

Susan N. Goodman
Texas Bar No. 24117585
PIVOT HEALTH LAW, LLC
P.O. Box 69734
Oro Valley, Arizona 85737
sgoodman@pivotohealthaz.com
message: (520) 744-7061
Patient Care Ombudsman

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

NORTHWEST SENIOR HOUSING
CORPORATION, *et al.*,¹

Debtors.

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CHAPTER 11

CASE NO: 22-30659 (MVL)

(Jointly Administered)

PATIENT CARE OMBUDSMAN'S FIRST INTERIM REPORT
The Plaza Locations at Edgemere

Pursuant to 11 U.S.C. § 333 of the United States Bankruptcy Code (the “**Code**”) and this court’s April 26, 2022, *Order Directing the Appointment of a Patient Care Ombudsman* [Docket No. 128] (the “**Appointment Order**”), Susan N. Goodman was selected to serve as the Patient Care Ombudsman (“**PCO**”) in the above-captioned case on April 28, 2022 [Docket No. 137].

The Code requires the PCO submit reports “not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals, thereafter.” 11 U.S.C. §333(b)(2). However, PCO’s consistent practice is to try and submit an initial report within 60 days of the filing of the bankruptcy petition if possible.

PCO is a Registered Nurse and an attorney with work experience in clinical/operational health care and health care regulatory compliance. In compliance with the federal privacy

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors’ mailing address is: 8523 Thackery Street, Dallas, Texas 75225.



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requirements, the PCO cannot disclose any individually identifiable health information that could distinguish a resident/patient directly or could provide a reasonable basis to do so. *See* 45 CFR §160.103. Accordingly, specific site visit and resident interview dates are not provided although PCO's observations, audits, and interviews occurred between PCO's appointment notice and the filing of this report.

Most reporting can be accomplished absent the provision of specific resident/patient information to the court. Indeed, PCO did not observe concerns during her initial site visit that would require the sharing of resident-specific details in this initial report. If, however, such reporting is needed, PCO notes that the court anticipated this contingency in its appointment order and provided instructions for sealing the ombudsman report with limited distribution to those constituencies who would require resident/patient-specific detail.

Although PCO may review Debtor's care processes relative to federal and state licensing and quality regulations, PCO does not assume liability for Debtors' compliance obligations. Moreover, while PCO may use the auditing tools and guidelines employed by certification agencies and auditors; PCO does not certify Debtor's compliance with any regulatory standards.

PCO comes now and files this First Report detailing her initial engagement, site visit, and remote follow-up between appointment and the report filing date for Debtor Northwest Senior Housing Corp. d/b/a Edgemere ("**Debtor**" or "**Edgemere**").

ACKNOWLEDGEMENT DEBTORS' RAPID ENGAGEMENT AND TRANSPARENCY

Debtor's counsel quickly introduced PCO to the operational team responsible for care at Debtor's assisted living ("**AL**"), memory assisted living "**M-AL**"), and nursing/skilled² ("**SNF**") units. Collectively, these three units are called The Plaza at Edgemere ("**The Plaza**"). The Executive Director and The Plaza team also quickly engaged to facilitate PCO's first site visit.

² There are two different care categories for individuals receiving care at a skilled nursing facility or "SNF." The first type is called "skilled" or rehabilitative patient care. The easiest example for this care category is an individual who has had a joint replacement and needs intensive therapy support after discharge from the hospital yet before safely returning to the home environment. The other care category is "long-term" or nursing care. Individuals in this care category move from the title of patient to resident because their home is the nursing unit. Individuals reside in a SNF when 24/7 care needs exceed the assistance available in the AL or M-AL care models.

EXECUTIVE SUMMARY

PCO's site visit and follow-up have not produced any resident concerns as contemplated under 11 U.S.C. § 333(b). As such, PCO is comfortable maintaining the maximum, 60-day interval between this report and the anticipated, second report. Further, because the state/federal survey window is open for The Plaza, PCO will remain engaged with leadership regarding the ultimate timing of this anticipated visit and its' associated findings. To the extent survey findings are relatively positive and occur near the time of PCO's second anticipated visit and report deadline, PCO may be able to utilize survey data in lieu of a second site visit to reduce PCO's administrative expense burden on the Debtors' estates.

SITE VISIT

Facility layout. Edgemere consists of 304 independent living ("IL") apartments and an additional 200 units at The Plaza. The 200 Plaza units include 87 licensed SNF beds, 45 licensed M-AL beds, and 68 AL units. While the IL "side" of Edgemere and The Plaza are contiguous, The Plaza has its own entrance and visitor parking lot. At the time of PCO's initial site visit the blended occupancy across The Plaza was roughly 50%, with the lowest percent occupancy of the three areas noted in the SNF.

At the highest level, all residential areas toured were noted to be clean, pleasant smelling, with several common areas where residents could engage in activities outside of their apartments/rooms. Visitor toilet facilities were likewise, clean, and well-supplied with paper products. The carpeted areas appeared to have regular cleaning and upkeep. While masks were not required of IL/Edgemere visitors, masking continued to be required at The Plaza.

Security assistance at The Plaza check-in desk was noted. Security reported having personnel on all three shifts with security personnel covering the reception desk for the evening and overnight hours. Visitors were screened for temperature and recent COVID symptoms. While not required under state law, PCO proactively provided The Plaza staff with her proof of COVID vaccination/booster along with flu shot and annual tuberculosis testing documentation.

Negative news coverage. Unfortunately, Edgemere was the subject of several negative local news stories from late February to late April 2022, which reportedly adversely affected The Plaza's referral pipeline. Staff also reported uneasiness from one article that seemed to call into question Debtors' ability to continue to pay staff. Staff indicated that Edgemere and The Plaza leadership had done a good job openly discussing the bankruptcy filing and reducing their fears elicited by the series of articles, with concerns reducing further as payroll continued without interruption. While the Human Resources ("HR") exit interview process does not specifically query for bankruptcy-associated departure concerns, the anecdotal HR impression was that the news articles were probably at least partially attributable to some staffing departures.

Site visit. PCO toured The Plaza, interacting with direct care and ancillary staff across AL, M-AL, and SNF areas. The SNF unit is licensed for all private rooms, designed in a way that each room has a window to the outside. Staffing ratios on the SNF unit, excluding the additional nursing management hours, were 1:8 for nurses' aides and 1:13 for nurses. Further, registered nurse ("RN") level licensed nurses were staffed for all shifts. For those less familiar with SNF staffing, these ratios, along with 24/7 RN staffing, is the top level of what PCO observes in this environment. Nurses passed their own medications on the SNF unit (meaning that certified medication aides were not utilized). Staffing was provided by 100% "core" staff meaning that no staffing agency staff was being utilized to fill core staff schedule gaps. Since the COVID pandemic, visiting facilities that remain 100% staffed with core staff is rare.

The Plaza Director of Nursing ("DON") was new to her role at the time of PCO's initial site visit. The previous DON departure, along with other associated staff departures, were not attributed to the bankruptcy filing. The new DON reported being appropriately engaged in reviewing current documented staff competencies and needs, along with various care plan audits, supported by one assistant director of nursing ("ADON"). Staffing and supply concerns were denied. Continued engagement of the pharmacy vendor, the main disposable supply vendor, the mobile x-ray and lab vendor, and the therapy vendor were all confirmed. Continued medical director engagement was also reported along with additional infectious disease physician support for

antibiotic reviews. Wound care expertise and rounding was also reported as continuing. Shredding vendor consoles were visible with continued service reported. PCO's interactions with the DON will be more robust on the second site visit given that PCO did not have any urgent clinical site visit concerns that warranted getting in the way of the DON's other operational priorities as she was just entering the second week of acclimating to her new role.

The staffing ratios on the M-AL unit were also very good with one nurse, one medication aide, and three nurses' aides providing support to 26 residents. Again, this staffing was in addition to leadership staff as it related to the day shift. Staff were readily visible interacting with residents, with residents also coming to see the M-AL manager. Residents were noted to be in clean clothes without food soiling from previous meals noted. PCO walked and interacted with residents, with no concerns noted.

PCO interacted with approximately fourteen AL residents in a group setting alongside the state long-term-care ombudsman. The AL residents were understandably more engaged relative to bankruptcy-associated questions. PCO was able to observe open dialogue between the residents and AL management relative to operational items such as availability of various, specific menu items, activity participation and preferences, and anticipated laundry facility equipment updates—all items that did not appear to have bankruptcy-associated impacts.

On the date of PCO's visit, the AL unit was staffed with a licensed practical nurse ("LPN") assisted by medication and two nurses' aide staffing. No concerns were noted.

The president of the AL resident council has a legal background and has been active in monitoring various bankruptcy pleadings. He introduced himself to PCO shortly after appointment and has remained regularly engaged with PCO. PCO has also been provided an open invitation to attend monthly resident council meetings as travel scheduling permits.

The Plaza had a robust activities/lifestyles staff inclusive of five team members. This team was led by the IL Lifestyle Director. PCO incidentally directly observed activities taking place on the AL and SNF locations with posted activity calendars noted on all units.

In visiting the ancillary units (EVS, laundry, dietary, and maintenance), PCO noted that the greatest number of position vacancies were for housekeepers and dining servers. Unfortunately, these positions have been reported nationally as challenging to staff since the COVID pandemic. PCO will remain engaged with HR and departmental management as efforts to fill these vacancies continue.

Fortunately, the maintenance/plant operations team only reported one open position. The team was staffed with both painting and maintenance professionals. Further, the director of this area was HVAC certified and reported ongoing efforts to invest in staff technical competency development, with the added benefit of reducing Edgemere's dependence on third-party vendors. PCO reviewed the web-based maintenance platform dashboard, noting that the team was current on work-orders with none open beyond thirty days. PCO also observed the director interacting with a resident who was interested in energy efficient lighting strategies.

At the time of PCO's visit, the monthly fire drill had not yet been performed and smoke detector testing was scheduled. Prior to report filing, the director provided evidence of completion of both items as planned. No concerns noted.

Compliance with Fed. R. Bankr. P. 2015.1. PCO filed her notice as required under Fed. R. Bankr. P. 2015.1 on May 23, 2022, at Docket No. 288. Further, in lieu of personal service of the docketed pleading, PCO prepared a resident posting for The Plaza and confirmed its conspicuous placement in The Plaza lobby in the same area where state/federal survey data is posted for review.

PLAN FORWARD

PCO requested pre-bankruptcy quality assurance and performance improvement ("QAPI") data for review. Given the one-month delay in the retrospective collation and analysis of this data, post-petition QAPI data will not be available until the next reporting cycle. Assuming relative stability in QAPI metrics and any survey or complaint survey findings by state/federal agencies, PCO is comfortable maintaining the maximum period between reports and will look to file her second report in approximately sixty days. Should PCO travel into the Dallas Metroplex for other

reasons, she will look to engage in a brief, unscheduled visit to reduce expenses associated with ongoing site visits/monitoring.

DATED: June 3, 2022.

By: /s/ Susan N. Goodman, RN JD

Susan N. Goodman
Texas Bar No. 24117585
PIVOT HEALTH LAW, LLC
P.O. Box 69734
Oro Valley, Arizona 85737
sgoodman@pivothealthaz.com
Msg: (520) 744-7061
Patient Care Ombudsman

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.

Polsinelli PC Trinitee G. Green Jeremy R. Johnson (NYC office) 2950 N. Harwood, Ste 2100 Dallas, TX 75201 tggreen@polsinelli.com jeremy.johnson@polsinelli.com <i>Attorneys for Debtor</i>	Office of the United States Trustee Lisa Lambert 1100 Commerce Street, Room 976 Dallas, TX 75242 lisa.l.lambert@usdoj.gov <i>Attorneys for the Office of the United States Trustee's Office</i>
Forshey & Prostok, LLP Bobby Forshey Suzanne K. Rosen 777 Main Street, Suite 1550 Ft. Worth, TX 76102 bforshey@forsheyprostok.com srosen@forsheyprostok.com <i>Attorneys for Interested Party Tarrant County Senior Living Ctr. d/b/a The Stayton at Museum Way</i>	Texas Health and Human Svcs Commission Bankruptcy & Collections Division Jason Binford Abigail R. Ryan P.O. Box 12548 Austin, TX 78711 jason.binford@oag.texas.gov abigail.ryan@oag.texas.gov <i>Attorneys for interested party Texas HHS Commission</i>

Mintz Levin Daniel S. Bleck Eric Blythe Caitlin A. Hill Emily K. Musgrave One Financial Center Boston, MA 02111 dbleck@mintz.com eblythe@mintz.com cahill@mintz.com ekmusgrave@mintz.com <i>Attorneys for UMB Bank, NA (DIP Lender and Bond Trustee)</i>	Jackson Walker Michael S. Held Machir Stull Jennifer Wertz 2323 Ross Avenue, Suite 600 Dallas, Texas 75201 mheld@jw.com mstull@jw.com jwertz@jw.com <i>Local Attorneys for Intercity Investment Properties, Inc.</i>
Scheef & Stone LLP Peter Lewis 500 North Akard Street, Suite 2700 Dallas, TX 75201 peter.lewis@solidcounsel.com <i>Attorneys for Creditor Julia J. Peavy</i>	Haynes Boone James "Frasher" Murphy 2323 Victory Avenue Suite 700 Dallas, TX 75219 frasher.murphy@haynesboone.com <i>Attorneys for UMB Bank, NA</i>
Buchalter Law Firm Jeffrey K. Garfinkle 18400 Von Karman Avenue, Suite 800 Irvine, California 92612-0514 jgarfinkle@buchalter.com <i>Attorneys for Creditor McKesson Corp.</i>	Foley & Lardner LLP Thomas C Scannell Stephen A. McCartin Mark C. Moore 2021 McKinney Avenue Suite 1600 Dallas, Texas 75201 tscannell@foley.com smccartin@foley.com mmoore@foley.com <i>Proposed Attorneys for Unsecured Creditor Committee</i>
Ferguson Braswell Fraser Kubasta PC Rachel L. Smiley 2500 Dallas Parkway, Suite 600 Plano, TX 75093 rsmiley@fbfk.law <i>Attorneys for Creditor Phillimore Family Holdings, LP and Richard M. and Jean Huff</i>	Spector & Cox PLLC Howard Marc Spector 12770 Coit Road, Ste 850 Dallas, TX 75251 hspector@spectorcox.com <i>Attorneys for Creditors Allan Metz and Gloria M. Simon</i>
Linebarger Goggan Blair & Sampson LLP Laurie A. Spindler 2777 N Stemmons Fwy, Ste 1000 Dallas, TX 75207 dallas.bankruptcy@lgbs.com <i>Attorneys for Creditor Dallas County</i>	K & L Gates David Weitman 1717 Main Street, Ste 2800 Dallas, TX 75201 david.weitman@klgates.com <i>Attorneys for Creditor Estate of Pauline Carp</i>
Benton Williams PLLC Benton Williams II 100 Crescent Ct, Ste 700 Dallas, TX 75201 BW@bentonwilliamspllc.com <i>Attorneys for Creditors Andrew Adams, Pamela Singlia</i>	Brown Fox PLLC Eric Charles Wood 6303 Cowboys Way, Ste 450 Frisco, TX 75034 eric@brownfoxlaw.com <i>Attorneys for Creditor TechScape, Inc.</i>
Polsinelli PC Brenna A. Dolphin Marc B. Joachim 1401 Eye Street NW, Ste 800 Washington, DC 20005 bdolphin@polsinelli.com mjoachim@polsinelli.com <i>Attorneys for J/A Party Senior Quality Lifestyles Corp.</i>	Kurtzman Carson Consultants LLC Drake Foster 222 N. Pacific Coast Highway, Ste. 300 El Segundo, CA 90245 dfoster@kccllc.com <i>Noticing Agent</i>

Levenfeld & Pearlstein, LLC Harold Israel Eileen M. Sethna Elizabeth B. Vandesteeg 2 N. LaSalle St, Ste 1300 Chicago, IL 60602 hisrael@lplegal.com esethna@lplegal.com evandesteeg@lplegal.com <i>Attorneys for Creditor Intercity Investment Properties, Inc.</i>	Donald R Trice 48 Kasten Run Dahlonega, GA 30533 dontrice39@gmail.com <i>Unsecured Creditor Committee Member</i>
James Eckelberger 8523 Thackery Street #9112 Dallas, TX 75225 jimeckelberger@outlook.com <i>Unsecured Creditor Committee Member</i>	James A. Smith 8523 Thackery Street, #9116 Dallas, TX 75225 jamesas1023@mac.com <i>Unsecured Creditor Committee Member</i>
Erle A. Nye 8523 Thackery Street #9114 Dallas, TX 75225 erlenye@txu.com <i>Unsecured Creditor Committee Member</i>	Pamela Siviglia Estate of Patricia Adams 5226 Isleworth Country Club Dr Windemere, FL 34686 pamsiviglia@gmail.com <i>Unsecured Creditor Committee Member</i>
Jane Sommerhalder Wilson Trustee for the Joy A. Sommerhalder Trust 6935 Oak Manor Drive Dallas, TX 75230 janddwilson@charter.net <i>Unsecured Creditor Committee Member</i>	Steve Helbing Independent Executor to the Estate of Ellen S. Helbing 6498 Farthing Drive Colorado Springs, CO 80906 stevehelbing@comcast.net <i>Unsecured Creditor Committee Member</i>
Carrington Coleman Sloman & Blumenthal LLP J. Michael Sutherland 901 Main Street, Ste 5500 Dallas, TX 75202 msutherland@ccsb.com <i>Attorneys for Executor Blumenthal Estate</i>	Brousseau Naftis & Massingill, PC Cynthia G. Dooley 300 Knox Place 4645 N Central Expressway Dallas, TX 75205 cynthia@bnmdallas.com <i>Attorneys for Trubitt Trustee</i>
Kemp Smith LLP James W. Brewer P.O. Drawer 2800 El Paso, TX 79999 jbrewer@kempsmith.com <i>Attorneys for Creditor Bonnielyn Francis</i>	Cinclair Law, PLLC Richard J. Sinclair, Jr. Esq. 2221 Stanmore Lane Plano, Texas 75025 rick@cinclaw.com <i>Attorneys for Estate of Sudbrink</i>
Cowles & Thompson PC William L. Siegel 901 Main Street, Suite 3900 Dallas, TX 75202 bsiegel@cowlesthompson.com <i>Attorneys for Joel E. Brickell</i>	Waddell Serafino Geary Rechner Jenevein PC Beverly Cahill Rice 1717 Main Street, Ste 2500 Dallas, TX 75201 bcahill@wslawpc.com <i>Attorneys for Co-Trustees to Cerny Trust</i>
Kean Miller LLP Lloyd A. Lim Rachel T. Kubanda 711 Louisiana Street, Ste 1800 Houston, TX 77002 lloyd.lim@keanmiller.com rachel.kubanda@keanmiller.com <i>Attorneys for Bank of America NA as Trustee to Gantt Estate</i>	Haley & Olson PC Blake Rasner 100 N. Ritchie Road, Ste 200 Waco, Texas 76712 brasner@haleyolson.com <i>Attorneys for Bancorpsouth Bank, A Division of Cadence Bank</i>

Dkyema Gossett PLLC Jeffrey R. Fine Alexandria Rahn 1717 Main Street, Ste 4200 Dallas, TX 75201 jfine@dykema.com arahn@dykema.com <i>Attorneys for Creditor and Party-In-Interest Howard Schultz</i>	Sheils Winnubst, PC Mark D. Winnubst 1701 N. Collins Blvd, Ste 1100 Richardson, TX 75080 mark@sheilswinnubst.com <i>Attorneys for Lynda Legge Trust UW Jeanne Marie Lancaster Cunningham</i>
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DATED: June 3, 2022.

By: /s/ Susan N. Goodman, RN JD

Susan N. Goodman
Texas Bar No. 24117585
PIVOT HEALTH LAW, LLC
P.O. Box 69734
Oro Valley, Arizona 85737
sgoodman@pivotohealthaz.com
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