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

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

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

16 Debtor(s).

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

I. PCO’s APPOINTMENT AND SCOPE OF REVIEW- 3 -

II. VERITY SITES REVIEWED BY THE PCO- 3 -

III. METHODOLOGY AND MEDICAL STANDARD APPLIED BY THE PCO.....- 4 -

A. Fifth Report Review Strategy.....- 4 -

B. Documents Reviewed in Data Room (One Drive) and at Debtors’ Locations.- 5 -

IV. REVIEW OF DEBTORS BY INDIVIDUAL LOCATION.....- 6 -

A. HOSPITALS- 6 -

1. St. Vincent’s Medical Center (SVMC)- 6 -

2. St. Francis Medical Center (SFMC).....- 8 -

3. Seton Coastside- 10 -

4. Seton Medical Center (SMC)- 10 -

B. St. Vincent’s Dialysis Center- 12 -

V. CONCLUSIONS.....- 12 -

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 Fifth 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

10 RON BENDER

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12 Attorneys for Patient Care Ombudsman
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1 **IN RE VERITY HEALTH SYSTEMS, INC.**
2 **FIFTH 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 Subsequent to the PCO's initial evaluation as identified in his First Report, the PCO
14 continued to perform contemporaneous monitoring of any issues identified pertaining to a specific
15 Debtor entity and the global issues identified requiring Debtors' immediate attention, and as
16 required by 11 U.S.C. § 333(b) and (c).
17

18 The observation period for the Fifth Report was from June 8th, 2019, through August 5th,
19 2019. During this period, the PCO reviewed all new E-data room entries such as Joint Commission
20 Reports, Survey Verification, and CDPH filings. The PCO stayed in contact with the Chief
21 Medical Officer, Dr. Del Junco, to keep abreast of issues that impact the organization. During this
22 period, the PCO met with hospital administrative teams via video conferencing and did site visits to
23 review progress, new reporting data and the status of patient care.
24

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

26 The Debtors have transferred operations of O'Connor and St. Louise Medical Centers to
27 Santa Clara County. In addition, the Medical Clinics and Urgent Care Centers have closed or
28

1 transferred operations to other entities. The medical records of all the patients have gone to the
2 separate entities or with the individual physicians except for Sport Orthopedic and Rehabilitation
3 (SOAR).

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

7 Debtors continue to operate four acute care hospital centers and one hemodialysis center.
8 Debtors maintain facilities in Northern and Southern California. 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 **III. METHODOLOGY AND MEDICAL STANDARD APPLIED BY THE PCO**

18 The PCO continues to monitor patient care provided by the Debtors by applying the
19 principles and structure of evidence-based review outlined in the PCO's First Report.
20

21 **A. Fifth 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
24 corrective action plans. Regular communication with local CMO, CEO, CNO, Quality Directors
25 and Medical staff leaders promoted constructive dialogue regarding matters of concern. Through
26 dialogue with organizational leaders, the PCO was well-informed on the status of all events
27
28

1 (positive or negative), corrective action plan progress, results of CDPH investigations, State Board
2 of Pharmacy and Joint 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
12 be made of the Debtors other than as discussed. The following items will continue to be included in
13 our evaluation process:

14 CALL PANEL

15 CDPH-California Department of Public Health reports

16 CMS-deemed status report

17 JOINT COMMISSION SURVEY

18 MEDICAL EXECUTIVE COMMITTEE (MEC)

19 PHARMACY SHORTAGE

20 PROFESSIONAL LIABILITY (settled and pending)

21 QUALITY ASSURANCE PERFORMANCE IMPROVEMENT COMMITTEE

22 MINUTES

23 RISK MANAGEMENT DATA

24 VENDORS

25 LEAPFROG DATA
26
27
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CALIFORNIA STATE BOARD OF PHARMACY SURVEY

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

A. HOSPITALS

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

a. Site Visit

i. Infection Cluster Event Follow-up

CDPH performed an extensive, 13-member, onsite investigation that was triggered by outlier same site surgical infections mentioned in the previous PCO report. The investigators spent several days on site expanding their investigation scope beyond the same site surgical infections. Reportedly, investigators met with administration and concluded that the hospital is in compliance. To date, no reported recommendations or citations were issued upon completion of the survey.

ii. Leapfrog and HCAHPS

During the onsite-visit the PCO and administration discussed progress on clinical quality measures. Many of the variables that contribute to scoring relate to an electronic medical record system that the current healthcare system is lacking.

The PCO discussed Leapfrog Data with administration in detail. The overall acquired infection rates remain low. The infection rates in the area of Central Line Acquired Infections (CLAI) vary between the facilities. Administration continues to aggressively monitor and act on any increase in CLAI.

iii. Liver Transplant Unit

The PCO met with the Head Liver Transplant Surgeon at SVMC. The team has completed eleven successful liver transplants and continues to deliver hepatobiliary services to the community.

Since the last report, the PCO has spent a considerable amount of time dedicated to concerns of the medical staff at SVMC. Specifically, the Liver Transplant Service (LTS) initiated

1 talks with the PCO concerning issues with staffing, equipment and the commitment of
2 administration to the program

3 The PCO spoke with administration, the corporate CMO, CEO and quality director to
4 address the concerns of the medical staff.

5 LTS is concerned that allocated full time employees (FTE) openings will not be replaced
6 because of financial purposes. The PCO verified that the current open positions for the LTS remain
7 open and the hospital and LTS are actively interviewing candidates.

8 Open positions are for highly skilled and specialized providers. The pool of qualified
9 applicants in the Los Angeles area are sparse. In addition, applicants that are qualified may be
10 hesitant to apply or accept a position with the knowledge of the bankruptcy.

11 After several conversations with the CMO, CEO and the medical staff it is the finding of the
12 PCO that the current issues with the LTS is unrelated to the financial state of the hospital or the
13 bankruptcy, and does not negatively impact patient care.

14
15
16 **b. Review: California Department of Public Health Reports**

17 The PCO reviewed four new CDPH incidents that occurred since the last report. The
18 reports and corrective action plans were discussed in detail with administration and are acceptable.
19 The PCO reviewed two new CDPH reports with administration and discussed corrective action
20 plans.

21 One of the reported events had a significant impact on patient care. A surgical towel was
22 left inside a patient's abdomen requiring multiple surgeries to manage the incident. In response to
23 the incident and after a detailed root cause analysis was performed, the hospital implemented color
24 coded surgical towels with strict policies to prevent future events. The PCO did not find that the
25 financial burden of the bankruptcy caused or were related to the incidents.

26
27 **c. Critical Vendor Evaluation**
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1 All vendors are currently providing services and equipment under their contractual
2 agreements. Critical vendors continue to operate and supply critical equipment to the hospital
3 without delay.

4 **d. Pharmacy Shortages**

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

7 **e. Joint Commission Accreditation Report findings:**

8 The last certification from Joint Commission was performed and completed on January 8th,
9 2019. There have not been any new events that triggered a follow-up visit from Joint Commission.

10 **2. St. Francis Medical Center (SFMC)**

11 **a. Video Conference and One-Drive Review**

12 The PCO arranged a video conference with the administration team to discuss any new
13 events since the PCO's last visit. Administration detailed all CDPH reporting and investigations
14 that were performed since the last PCO report.

15 Each event was discussed in detail followed by explanation of corrective action plans, as
16 required. After review and discussions with administration, the PCO concluded the issues that were
17 reported and identified since last report were not caused by the Debtors' bankruptcy or financial
18 status.

19 On March 29th, 2019, a final Department of Mental Health compliance survey was released
20 and demonstrates that the mental health department at SFMC is in full compliance without any
21 recommendations.

22 On May 23rd, 2019, Occupational Safety and Health Administration (OSHA) Violation
23 classified as "serious" was submitted. The violation was issued "without citation" relating to
24

1 “workplace violence prevention specifically requiring strict measures to prevent firearms and
2 dangerous weapons onto the premises.”

3 In response to the OSHA incident, the hospital hired 16 new security guards, closed
4 entrances to the hospital and started scanning all visitors and patients with portable handheld metal
5 detectors incurring significant capital expenditure.

6 **b. California Department of Public Health**

7 There were five CDPH reported incidents that were discussed in detail with administration.
8 The PCO did not find any untoward patient care trends. Specifically, the events that occurred were
9 not associated with any financial burden from the bankruptcy.
10

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

13 **c. Trauma Certification**

14 Administration has made significant changes to their trauma service in accordance with the
15 recommendations of the American College of Surgeons (ACS). Administration is confident that
16 the next ACS trauma verification scheduled for November 7th, 2019, will be successful.
17

18 SFMC continues to provide trauma services and is certified by Los Angeles City Emergency
19 Medical Services and serves as a designated trauma facility.

20 **d. Leapfrog Data and Ratings**

21 SFMC Compass Data were reviewed by the PCO and show small improvements in
22 benchmark metrics.

23 SFMC Leapfrog status has increased from an F grade to a C grade. Leapfrog are nationally
24 recognized standards that correlate to quality healthcare delivery. Unfortunately, considerable
25 amount of capital is needed to obtain high Leapfrog grades and to maintain the grades over time.
26 For example, Computerized Physician Order Entry (CPOE), Bar Code medication administration,
27

28

1 Surgical Volume, and ICU Physician staffing require financial support to increase the Leapfrog
2 scores.

3 SFMC administration believes that after the institution of an electronic medical records
4 system Leapfrog statistics will continue to rise. The PCO concurs.

5 **3. Seton Coastside**

6 **a. Administration Discussions**

7 A Video conference with Seton CEO and CMO was conducted. Other than two new falls
8 reported to CDPH, the campus has not had any changes and is running a stable census. Falls are a
9 regular occurrence and mandate reporting to CDPH.
10

11 **b. CDPH**

12 The PCO reviewed all CDPH reports with the corrective actions in detail. It does not appear
13 that the incidents were related to the bankruptcy. There were no global patient safety concerns
14 identified.
15

16 **c. Lawsuits**

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

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

19 **a. Administration Discussions**

20 The PCO was updated on several ongoing items by Dr. Mark Fratzke DNP, CEO, via video
21 conference.
22

23 The Laboratory Director resigned about 3 months ago. SMC is actively looking for a
24 director. The position remains open with all intensions to hire and fill the position.

25 The Fourth PCO report highlighted the resignation of the pharmacy director. SMC has
26 hired a new pharmacy director who has corrected some of the past pharmacy issues relating to the
27
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1 compounding room. The changes currently meet the Board of Pharmacy recommendations listed in
2 the last PCO report.

3 According to Administration, the census of the hospital has increased while maintaining
4 staffing compliance.

5 The new CT scanner remains on schedule for implementation after CAL-OSHA has
6 approved the construction plans. The alternative CT scanners remain operational and provide
7 adequate care to the patients.
8

9 SMC continue to perform well on several quality metric indicators including computerized
10 order entry and geometric length of stay.

11 The Hospitalist contracts have been extended to September 31st, 2019. No physician
12 staffing changes were noted during this reporting cycle.

13 **b. CMS Findings**

14 Reflected in the last PCO report, SMC is no longer under surveillance of CMS. All
15 corrective actions related to past immediate jeopardy events were corrected to the satisfaction of
16 CMS.
17

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

19 All California Department of Public Health findings were initially reviewed in the E-data
20 room discussed with administration. Corrective actions were implemented by SMC and are being
21 monitored by the PCO for compliance.
22

23 **d. Leapfrog Data**

24 SMC leapfrog grade increased to a B rating. Contributing to the increase in the Leapfrog
25 grade is the close relationship with the Hospitalist team and their willingness to adhere to the CMO
26 demands for CPOE compliance.
27
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1 SMC has the highest leapfrog rating in the healthcare system. Administration continues to
2 accent and reinforce positive performance that led to the B rating.

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

4 The unit is incorporated in St. Vincent's Hospital and continues to function normally. No
5 reported or identified adverse events were discovered during this reporting cycle.

6
7 **V. CONCLUSIONS**

8 The PCO, administration from each facility, and the CMO continue to communicate openly
9 regarding past and present issues that relate to patient care.

10 The PCO has encountered numerous patient care events that have occurred system wide.
11 The PCO and administration continue to address any patient care issues and work together to
12 establish corrective actions plans and have verified implementations.

13 Throughout the process, the PCO has not connected any of the patient care concerns with
14 the financial state of the hospital system.

15 The PCO continues to monitor and follow-up on the status of Seton Medical Center new
16 computerized tomography (CT) scanner. Administration confirmed that construction plans are
17 awaiting approval from California's Office of Statewide Health Planning and Development
(OSHPD).

18 SMC Hospitalist contracts were extended through September 30st, 2019. The Hospitalist
19 service continues to deliver care as per their contract without interruptions.

20 SFMC complied with the recent demands of the OSHA survey to heighten security of the
21 facility. SFMC hired 16 new security personnel, purchased portable metal detectors and now wands
22 patients and visitors in order to protect the safety of all patients and staff.


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

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3 Dated this 1st day of August, 2019

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Jacob Nathan Rubin, MD, FACC, Patient Care
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 FIFTH 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*) August 5, 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 August 5, 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 August 5, 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.

August 5, 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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