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*Patient Care Ombudsman*

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

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In re:

**WOMEN AND BIRTH CARE, INC.,**

Debtor.

**Bankruptcy Case No. 17-27013 WTT**

(Chapter 11)

Judge William T. Thurman

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**SECOND REPORT OF PATIENT CARE OMBUDSMAN**

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COMES NOW the duly-appointed Patient Care Ombudsman in this case, Julia D. Kyte, (“Ombudsman”), and respectfully files this Second Report of Patient Care Ombudsman (“Second Ombudsman Report”) pursuant to 11 U.S.C. § 333(b)(2).

**PERTINENT PROCEDURAL BACKGROUND**

1. On September 5, 2017, the Attorney for the United States Trustee filed an Appointment of Patient Care Ombudsman, as well as an Acceptance of Appointment and Verified Statement of Julia D. Kyte, and an Application for Order Approving Appointment of Ombudsman.

On September 5, 2017, there was also a Debtor’s meeting at the birth center location

referenced above, which undersigned attended, and during which time the Attorney for the United States Trustee, United States Trustee's Financial Analyst, Debtor, and Debtor's attorney, were all present.

During that meeting, the Debtor, Ms. McInnis, explained the nature of the birth center's operations, its history and also the status of both her licensure and the facility's licensure with the State of Utah, provided a tour of the facility, responded to questions of undersigned regarding storage of confidential patient information, and provided pertinent documentation to both undersigned and the other parties present. The Debtor, with her counsel, explained that she was seeking to reorganize her business and went through the anticipated steps that would be taken to successfully accomplish that reorganization. Concerns were addressed, and a contingency plan was discussed as to the Debtor's patients in the event the birth center was not able to continue, although the Debtor reassured all parties of the intent to move forward with the business at that time.

2. On September 6, 2017, this Court signed the Order Approving Appointment of Ombudsman and it was electronically filed.

3. On September 7, 2017, there was a hearing on the Attorney for the United States Trustee's Motion for Emergency Order Restricting Operations, and on September 14, 2017, this Court signed the Order Establishing Deadlines to Obtain Insurance to Avoid Cessation of Debtor's Operations.

4. On September 20, 2017, there was a Creditor's Meeting in the above-referenced case, which undersigned attended, during which time, the Attorney for the United States Trustee, Debtor, both of Debtor's attorneys, Mr. Lofgran and Mr. Walker were present, and a couple of

secured Creditors were all present.

5. On November 6, 2017, undersigned filed the first Ombudsman Report.

6. Throughout the month of November, there were filings submitted and motions made between the Debtor and Creditors.

7. On November 30, 2017, the Debtor filed a Monthly Financial Report.

8. On December 4, 2017, undersigned and others received an e-mail from counsel for Zions First National Bank indicating that the agreed to payment had not been timely received.

9. On January 5, 2018, undersigned and the Attorney for the United States Trustee received an e-mail from counsel for Zions First National Bank indicating that the agreed to payment for the subsequent month had not been timely received.

10. On January 9, 2018, an e-mail from counsel for Zions First National Bank was received indicating that the cure payment had been received related to the last outstanding amount.

11. On January 18, 2018, undersigned e-mailed the Attorney for the United States Trustee and Financial Analyst, to get their perspective of the Debtor's present status, however the Attorney for the United States Trustee was out of office the remainder of that week.

12. On January 23, 2018, undersigned spoke with one of the Debtor's attorneys, Mr. Walker, (and established that Mr. Walker was taking the lead role in the case) over the telephone to address the current status of birth center and the Debtor. During that call, Mr. Walker confirmed that the birth center and Debtor were stable and there were no concerns about any cessation of the business. Mr. Walker did indicate that the Monthly Financial Report for December still needed to be submitted and the Plan of Reorganization would be forthcoming in

the next few months.

13. In addition, on January 23, 2018, undersigned reached out again via e-mail to the Attorney for the United States Trustee and the United States Trustee's Financial Analyst, to confirm Mr. Walker's impressions that the Debtor was successfully moving forward. The Attorney for the United States Trustee responded that there was a concern as the Monthly Financial Report for December was delinquent and further, because the Debtor's attorneys and accountants have not yet filed fee applications, there was no knowledge of what the administrative expenses were or what work has been actually completed regarding the Plan of Reorganization. As a result, this Second Ombudsman Report is being submitted without input from the Financial Analyst for the United States Trustee's Office's regarding the financial status of the Debtor.

14. On January 24, 2018, the Debtor filed a Monthly Financial Report.

**CURRENT STATUS REGARDING THE BUSINESS AND QUALITY OF CARE BEING PROVIDED TO PATIENTS OF THE DEBTOR**

At the time of this Second Ombudsman Report, and based on the statements of Debtor's attorney indicating that: 1. The rates were raised in October of 2017 to provide more income; and, 2. The patient base has also been steadily increasing, it does not appear that the quality of patient care provided to patients of the Debtor has declined significantly or is being otherwise materially compromised.

As a result, the recommendation of continued monitoring in this matter to ensure that the Debtor timely submits reports and meets its obligations with Zions First National Bank to permit the continued operation of the birth center remains in place. Also, as previously discussed, while a recommendation for a written back-up or contingency plan ("contingency plan") for transition

of care of patients is not being required at this time, in the event that the Debtor is not able to maintain compliance with the Division and/or is unable to work through some of the additional obligations mentioned above, undersigned would require the Debtor, with assistance from the Debtor's attorney, to prepare a contingency plan (in line with what was already indicated was verbally in place) immediately. This Ombudsman would require the contingency plan be provided as soon as it was foreseeable that the birth center was not going to be able to continue to operate, and/or at a minimum thirty (30) days before any anticipated closure to permit a reasonable time to transition care appropriately.

#### **CONCLUSION**

Based on the direct communications with the pertinent parties, there are at present no immediate concerns regarding the quality of care that is being provided to the patients during this reorganization period. However, given the nature of the services offered and the specific patient population, continued monitoring remains necessary under the circumstances in this case. Accordingly, this Ombudsman will continue with her responsibilities at this point and will continue to monitor the case in regards to the adequacy and quality of patient care being provided until it no longer appears necessary, after which it would be anticipated that undersigned would file a proposed Order seeking to be discharged as the Ombudsman.

DATED this 24th day of January, 2018.

**STIRBA, P.C.**

By:                     /s/ Julia D. Kyte                      
JULIA D. KYTE  
*Patient Care Ombudsman*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of January, 2018, a true copy of the foregoing **SECOND REPORT OF PATIENT CARE OMBUDSMAN** was electronically filed with the Court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system, as noted below:

Michael R. Lofgran, Esq.  
Russell S. Walker, Esq.  
Laurie A. Cayton, Esq.

Further, I certify that copies of the **SECOND REPORT OF PATIENT CARE OMBUDSMAN** were forwarded via U.S. Mail, first class, postage prepaid and properly addressed on January 24, 2018, to the following:

Women and Birth Care, Inc.  
5089 So. 900 East, Suite 201  
Salt Lake City, UT 84117

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/s/ Barbara Brink  
Legal Assistant