IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

In re: LITTLE RIVER HEALTHCARE HOLDINGS, LLC, *et al.* Debtors[1]	§ § § § § §	Chapter 11 Case No. 18-60526-RBK (Jointly Administered)

PATIENT CARE OMBUDSMAN'S FIRST INTERIM REPORT
MILAM COUNTY

INCLUDING: ROCKDALE HOSPITAL AND ASSOCIATED CLINICS, ROCKDALE SCHOOL DISTRICT CLINICS, CAMERON HOSPITAL AND CLINIC

Pursuant to 11 U.S.C. §333 of the Bankruptcy Code and the August 29, 2018 Order of this Court directing United States Trustee to Appoint a Patient Care Ombudsman [DE No. 166], the United States Trustee entered Notice of Appointment of Patient Care Ombudsman [DE No. 178] Susan N. Goodman on August 31, 2018. Thereafter, this Court entered its September 4, 2018 Order Approving Patient Care Ombudsman's Motion for Admission *Pro Hac Vice* [DE No. 190]. Accordingly, Susan Goodman as the Patient Care Ombudsman ("**PCO**") was directed to evaluate and report on the patient care services provided by Little River Healthcare Holdings, LLC, et al. ("**Debtors**" or "**Little River**") no less than every sixty days.

PCO is a Registered Nurse and an attorney with work experience in clinical/operational health care and health care regulatory compliance law. In compliance with the federal privacy requirements, the PCO cannot disclose any individually identifiable health information that could distinguish a patient directly or could provide a reasonable basis to do so. *See* 45 CFR §160.103. Accordingly, specific site visit and patient interview dates are not provided although PCO's

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Compass Pointe Holdings, LLC (1142), Little River Healthcare Holdings, LLC (7956), Timberlands Healthcare, LLC (1890), King's Daughters Pharmacy, LLC (7097), Rockdale Blackhawk, LLC (0791), Little River Healthcare - Physicians of King's Daughters, LLC (5264), Cantera Way Ventures, LLC (7815), and Little River Healthcare Management, LLC (6688). The Debtors' mailing address is 1700 Brazos Ave, Rockdale, TX 76567.

observations, audits, and interviews occurred between the date of appointment and the filing of this report.

Further, although PCO reviews Debtors' care processes relative to federal and state licensing and quality regulations, PCO does not assume liability for Debtors' compliance obligations under state and federal law and all proposed or implementing regulations. Moreover, while PCO may use the auditing tools and guidelines employed by certification agencies and auditors; PCO does not certify the Debtors' compliance with any regulatory standards.

Debtors' operations included more than twenty distinct locations. Because many of these locations were time-share clinical office space arrangements with limited clinic hours, PCO consolidated her site visit to include the following locations: Rockdale Hospital and campus clinics A, B, and C; Downtown Rockdale Clinic; Rockdale School Clinic (PCO visited the location that coincided with her visit day); Cameron Hospital; King's Daughters Clinic and Imaging; Temple Surgery Center, Central Texas Urology and Waco Imaging; Georgetown Orthopedics; and, Georgetown Imaging. The Rockdale and Cameron locations are collectively referred to as "**Milam County**" or "**Milam**" locations. King's Daughters Clinic, King's Daughters Imaging, and Temple Surgery Center are collectively referred to as "**Temple Locations**" or "**KDC Locations**." Central Texas Urology and Waco Imaging are collectively referred to as "**Waco Locations**." Lastly, Georgetown Orthopedics and Georgetown Imaging are collectively referred to as "**Georgetown Locations**[2]." Given the distinct geographies associated with these various locations, PCO separated reports consistent with these distinctions. Accordingly, PCO comes now and submits this *Patient Care Ombudsman's First Interim Report – Milam County* ("**First Milam Report**") detailing site visit review, observations, and analyses of Debtors' operations in the Milam County geographic area.

[2] The Georgetown geographic area also had a Spine Care and Specialty Clinic offices. However, the clinicians were not in these locations on the date of PCO's visit. PCO will attempt to coordinate her second site visit, if possible, to include visiting these locations.

EXECUTIVE SUMMARY

While PCO did not observe patient care decline or material compromise as contemplated by 11 U.S.C. §333(b), financial strain was evident, particularly given the key clinician and staff departures that were reported as correlated to the bankruptcy. The level of staff bankruptcy strain, what PCO refers to as "bankruptcy fatigue," was more consistent with that typically seen later in a bankruptcy process. The staff attributed this fatigue to the protracted financial strain and staffing contractures that preceded bankruptcy. Certainly, leadership, the interim restructuring team, and counsel fully appreciated and, to the extent possible, engaged quickly and responsively to operational and bankruptcy-related exigencies PCO identified.

SITE VISIT SUMMARY

Rockdale Hospital. Rockdale Hospital is licensed as a 25-bed critical access hospital ("**CAH**"). It is configured/staffed, however, for 17 private-room beds. On the dates of PCO's site visit, the hospital had three inpatients. Two of the three patients were in what is called "swing-bed" status. Essentially, swing-bed status is when CMS allows a CAH to provide post-hospital skilled care—an important exception given that CAHs are generally expected to have an average length-of-stay ("**LOS**") of 96 hours or less. PCO interviewed one of the swing bed patients. He/she had no complaints and was complimentary of the care and services provided to him/her.

PCO assessed hospital staffing on both day and night shifts. The inpatient unit had two licensed nurses (RN or LVN) on day shifts. A restorative aid was also noted on a non-weekend day shift. On the night shift, PCO observed one night with two licensed nurses and another night with one. Staff reported at times covering the unit on night shift with a single licensed nurse, utilizing the 5-bed emergency department ("**ED**") nursing staff as backup for medication checking/wasting as needed. Typically, the inpatient unit also staffed a unit clerk, although PCO observed a gap in unit clerk coverage for part of a night shift associated with a sick call-in until a replacement staff arrived. The solo nurse denied staffing concerns with the episodic single nurse coverage. Hospital leadership acknowledged that the inpatient unit had some open positions. In fact, the Director of Nursing for Rockdale Hospital was reported as filling in on three night-shifts during the week of

PCO's visit. Executive nursing leadership also reported instances of working in staff nursing roles when necessary. Despite these regular, yet episodic staffing challenges, site leadership denied agency vendor usage to supplement clinical staffing for at least the past two years. Fortunately, a core group of staff are cross-trained to more than one clinical area to assist with covering open shifts. Yet, staff did report increased strain because of the various RIFs coupled with tight finances affecting morale, particularly given that staff had not had any cost-of-living adjustment or raise for several years.

The ED was staffed with two licensed nurses on both day and night shifts along with a registration clerk. Clinician coverage for the ED, as noted from review of the current month's schedule, was scheduled in 24-hour shifts covered either by a physician, physician assistant ("**PA**"), or nurse practitioners ("**NP**"). Over the course of the site visit, PCO met two physicians and one NP covering the ED. All denied current or past staffing or supply concerns affecting patient safety. Staff reported some tight supply challenges early in the bankruptcy process while various account changes were worked through. Patient impact associated with these initial supply and paper product shortages were also denied. PCO reviewed the ED log and registration processes. No concerns noted.

In addition to senior leadership and clinical and registration staff, PCO engaged with plant operations/maintenance, lab, pharmacy, medical record, central supply, physical therapy, housekeeping, dietary, day surgery, infection control, diagnostic imaging, outpatient infusion, and quality staff at the hospital. Although PCO met the sterile processing and operating room ("**OR**") staff, specific processes in these departments were not reviewed, and a procedure was not observed. PCO will prioritize these outstanding tasks during a second site visit. Approximately 2/3 of the OR volume was reported as GI procedures, with the remaining procedures represented in the ENT (ear, nose, throat specialist), pain management, podiatry, general surgery, and orthopedic specialties. However, the orthopedic surgeon dedicated to the hospital recently provided notice to exit his contract, a move that was reported to PCO as mostly related to bankruptcy dynamics.

Hospital staffing has been affected by the bankruptcy, both directly and in connection with various reductions in force ("**RIFs**") happening prior to and since the bankruptcy. Most recently, the risk management nurse was cut along with a seasoned operating room team member. The risk management role was reported as being covered remotely by in-house legal staff. The experienced quality nurse, who worked closely with the risk manager, resigned, a resignation that is at least partially attributable to bankruptcy dynamics. PCO will remain engaged to understand who will provide interim coverage for this significant staff loss, particularly as it relates to merit-based incentive payment system quality metric reporting ("**MIPS**").

Another significant bankruptcy-related resignation is that of the mid-level provider who served as the sole, full-time hospitalist. This CNP hospitalist was respected by staff and clinical providers alike, bringing an extensive clinical background and resultant specialist relationships to her position. Certainly, her expertise was pivotal to patient safety with her departure highly significant. Licensure standards mandate the replacement of this role.

The nuclear medicine technician also resigned amid bankruptcy challenges reportedly associated with securing the pharmaceutical supplies necessary to perform testing. At the time of PCO's visit, the patient back-log for nuclear medicine procedures was reported in the mid-thirties, even with moving at least nine patients to other testing locations. Radiology leadership reported actively working through a contracting process with an alternative vendor who could supply the pharmaceutical agent and staffing, a solution that was finalized by the time of filing this report with testing resumed two days-per-week by early October.

At the time of PCO's visit, the maintenance staff was engaged in the required annual test to put the generator on full-load for two hours. The generator failed this test. Leadership was responsive in engaging potential third-party vendors to assist with necessary repairs. PCO will remain engaged to track the repair process and report additional information to the Court as necessary. PCO also noted third-party repair vendors on site for an HVAC issue and a grease trap/plumbing issue. Both were resolved within one day. Milam County plant operations is

covered by one experienced maintenance professional who is assisted by a relatively inexperienced technician-in-training.

Of note, the current Interim Lab Director, formerly the lab supervisor, has been working excessive hours for a protracted period in advance of the bankruptcy after his department closed its outpatient lab, underwent a significant RIF, and had several experienced lab personnel resign. While additional personnel were hired and largely trained, anticipated LOAs and audits look to continue to strain this essential area. Accordingly, PCO will remain engaged to follow the staffing dynamics and quality metrics. The Interim Director denied issues surrounding staying current on competency and proficiency testing and provided documentation submitted to the American Proficiency Institute as required in response to a proficiency score requiring follow-up. Microbiology support was reported as outsourced. Blood bank challenges were denied.

PCO randomly checked the staff licenses, protective equipment, and current physicist and preventative maintenance ("**PM**") status for the diagnostic radiology area. New PM contracts were reported as in process. All physicist calibrations checked were current. Rockdale Hospital MRI was reported as recently having cryogen added. And, as noted, a replacement nuclear medicine contract was reported as in place by the end of PCO's site visit with prioritization of study completion for clients awaiting surgical clearance.

The patient services and outpatient infusion area reported supply access challenges for more costly supplies such as those used in a Viscosupplementation injection for treating arthritic joints. By the time of PCO's visit, office product availability (i.e. copier toner) that had been problematic early in the bankruptcy was re-established.

The kitchen reduced its services and staff to focus on patient meals. The Rockdale Hospital kitchen also supports the dietary needs of Cameron Hospital, which currently includes keeping the ED nourishment refrigerator stocked. One soda refrigerator is out-of-service, and not being fixed. Another refrigerator is functioning yet being watched closely for temperature maintenance. Staff reported the ability to function, although tight, without this second refrigerator should repair prove necessary. The continued engagement of a dietician weekly was reported. A current preventative

maintenance sticker on the oven hood was noted. Staff denied issues obtaining necessary food or dishwashing supplies. Because the core kitchen staff is minimal, staff work closely to cover for each other when emergencies arise.

Supply management for the hospital and associated clinics is staffed with a buyer/supervisor and a supply technician. Cameron Hospital supply management is supported by the KDC Materials Management team member and department head. Prior to the bankruptcy filing, Debtors changed primary supply vendors. Supply challenges early in the bankruptcy process were reported—inclusive of direct patient care supplies and paper/office products. Patient impact was denied. As smaller vendors have become aware of the bankruptcy, additional hiccups have been reported as critical and alternative vendor relationships are identified and managed. As PCO engaged in the site visit, potential vendor challenges were reported to the Health Management Partners team members with immediate engagement in the resolution process noted.

PCO met with the health information management ("**HIM**" or "**medical records**") team member who also serves as the Privacy Officer. This individual manages the transcription and coding teams. Open privacy issues, chart delinquency rates, operational challenges, and incident response processes were discussed. Bankruptcy-related record issues were denied. The hospital has been on Cerner Community Works EHR since 2012. The current annual EHR risk assessment was reported as outstanding, an issue that appeared to be correlated to pre-petition payment issues. PCO will remain engaged to track the completion of the risk assessment. Older paper records were reported to be stored out-of-state with a third-party record management company.

PCO called the Healthcare Values Line to confirm its continued operation post-petition. The Values Line is essentially an 800 number that can be used to report compliance concerns anonymously. The account was operational with no concerns noted.

Rockdale Hospital Campus Clinics A, B, and C. Three separate clinics are located at the hospital campus. Clinic C, the orthopedic clinic, has a therapy gym attached to it. PCO met the physical therapist ("**PT**"). The occupational therapist ("**OT**") was on vacation. This same therapy

team provides services as needed to inpatient swing-bed patients. As mentioned, the orthopedic surgeon housed at this clinic has provided his notice, a departure that is bankruptcy related.

PCO met the primary care, family practice physician ("**FP**") at Clinic A, a clinic that also has OB/GYN specialists and a hematology oncologist seeing patients on a part-time basis. The FP recently resigned, in part due to unpaid pre-petition monies. By the time of PCO's visit; however, the FP reported renegotiations for her to remain at Clinic A.

PCO met with the primary care NP present in Clinic B on the date of PCO's site visit and the specialist nurse. No specialists were in clinic, although cardiology, general surgery, and ophthalmology specialists all have partial clinic days at this location. Other than the nuclear medicine patient backlog and supply challenges already discussed, no concerns were elicited.

Downtown Rockdale Clinic ("DRC"). The DRC is situated close to Rockdale's downtown in a residential area. The clinic has four distinct provider halls: two specialist halls, a pediatric hall, and a family practice hall. A LCSW counseling professional is also located at DRC. The clinic performs waived laboratory testing consistent with tests required for Rural Health Clinic ("**RHC**") status and phlebotomy for labs sent to the hospital for processing. Some lab supply and vendor challenges were reported yet patient impact was denied. The x-ray machine at DRC was non-functional due to issues associated with the eraser program for the CR system that allows images to get transferred from film in to digital format. Accordingly, needed diagnostic imaging was being referred to Rockdale Hospital. PCO interviewed the primary care providers and a specialty provider at the clinic. The specialty provider lost access to leased laser equipment used for patient procedures, related to the financial issues precedent to the petition filing, and reported a handful of patients who were "on hold" awaiting equipment availability for procedures.

Rockdale School Clinics. A CNP and medical assistant provide clinic services at four Rockdale-area schools—elementary, intermediate, junior high, and high school. The team is at each respective school one day per week and rotate school location on Fridays. PCO met the providers at their school location. Like other departments, the team reported tight supply availability early in the

bankruptcy process yet denied student impact. PCO reviewed processes to identify supply outdates with the team and confirmed timely scale calibration. No concerns noted.

Cameron Hospital. PCO visited Cameron Hospital on the night shift. Fortunately, an extra nurse was staffed the date of PCO's visit such that she could assist in showing PCO the Cameron facility, including the clinic area. Originally as built, Cameron Hospital had a 1-bed ED. The current 4-bed ED was built by converting the former operating and procedure rooms in to emergency rooms. On the night of PCO's visit, the ED was staffed with a PA clinician, registration clerk, a nurse, a CNA, and an ED Tech. The facility also had a radiology technician and a laboratory technician on site. PCO reviewed QC logs for these areas, noting no concerns.

When PCO arrived, the radiology technician was mowing the clinic entrance. Grassy areas surrounding the hospital and office buildings were significantly overgrown, reportedly due to a gap in landscaping services related to the bankruptcy. The remainder of the mowing was quickly completed, however, as seen in photographs provided by the hospital's director of nursing two days after PCO's site visit.

The Cameron Clinic is located within the hospital, reportedly moved pre-bankruptcy from a nearby leased building to save money. What was previously the hospital lobby and one inpatient hall (five rooms) were segregated from the previous 10-bed hospital footprint to create the primary care clinic space[3]. A nurse practitioner staffs the clinic full-time with a KDC family practice physician providing additional services two mornings per week. The NP declined needing to meet with PCO reporting through the DON that she did not have bankruptcy-related concerns.

As mentioned previously, materials management support for this hospital is provided on a part-time basis by KDC materials management/departmental leadership. Staff access the warehouse area of the hospital and sign out supplies. PCO toured the supply area, with no concerns noted. Pharmacy support is provided weekly by the same team that services Rockdale Hospital and clinics.

[3] The inpatient rooms had been updated/remodeled at some point, as noted by the presence of two negative airflow isolation rooms on the 5-bed inpatient unit. Upon original construction, the hospital must have been licensed as a larger facility with several offices noted on a hall that appeared to previously be built/utilized as additional inpatient rooms.

The Cameron Hospital staff members are close and have lived/worked in the Cameron community for years. Staff who previously functioned in inpatient roles, sought ED competency training to continue to work at the facility. While PCO typically encounters a certain amount of staff uncertainty/concern on most site visits, the level of concern experienced by the Cameron ED team was heightened by comparison.

Of note, when Debtors acquired Cameron Hospital, patient records from the previous facility were abandoned. Consistent with reported U.S. Attorney guidance, Debtors segregated and secured these non-owned records in three purchased, secured "mini mobile" type units in addition to those records that had been abandoned by the previous owners in a secured free-standing modular unit on the property. PCO made the Texas Attorney General's office aware of these non-owned records that appear to fall outside of the Estate.

SUMMARY AND NEXT STEPS

PCO will attempt to monitor various strain metrics and department concerns remotely. However, remote monitoring may be complicated in the short term by the vacancies and replacement learning curves associated with the risk and quality nurse roles. Further, ongoing hospitalist clinician coverage has yet to be defined. While PCO will make every attempt to limit any added expense in an already challenging financial circumstance, a second site visit sooner than 60-days may be necessary.

DATED: October 12, 2018.

Respectfully submitted,

MESCH CLARK ROTHSCHILD

By: *_/s/Susan N. Goodman_*, AZ Bar #019483

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CERTIFICATE OF SERVICE

I, Susan N. Goodman, hereby certify that a copy of this document has been electronically filed with the Clerk of Court using the Court's electronic case filing system and a true and correct copy of this pleading has been sent to the following parties or counsel of record who have registered to receive electronic service.

DATED: October 12, 2018.

Respectfully submitted,

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