

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

In re: )  
 ) Case No. 15-14162-BFK  
TCR III, INC., et al. ) Chapter 11  
 ) Jointly Administered  
Debtors. )

**Report of Patient Care Ombudsman**

December 6, 2016

Arthur Peabody, Jr.  
Patient Care Ombudsman  
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## I. Introduction

On April 8, 2016, Arthur E Peabody, Jr. was appointed the Patient Care Ombudsman (PCO) in the above captioned action pending in the United State Bankruptcy Court for the Eastern District of Virginia, Alexandria Division, pursuant to Fed. R. Bankr. P. 2007.2(c) and the Order of this Court directing the United States Trustee to make such an appointment pursuant to 11 U.S.C. § 333. Pursuant to statute, the role of the PCO is to monitor the quality of patient care provided by the Debtor, to report to the court from time to time concerning the level of care and treatment being afforded to residents, to report to the Court if the PCO determines that the care is deteriorating or is being otherwise compromised, and to otherwise advocate for residents. 11 U.S.C. § 333(b).

During this reporting period, one facility was reviewed, *i.e.*, the assisted living facility operated by TCR III, Inc., located in Manassas, Virginia. These facilities are commonly referred to as “Amerisist” of the city in which each is located, *e.g.*, Amerisist of Manassas. Amerisist of Manassas was reviewed on December 2, 2016.

This report meets the requirement of the statute that the PCO file a report every sixty days. In light of the findings of the previous reviews that the four assisted living facilities are affording adequate care and other services to residents based on the limited review of resident records and interviews with staff and residents, activities during this reporting period were limited to Amerisist of Manassas. A review of Amerisist of Front Royal is scheduled for December 15, 2016 and a supplementary report will be filed shortly upon completion of this review. A hearing on the proposed sale of all four assisted living facilities that are the subject of this bankruptcy action is scheduled for December 21, 2016. In light of the hearing and the potential sale, it is appropriate to complete all reviews prior to this time. The PCO and Ms.

Pegelow will have visited all four facilities on two occasions prior to the December 21<sup>st</sup> hearing. This report was compiled by the PCO and Ms. Kaye Pegelow, Registered Nurse.

## **II. Executive Summary**

Based on our observations, limited review of resident records and interviews of staff, we concluded that at the time of our review Amerisist of Manassas had a system of care in place that was affording adequate care to residents and protecting them from undue risks to their personal safety.

## **III. Method and Standard of Review**

In reviewing these facilities in the course of this proceeding, Ms. Pegelow and I evaluated areas of care that are generally accepted to be both essential to adequate care and, where serious deficiencies exist, to be indicators of inadequate care. To assist our reviews, prior to each visit, we requested documents in each of these areas which were produced by the manager of each of the facilities on our arrival. These documents updated the information we received from our previous reviews. In addition to staffing assignments, we reviewed documents in each of the following areas: accidents and injuries, incidents reported to the Commonwealth of Virginia Department of Social Services; hospitalizations and rehospitalizations; charts of residents with decubitus ulcers (bed sores), a mental health diagnosis and those administered multiple psychotropic (mind altering) medications; charts of residents with recent deaths; and evaluations of appropriate placement and discharges of residents by facility staff. In addition to reviewing records and touring each facility, we had detailed conversations with each facility manager and staff, and other conversations with patients. We followed this method of review in our review of Amerisist of Manassas on December 2, 2016.

Our review was guided by the generally recognized principle that health care facilities for elderly and/or disabled citizens must afford a safe and secure environment, provide adequate numbers of qualified staff, and ensure the provision of medical and such other care as may be necessary to meet their individual needs. Where specific guidance was needed as to any subject area under review, we utilized the Commonwealth of Virginia's Standards for Licensed Assisted Living Facilities. The many generally accepted professional standards for the care and treatment of elderly citizens in residential facilities are reflected in these state standards. In brief, we focused our reviews on ensuring that there is an adequate service delivery system in place in each facility to afford adequate care, ensure safety, and protect resident from undue risks to their personal safety.

To facilitate our evaluations, we reviewed any available updated survey undertaken by the Commonwealth of Virginia's Department of Social Services since the date of our last visit. Amerisist of Manassas was evaluated by state surveyors recently based on a resident complaint. However, no report of this review has been received by the facility to date.

Ms. Terra Brown, Vice President for Operations for Amerisist, facilitated our reviews and ensured we obtained all information needed to complete our evaluations. We thank her for her kind, continuing assistance. All throughout our reviews of each facility, we have been extended every courtesy, granted access to records and other information on request, and were given direct answers to the many questions we asked. We note that the manager of Amerisist of Manassas responded positively to the few issues we identified and briefed her on at the conclusion of each review. We appreciate the cooperation that was extended and give our thanks.

#### **IV. Tour of Amerisist Manassas Virginia - December 2, 2016**

##### **A. Introduction – Tour of Facility and Observations**

Ms. Kaye Pegelow, R.N., and I arrived at the facility, were greeted and accompanied to the facility's conference room at approximately 9:45 a.m. on December 2, 2016. We met Ms. Iro Egharevba, Manager, and were subsequently joined by Ms. Terra Brown, Vice-President of Operations. The census at the time of our visit was 21 residents (capacity 23). All residents were classified as "assisted living." Upon entrance, we observed 9 residents in the facility's living area watching a game show on television – an event they clearly enjoyed. The facility was decorated for the holidays and a large Christmas tree was in evidence in the living area. The manager advised us that all had enjoyed a wonderful Thanksgiving and a large number of families of residents had participated in the festivities, including eating a deep fried turkey. The manager interacted with all residents and knows each by name.

We were, on request, provided an orientation tour of the facility. We toured the entire facility, including the dining room, kitchen, other common areas, and visited a number of resident bedrooms and living areas.<sup>1</sup>

We noted the current listing of scheduled activities. Upon review, the schedule met or exceeded state standards. Most residents we observed were out of bed and dressed. As many residents were attending activities, many bedrooms were empty. The facility is attractive, clean, and appears to be well maintained. The air was fresh throughout.

Throughout the day, there was evidence of activity, residents visiting with each other, and laughter coming from the hallway from both staff and residents alike. Indeed, the manager noted that some residents decline to go to bed early as they wish to continue their conversations with

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<sup>1</sup> Each of the four facilities is of similar design although some buildings are larger than others.

each other. In addition, while we were reviewing resident records, we observed many visitors coming and going and interacting with both residents and staff. These facts indicate that there is a reasonable level of satisfaction enjoyed by residents living in the facility and their families.

Finally, the manager and Vice President for Operations indicated that there have been no cut-backs in financial support, services, or otherwise in recent weeks.

**B. Staffing**

The facility has 17 current employees with two vacant positions. Recruitment efforts are ongoing. Staffing appeared adequate and was substantially unchanged from our previous visit in July 2016.

Staff affording direct care to residents are as follows:

Staff	1 <sup>st</sup> Shift 7 am to 3 pm	2 <sup>nd</sup> Shift 3 pm to 11 pm	3 <sup>rd</sup> Shift 11 pm to 7 am
Direct Care	2-3 Includes 1 Med Tech	2-3 Includes 1 Med. Tech.	2
Activity Coordinator	1 (9 am to 5 pm) M-F		
Kitchen	1 (7 am to 7 pm) <sup>2</sup>		

Sufficient numbers of qualified direct care aides are essential to adequate care of residents. While the manager indicated that she had experienced some challenges in hiring and retaining qualified staff, staffing has been maintained at an adequate level to ensure that residents are provided or assisted in the activities of daily living.<sup>3</sup> Staffing appears adequate.

Finally, we reviewed the records of in-service training that had been provided since our last visit. Staff received in-service training in emergency preparedness, “Dining with Dignity,” Dementia, and Fall Prevention and Safety Techniques.

<sup>2</sup> 3 cooks alternate working in the kitchen and dining room.

<sup>3</sup> Activities of daily living (ADLs) are routine activities that people tend to do every day without needing assistance. There are six basic ADLs: eating, bathing, dressing, toileting, walking (transferring, e.g., in and out of bed) and continence. In assisted living facilities, many of the residents need assistance with these activities.

### **C. Medical Care**

The facility relies largely on community resources for medical care. Residents are transported to medical appointments; a family practice physician in the community addresses the medical needs of most residents and visits residents at the facility at least once each month and as needed; medical specialists are available, *e.g.*, cardiologists and dermatologists. Provisions for the delivery of medical care had not changed since our last visit, appear stable, and sufficient to meet the needs of residents. There was no evidence that adequate medical professionals were not made available to residents.

### **D. Resident Safety and Care**

We reviewed the reports and other information regarding major incidents at the facility since our July 2016 visit. All incidents were properly documented and reported to the state licensing authority. The facility had the following incidents:

- 1) A resident with mental health issues refused his medication on September 21, 2016 and subsequently left the facility. He declined an offer to go to another residential care facility. He has been discharged.
- 2) A resident with mental health issues left the facility on October 24, 2016 and did not return. Resident has called the facility from time to time; in the last conversation on November 2, 2016, he indicated that he was not returning to the facility. He was last seen at the Veterans Administration Medical Center on November 1, 2016. It is reported that he arrived by cab from an unknown origin. In the past, he has independently left the facility for medical appointments and arranged for his transportation by cab. Police, physician, psychiatrist, trustee, and Department of Social Services have all been notified and consulted. The trustee has requested

the facility to maintain his room for what the trustee believes may be his eventual return. The case is being monitored. There is no evidence that appropriate professional judgment was not exercised.

3) A resident was admitted on September 30, 2016 with “a little edema” on her right knee. Pain medication was ordered on October 3, 2016; by October 10, 2016 the resident has “more edema and pain in right knee.” She was sent to Novant Health by EMT and subsequently diagnosed with leg edema. On October 16, 2016, the resident was returned to Novant Health and diagnosed with a “fracture on her right knee.” It appears that the fracture occurred prior to her admission to the facility and a private physician’s diagnosis of the injury was not sent to the facility on a timely basis. As a result, the facility’s staff was not informed of the resident’s status thereby delaying their knowledge of the fractured knee, which she had upon admission to the facility. There is no evidence that appropriate professional judgment was not exercised by facility staff in the circumstances.

#### **E. Hospitalizations**

Since our July 2016 visit, 3 residents have been hospitalized or re-hospitalized. Our review and interviews with staff indicated that the reasons for the hospitalizations were appropriate, changes in the conditions of residents were recognized, and proper oversight was afforded by facility staff. There is no evidence indicative of a lack of timely attention or inadequate care that would have contributed to a resident’s deteriorating condition or any subsequent need for re-hospitalization. Appropriate professional judgment was exercised.

#### **F. Deaths and Discharges**

Since our last visit in July 2016, two residents of the facility have died; both were in hospice care. There is no evidence that appropriate professional judgment was not exercised.



### **G. Use of Medications and Medication Administration**

In the initial tour of the facility, we observed the medication room to be tidy, well organized, and off limits to residents and anyone without authorized access. Five resident records were reviewed to evaluate physician orders, the administration of medications and the performance of treatments, and pharmacy oversight. The electronic system of documentation, which was relatively new on our last visit is now fully implemented. The staff is very comfortable with this electronic system of record keeping, which was evident by the neat and orderly records. There were no discrepancies found in the review of the Medication Administration Records (MARS), and appropriate standards of documentation were met or exceeded in every case. The computerized medication system continues to be very beneficial to medication administration process.

### **H. Decubitus Ulcers**

There were three residents at the facility at the time of our visit that had a record of pressure ulcers and two of those records were reviewed. One resident had a pressure sore on admission, which has been treated appropriately by home health care and that treatment is ongoing. The visiting home care RN treated the resident during our facility visit and documented that treatment in the chart. The other resident developed a pressure sore sitting in her wheelchair. Review of her record reveals it was appropriately identified and is being treated by home health care as well. There is no evidence in our review, observations in the facility and in our interview with the Resident Manager that professional judgment was not exercised.

**I. Review of Uniform Individualized Assessments (UIAs), Individualized Service Plans (ISPs) and Records Reflecting Implementation of Plan Requirements**

Five resident records were reviewed in-depth to determine whether the resident had a current assessment of individualized needs, called a Uniform Individual Assessment (UIA), an individualized service plan (ISP) that identified the measures the facility would undertake to meet each of those needs, and documentation that recorded implementation of the ISP in a timely manner.

The charts below record each area of assessed need in the activities of daily living as set forth in the UIA; a summary of the plan designed to meet the identified needs, and an assessment of whether the plan's requirements were being consistently implemented (Y/N). Notes at the end of each chart provide summary detail for reference. In addition, if the assessment identified a special need of the resident, that information was recorded in the chart and evaluated on the same basis. The information is taken from the charts and set forth in summary fashion. A review of selected charts indicates that services identified in resident ISPs are being consistently implemented.

Resident #1 Manassas Assessment Date October 26, 2016 Current Plan Implementation Status				
ADL	Assessment	Plan	Goal	Y/N
Bathing	Needs Mechanical and Staff Assistance	Personal Assistance; Use Wheelchair ,Grab Bars and Shower Chair	Keep Clean and Odor Free	Y
Dressing	Needs Staff Assistance	2 x Assistance	Dress Appropriately 100%	Y
Toileting	Needs Mechanical and Staff Assistance	2 x Assistance; Assist Frequently and prn; use bedpan at night	Toilet as Scheduled/ Requested	Y
Transfers	Needs Mechanical and Staff Assistance	2 x assistance; Uses Wheelchair	Meet Transfer Needs Safely	Y
Eating/Feeding	Independent			
Bowel	Incontinent 3 x Weekly or More	Assist every 2 Hours; Change Briefs, Maintain Hygiene	Keep Clean and Odor Free	Y
Bladder	Incontinent 3 x Weekly or More	Toilet Frequently; Change prn	Keep Dry and Odor Free	Y
Walking	No			
Wheeling	Yes	Can Free Wheel a Short Distance; Assist prn	Move as Freely as Desired	Y
Mobility	Yes	Can Free Wheel a Short Distance; Assist prn	Move as Freely as Desired	Y
Transportation	Provide Transportation to Appointments			Y
Meals	Staff			Y
Housekeeping	Staff			Y
Laundry	Staff			Y
Money Management	Family			Y
Psycho-Social	Appropriate	Monitor for Changes; Notify MD of any Changes	Maintain Optimal Behavior	Y
Orientation	Disoriented	Provide Frequent Reminders; Re-orient, prn	Maintain Optimal Functioning	Y
Code Status	DNR			Documented
Special Considerations:	At Risk of Falls	Use Hospital Bed in Lowest Position	Maintain Safety	Y

Mechanical Devices Specified in Plans; Implementation determined from review of Activities of Daily Living Log, November 2016, and review of notes in chart

Resident #2 Manassas Assessment August 31, 2016 Current Plan Implementation Status				
ADL	Assessment	Plan	Goal	Y/N
Independent				
Attends Prince William Vocational Services				Y
Schizoaffective Disorder, Bipolar Type		Rx		Y
Code Status	Full			Documented

Implementation – Y/N – Implementation determined from review of Activities of Daily Living Log, November 2016, and review of notes in chart.

Resident #3 Manassas Assessment July 19, 2016 Current Plan Implementation Status				
ADL	Assessment	Plan	Goal	Y/N
Independent				
Travels independently				
Schizoaffective Disorder, Bipolar Type		Rx		Y
Code Status	Full			Documented

Implementation – Y/N – Implementation determined from review of Activities of Daily Living Log, November 2016, and review of notes in chart.

Resident #4 Manassas				
Assessment Date November 17, 2016				
Current Plan				
Implementation Status				
ADL	Assessment	Plan	Goal	Y/N
Bathing	Needs Mechanical and Staff Assistance	2 x week or prn Use Guard Rails and Shower Chair	Bathe Safely	Y
Dressing	Needs Staff Assistance	Assist in Dressing	Dress Appropriately 100%	Y
Toileting	Needs Staff Assistance	Assist prn; Use any Bathroom	Use Bathroom Safely	Y
Transfers	Needs Mechanical and Staff Assistance	Wheelchair	Meet Transfer Needs; Maintain Safety	Y
Eating/Feeding	Independent			
Bowel	Incontinent	Uses Bed Side Commode; Toilet prn	Promote Continence and Independence	Y
Bladder	Incontinent; Less than 1 x Weekly	Uses Bed Side Commode; Toilet prn	Promote Continence and Independence	Y
Walking	No			
Wheeling	Needs Mechanical and Staff Assistance	Uses Wheelchair	Remain Mobile and Independent	Y
Mobility	Needs Mechanical and Staff Assistance	Uses Wheelchair	Move as Freely as Desired	Y
Transportation	Provide Transportation to Appointments			Y
Meals	Staff			Y
Housekeeping	Staff			Y
Laundry	Staff			Y
Money Management	Family			Y
Psycho-Social	Appropriate	Monitor/Maintain	Maintain Optimal Behavior	Y
Orientation	Disoriented	Needs Frequent Reminders; Advise MD of Changes	Maintain Optimal Functioning	Y
Code Status	DNR			Documented
Special Consideration	At Risk of Falls	Use Hospital Bed w/Half Rails	Monitor	Y
Mobility	Oxygen		Per MD Orders	Y
Eyesight	Legally Blind	Monitor	Maintain Safety	Y

Mechanical Devices Specified in Plans; Implementation – Y/N – Implementation determined from review of Activities of Daily Living Log, November 2016, and review of notes in chart

Resident #5 Manassas Assessment Date November 4, 2016 Current Plan Implementation Status				
ADL	Assessment	Plan	Goal	Y/N
Bathing	Needs Mechanical and Staff Assistance	2 x week or prn; Use Grab Bar, Shower Chair	Keep Clean and Odor Free	Y
Dressing	Needs Staff Assistance	Assist Daily in Room	Dress Appropriately	Y
Toileting	Needs Mechanical and Staff Assistance	Every 2 Hours	Toilet Frequently Safely	Y
Transfers	Needs Mechanical and Staff Assistance	Use Bed Rails, Wheelchair; 2 x Assistance	Meet Transfer Needs	Y
Eating/Feeding	Independent		Meet Nutritional Needs	
Bowel	Incontinent	Assist prn	Keep Clean and Odor Free	
Bladder	Incontinent	Use Bathroom Every 2 Hours	Keep Clean and Odor Free	Y
Walking	No			
Wheeling	Needs Mechanical And Staff Assistance	Uses Wheelchair	Ambulate Freely	
Mobility	Needs Mechanical and Staff Assistance	Uses Wheelchair	Move as Freely as Desired	Y
Transportation	Provide Transportation to Appointments			Y
Meals	Staff			Y
Housekeeping	Staff			Y
Laundry	Staff			Y
Money Management	Family			Y
Psycho-Social	Appropriate	Monitor	Maintain Optimal Behavior	Y
Orientation	Disoriented	Disoriented in Some Spheres	Maintain Optimal Functioning	Y
Code Status	Full Code			Documented
Special Considerations	Wound Care	Home Health		Y
Special Considerations	Physical Therapy	Mobility, Balance, and Body Mechanisms		Y
Special Considerations	At Risk of Falls	2 x Assist; Keep Rt. Leg Immobile	Implement Consistently	Y

Mechanical Devices Specified in Plans; Implementation – Y/N – Implementation determined from review of Activities of Daily Living Log, November 2016, and review of notes in chart

Respectfully submitted,

/s/ Arthur E. Peabody, Jr.  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 6<sup>th</sup> day of December, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties receiving ECF notification.

/s/ Arthur E. Peabody, Jr.