

272

273 state average. The PCO again discussed the findings with the AA and owner with

274

275 suggestions on how to improve the scores. The PCO did not find any medications in the

276

277 facility and all supplies and the DON's travel bag contents were up to date.

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Summary and Recommendations

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282 The PCO finds the quality and safety of care provided by the Debtor has not declined

283

284 since the last visit. In fact, the organizational structure and addition of personnel has

285

286 improved the overall quality and safety. However, as indicated in the Executive

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288 Summary section above, the PCO has several recommendations needing attention.

289

290 While some of these recommendations may or may not be required by DADS, the

291

292 medical literature directly links the indicators to the quality and safety of patient care.

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294

295 1. Obtain renewal license to operate - DADS has not yet officially issued a

296

297 renewal license. The Debtor still has authority to continue operations given

298

299 the submittal of an amended application shortly after June 9, 2017. The
300
301 PCO verified the renewal application has been submitted before the
302
303 deadline.

304
305 2. Perform patient satisfaction surveys on all patients served. Patient
306
307 satisfaction is one key indicator of quality and safety of care. The only
308
309 patient satisfaction feedback the Debtor currently receives is the yearly
310
311 Medicare survey. The last survey indicated six outcome measures and at
312
313 least three process measures significantly below the state and national
314
315 averages.

316
317 3. TB skin test all employees with patient care responsibilities during the
318
319 pre-employment process and on an annual basis – regardless if the
320
321 employees are directly hired or hired through the staffing agency. Clear
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323 indication of employee TB status should be placed in some file(s) easily
324
325 accessible in the Debtor’s office.

326
327 4. Assure all clinical personnel (including directly hired or hired through the
328
329 staffing agency) have documented in-service training related to key
330
331 indicators of quality and safety of care for home health care agencies
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333 (medication errors, fall avoidance, hospital re-admission reduction). As the
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335 Debtor’s number of employees increase the need for records/logs
336
337 documenting each employees’ training in the above areas is important.
338
339 Again, quality and safety are directly linked to the indicators. If nursing
340
341 personnel are trained in the areas mentioned there is a greater possibility
342

343 of achieving high quality and safety of patient care.
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345 5. Concentrate on building organizational structure around shared decision
346 making regarding patient care processes, quality improvement programs
347
348 and patient satisfaction – again, key indicators of quality and safety of care.
349
350

351
352 The PCO will perform a follow up visit within 60 days. During the follow up visit the PCO
353 will concentrate on progress made related to the above mentioned recommendations.
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355

356
357
358 Respectively submitted by

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