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9 **UNITED STATES BANKRUPTCY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **LOS ANGELES DIVISION**

12 In re:) Lead Case No.: 2:18-bk-20151-ER

13 **VERITY HEALTH SYSTEM OF**
14 **CALIFORNIA, INC. et al.,**

15 Debtor(s).

- 16 Affects All Debtors) Case No.: 2:18-bk-20162-ER;
- 17 Affects Verity Health System of) Case No.: 2:18-bk-20163-ER;
- 18 California, Inc.) Case No.: 2:18-bk-20164-ER;
- 19 Affects O'Connor Hospital) Case No.: 2:18-bk-20165-ER;
- 20 Affects Saint Louise Regional Hospital) Case No.: 2:18-bk-20167-ER;
- 21 Affects St. Francis Medical Center) Case No.: 2:18-bk-20168-ER;
- 22 Affects St. Vincent Medical Center) Case No.: 2:18-bk-20169-ER;
- 23 Affects Seton Medical Center) Case No.: 2:18-bk-20171-ER;
- 24 Affects O'Connor Hospital Foundation) Case No.: 2:18-bk-20172-ER;
- 25 Affects Saint Louise Regional Hospital) Case No.: 2:18-bk-20173-ER;
- 26 Foundation) Case No.: 2:18-bk-20175-ER;
- 27 Affects St. Francis Medical Center of) Case No.: 2:18-bk-20176-ER;
- 28 Lynwood Foundation) Case No.: 2:18-bk-20178-ER;
- Affects St. Vincent Foundation) Case No.: 2:18-bk-20179-ER;
- Affects St. Vincent Dialysis Center, Inc.) Case No.: 2:18-bk-20180-ER;
- Affects Seton Medical Center) Case No.: 2:18-bk-20181-ER
- Foundation)

Chapter 11 Cases

SUBMISSION OF THIRD REPORT BY
PATIENT CARE OMBUDSMAN, JACOB
NATHAN RUBIN, MD, FACC,
PURSUANT TO 11 U.S.C. § 333(b)(2)

[NO HEARING REQUIRED]

Debtors and Debtors In Possession



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1 Jacob Nathan Rubin, MD, FAAC, the Patient Care Ombudsman (“PCO”) appointed under
2 11 U.S.C. § 333 in the above-referenced chapter 11 bankruptcy cases of the affected debtors and
3 debtors in possession (collectively, “Debtors”), hereby submits his third report (“Report”) to the
4 Court pursuant to 11 U.S.C. § 333(b) regarding the quality of patient care provided to patients of
5 the affected Debtors. The Report is hereby attached as Exhibit A.

6 Submitted by:

7 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
8

9 By: /s/ Ron Bender

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1 **IN RE VERITY HEALTH SYSTEMS, INC.**
2 **THIRD REPORT OF PATIENT CARE OMBUDSMAN**

3 **PURSUANT TO 11 U.S.C. § 333**

4 **I. PCO's APPOINTMENT AND SCOPE OF REVIEW**

5 The Debtors are health care businesses as defined under § 101(27)(A). The Court ordered
6 the appointment of a PCO pursuant to 11 U.S.C. § 333 (a)(1) to monitor, and report to the Court,
7 the quality of patient care provided by the Debtors. The PCO, whose appointment by the U.S.
8 Trustee was approved by the Court, performed the duties described in 11 U.S.C. §333(b) and (c).
9 The PCO performed these duties with the assistance of a Court approved, qualified employed
10 expert, Dr. Timothy Stacy. Additionally, the Court approved counsel, Levene, Neale, Bender, Yoo
11 & Brill, to provide legal guidance to the PCO regarding the performance of his duties under the
12 bankruptcy code.
13

14 Subsequent to the PCO's evaluation as identified in his first and second reports, the PCO
15 continued to perform contemporaneous monitoring of any issues identified pertaining to a specific
16 Debtor entity and the global issues identified requiring Debtors' immediate attention, and as
17 required by 11 U.S.C. § 333(b) and (c).
18

19 The observation period for the third report was from February 8th, 2019, through April 8th,
20 2019. During this period, the PCO reviewed all new E-data room entries such as Joint Commission
21 Reports, Survey Verification, and CDPH filings. The PCO was in continuous contact with Dr. Del
22 Junco. During this period, the PCO met with hospital administrative teams via video conferencing
23 to review progress, new reporting data and the status of patient care.
24

25 **II. VERITY SITES REVIEWED BY THE PCO**

26 Subsequent to the PCO's second report, the Debtor transferred operations of O'Connor and
27 St. Louise Medical Centers to Santa Clara County. In addition, the Medical Clinics and Urgent Care
28 Centers have closed or transferred operations to other entities. The medical records of all the

1 patients have gone to the separate entities or with the individual physicians with the exception of
2 Sport Orthopedic and Rehabilitation (SOAR).

3 In the case of SOAR, the Debtor is the custodian of medical records. As indicated to the
4 PCO, the Debtor will remain as custodian of the medical records until the patients' physicians take
5 control of the medical records.

6 Debtors continue to operate four acute care hospital centers and one hemodialysis center.
7 Debtors' facilities are in multiple geographic areas in Northern, Central and Southern California.

8 These include the following:
9

10 A. HOSPITALS (4)

11 St. Vincent's Medical Center

12 St. Francis Medical Center

13 Seton Coastside

14 Seton Medical Center

15 B. DIALYSIS CENTER (1)

16 St. Vincent's Dialysis Center
17

18 **III. METHODOLOGY AND MEDICAL STANDARD APPLIED BY THE PCO**

19 The PCO continues to monitor patient care provided by the debtor by applying the
20 principles and structure of evidence-based review outlined in the PCO's first report.

21 **A. Third Report Review Strategy**

22 Specific review and follow-up on previously identified areas of concern was performed.
23 Frequent discussions with Dr. Del Junco were helpful in determining the progress of corrective
24 action plans. Regular communication with local CMO, CEO, CNO, Quality Directors and Medical
25 staff leaders promoted constructive dialogue regarding matters of concern. Through dialogue with
26 organizational leaders, the PCO was well-informed on the status of all events (positive or negative),
27
28

1 corrective action plan progress, results of CDPH investigations, State Board of Pharmacy and Joint
2 Commission surveys.

3 The diligence of the organization to manage the E-Data room punctually assisted the PCO
4 in performing his duties. In addition to transparent document communication through the data
5 room, administrative and medical staff professional relationships have developed with the PCO that
6 encourage contemporaneous exchange of information allowing the PCO to address problems and
7 collaboratively develop solutions with organizational leaders in real time.
8

9 **B. Documents Reviewed in Data Room (One Drive) and at Debtors' Locations.**

10 The data room documents were requested from Debtors and could only be reviewed in read
11 only format. Should any party of the court wish to review the documents listed, this request must be
12 made of the Debtors other than as discussed. The following items will continue to be included in
13 our evaluation process:

14 BOARD of DIRECTORS MEETING

15 CALL PANEL

16 CDPH-California Department of Public Health reports

17 CMS-deemed status report

18 JOINT COMMISSION SURVEY

19 MEDICAL EXECUTIVE COMMITTEE (MEC)

20 MEDICAL STAFF BYLAWS

21 PHARMACY SHORTAGE

22 PROFESSIONAL LIABILITY (settled and pending)

23 QUALITY ASSURANCE PERFORMANCE IMPROVEMENT COMMITTEE

24 MINUTES

25 RISK MANAGEMENT DATA
26
27
28

1 VENDORS

2 LEAPFROG DATA

3 CALIFORNIA STATE BOARD OF PHARMACY SURVEY

4 CALIFORNIA STATE WATER BOARD

5 **IV. REVIEW OF DEBTORS BY INDIVIDUAL LOCATION**

6 **A. HOSPITALS**

7 **1. St. Vincent's Medical Center (SVMC)**

8 The PCO met with administration via video conference to discuss any new events that
9 occurred since the last report. During the meeting we discussed progress on Leapfrog data, any new
10 CDPH complaints, lawsuits, and corrective action reports.

11 Administration reports that they are making progress in quality and moving closer to
12 meeting the Leapfrog metrics criteria , such as infection rates, observed/expected mortality rates
13 etc.

14 SVMC performed their first Liver Transplant Surgery which was successful and without
15 sequela. SVMC has increased the volume of their pancreatic ultrasound program.

16 **a. Review: California Department of Public Health Reports**

17 The PCO reviewed new CDPH incidents that occurred since the last report. The reports
18 and corrective action plans were discussed in detail with administration. The PCO did not find that
19 the financial burden of the bankruptcy caused or were related to the incidents.

20 **b. Critical Vendor Evaluation**

21 All vendors are currently providing services and equipment under their contractual
22 agreements. Critical vendors continue to operate and supply critical equipment to the hospital
23 without delay.

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c. Pharmacy Shortages

All pharmacy shortages were reviewed and found to be unrelated to the bankruptcy or vendor contract termination. The shortages listed are consistent with national or local shortages.

d. Joint Commission Accreditation Report findings:

The last certification from Joint Commission was performed and completed on January 8th, 2019. There have not been any new events that triggered a follow-up visit from Joint Commission.

e. Leapfrog Data

The PCO discussed Leapfrog Data with administration in detail. Administration reports that SVMC has not had Catheter Associated Urinary Tract Infections, Clostridium Difficile, or Line infection since the last report. In order to meet these goals, strong systems must be in place with consistent system validation and adherence verification. This is a significant milestone and should be commended.

2. St. Francis Medical Center (SFMC)

a. Video Conference and One-Drive Review

The PCO arranged a video conference with the administration team to discuss any new events since the PCO's last visit. Administration detailed all CDPH reporting and investigations that were performed since February, 2019. Each event was discussed in detail followed by explanation of corrective action plans, if required. After review and discussions with administration, the PCO concluded the issues that were reported and identified since last report were not caused by the Debtors' bankruptcy or financial status.

b. California Department of Public Health

There were three CDPH reported incidents that were discussed in detail with administration. The PCO did not find any untoward patient care trends. Specifically, the events that occurred were

1 not associated with any financial burden from the bankruptcy.

2 The PCO will continue to monitor the progress in subsequent visits along with all new
3 CDPH reports as filed.

4 **c. Trauma Certification**

5 The PCO's second report was inaccurate as to the Trauma Verification from the American
6 College of Surgeons (ACS). The second report referenced compliance and verification up to
7 November 7th, 2019. However, ACS notified St. Francis that continued verification from ACS
8 would require an on-site visit. According to the administration, ACS was unable to re-verify the
9 trauma service at SFMC as set forth by the standards of ACS.
10

11 Administration did highlight that SFMC did not need ACS verification to remain trauma
12 compliant within the Los Angeles City Emergency Medical Services Trauma to serve as a
13 designated trauma facility.

14 SFMC has made significant changes to the Emergency Department Trauma services based
15 on the recommendations from ACS.
16

17 SFMC will construct an "Orthopedic Trauma Suite." In addition, the trauma Quality
18 Improvement, Quality Assurance and Peer Review Process will be changed in accordance with
19 ACS recommendations.

20 The bankruptcy proceedings did not contribute to the Trauma Verification failure.

21 **d. Leapfrog Data and Ratings**

22 SFMC continues to implement systems to improve on the quality metrics measured by
23 Leapfrog. The limitations of the Electronic Medical Record (EMR) system will continue to impede
24 the ability of the system to perform well.
25
26
27
28

1 **3. Seton Coastside**

2 **a. Administration discussions**

3 Video conference with Seton CEO and CMO was conducted.

4 Seton Coastside functions as a large Skilled Nursing Facility. Falls are a regular occurrence
5 and mandate reporting to CDPH. A few CDPH reports were filed relating to patient falls. Review of
6 the CDPH reports did not illicit concern for patient safety.

7 Seaton Coastside was sited with multiple Environmental Compliance Violations. The PCO
8 reviewed all deficiencies and immediate corrective action plans prepared by administration. After a
9 thorough review of the environmental compliance report as well as implementation of corrective
10 actions, it does not appear that patient safety and quality are at risk.

11 Administration also reported that a small outbreak of Influenza B was reported to CDPH.
12 High risk Residents of the facility were treated with Tamiflu. The outbreak was aborted and
13 cleared by CDPH.
14

15 **b. CDPH**

16 The PCO reviewed all CDPH reports with the corrective actions in detail. It does not appear
17 that the incidents were related to the bankruptcy. There were no global patient safety concerns
18 identified.
19

20 **c. Lawsuits**

21 The PCO did not find any new lawsuits or professional liability reports filed.
22

23 **4. Seton Medical Center (SMC)**

24 **a. Administration Discussion**

25 The PCO was updated on several ongoing items by Dr. Mark Fratzke DNP, CEO, via video
26 conference.
27
28

1 SMC received the immediate jeopardy clearance from Centers for Medicare and Medicaid
2 Services (CMS), indicating that SMC corrected the deficiencies found in the previous survey.

3 The State Board of Pharmacy survey, mentioned in the PCO second report, found several
4 deficiencies in the sterile compounding department resulting in need for immediate corrective
5 action. The PCO found that all corrective actions were performed. The PCO will continue to
6 monitor the progress of the pharmacy deficiencies and corrective action plans.

7
8 During the PCO's observation period, the PCO monitors Observed and Expected Mortality
9 rates reported on the Quality Compass for each facility. In addition, the healthcare system has a
10 Quality Compass for the entire healthcare system. Specifically, SMC consistently reports higher
11 observed and expected mortality rates compared to other hospitals in the system. Expected
12 mortality rates are driven by provider documentation of severity of illness. Therefore, facilities that
13 have diligent providers that document thoroughly and have a robust EMR system to capture
14 severity of illness will have accurate mortality statistics. SMC struggles with physician
15 documentation and does not have an EMR system that collects and captures documentation that
16 accurately represent severity of illness.
17

18 The PCO spoke with the CEO and CMO of SMC regarding the outlier status of their
19 mortality rates. SMC investigates each death in the facility with a multidisciplinary team of
20 providers. Investigations and inquires by the medical staff into the higher mortality rates have not
21 led to any trends or concerns.

22 The PCO will continue to monitor SMC mortality rates closely and report any significant
23 findings.
24

25 **b. CMS Findings**

26 SMC continues to make progress on staffing ratios and handling patient complaints as
27 addressed in the last report. Administration put systems in place that assure compliance with
28

1 staffing ratios. The patient or family complaint system was redesigned for compliance and
2 introduced hospital wide. Administration is monitoring the systems for compliance.

3 **c. California Department of Public Health**

4 All California Department of Public Health findings were initially reviewed in the E-data
5 room discussed with administration. Corrective actions were implemented by SMC and are being
6 monitored by the PCO for compliance.

7 **d. Leapfrog Data**

8 Seton Medical Center continues to address and implement strategies to improve Leapfrog
9 metrics as improvement continues to be a priority for the leadership.

10 **B. St. Vincent's Dialysis Center**

11 The unit is incorporated in St. Vincent's Hospital and continues to function normally. There
12 has been any adverse events.

13 **V. CONCLUSIONS**

14 Administration, directors, managers and staff remain dedicated to the quality and success of
15 the healthcare system. Despite the burden of bankruptcy, the personnel are committed to delivering
16 quality patient care.

17 The operations of O'Connor and St. Louise Hospitals were transferred to Santa Clara
18 County. CMS and the state will schedule a full inspection from Joint Commission. Therefore, no
19 further need for the PCO review.

20 The medical clinics were either closed or the operations were transferred to other entities.
21 The patients of the medical clinics were transferred to other providers to continue care.

22 Several hospitals endured difficult surveys that required teamwork and fortitude to regain or
23 maintain Federal and State credentials. All the Facilities have passed the inspections from CMS and
24 CDPH that were highlighted in the second report.

1 St. Francis Medical Center did not receive its Trauma Verification from ACS but remains an
2 active member of Los Angeles EMS Trauma System. According to the CEO and CNO, ACS
3 verification is not required to participate in the Los Angeles Trauma System.

4 Despite the failed verification from ACS, administration has informed the PCO that they are
5 instituting the recommendations from ACS and will reverify when they return next year.

6 The PCO continues to monitor and follow-up on the status of Seton Medical Centers new
7 computerized tomography (CT) scanner. Currently, SMC has an on-site CT scanner on lease. The
8 CT scanner is housed in the parking lot. The medical staff is satisfied with the current CT scanner
9 while the construction plans are awaiting approval from California's Office of Statewide Health
10 Planning and Development (OSHPD).

11 Verity Healthcare is operating well despite the burden of bankruptcy. The PCO will
12 continue to monitor patient care and safety of the remaining entities in the healthcare system and
13 report findings to the court.
14

15 Dated this 8th day of April, 2019

16 
17 _____
18 Jacob Nathan Rubin, MD, FACC, Patient Care
19 Ombudsman
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

10250 Constellation Blvd., Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled (*specify*): **SUBMISSION OF THIRD REPORT BY PATIENT CARE OMBUDSMAN, JACOB NATHAN RUBIN, MD, FACC, PURSUANT TO 11 U.S.C. § 333(b)(2)** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) April 8, 2019, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On April 8, 2019, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on April 8, 2019, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Attorney Service
The Honorable Ernest M. Robles
United States Bankruptcy Court, #1560
255 E. Temple Street
Los Angeles, CA 90012

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 8, 2019
Date

Jason Klassi
Printed Name

/s/ Jason Klassi
Signature

2:18-bk-20151-ER Notice will be electronically mailed to:

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- 28 Hatty K Yip on behalf of U.S. Trustee United States Trustee (LA)

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