

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND DIVISION

In re:	§	
	§	
Trinity Haven Healthcare, Inc.	§	Case No. 07-70013-rbk
	§	
Debtor	§	Chapter 11

FIRST REPORT OF PATIENT CARE OMBUDSMAN

I, Patty Ducayet, LMSW, State Long-Term Care Ombudsman and the duly appointed Patient Care Ombudsman in this case, file this first Patient Care Ombudsman report pursuant to 11 U.S.C. § 333(b)(2).

I. Introduction

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") requires the Court to consider authorizing the appointment of a Patient Care Ombudsman whenever a "health care business" (as that term is defined by BAPCPA) files for bankruptcy protection. However, the use of ombudsmen in nursing facilities has long been in existence. Since 1978, Congress has required each state to establish an ombudsman program to monitor and advocate for improved quality of care to nursing facility residents. Certain amendments to the Older Americans Act of 1965 ("Act") (42 U.S.C. §§ 3058f, 3058g) authorize a state ombudsman to identify, investigate, and resolve complaints made by, or on behalf of, residents that relate to the health, safety, welfare, or rights of residents at nursing facilities. As a model for the Patient Care Ombudsman, BAPCA includes references to the Act.

Sections 101.051 through 101.064 of the Texas Human Resources Code establish Texas' Office of the State Long-Term Ombudsman. As the State Long-Term Care Ombudsman, it is my responsibility to administer an ombudsman program in Texas that 1) advocates for the rights of

residents and their families to receive the highest quality of care and quality of life in long-term care facilities, and 2) provides services to assist in protecting the health, safety, welfare, and rights of nursing facility and assisted living facility residents. 40 Tex. Admin. Code § 83.11(b) (West 2006). My role as Patient Care Ombudsman in this case is more limited in scope than my duties as State Long-Term Care Ombudsman. However, the Patient Care Ombudsman role is consistent with my normal duties and will help to ensure a high degree of accountability from a nursing facility's owners and staff.

The statewide Ombudsman program consists of my office (part of the Texas Department of Aging and Disability Services (DADS) located in Austin, Texas) and 28 regional ombudsman programs housed in the State's Area Agencies on Aging. The regional ombudsman program serving the Trinity Haven Healthcare Center, Inc. Nursing Facility ("Facility") is the Permian Basin Area Agency on Aging. The staff and specially trained volunteer from that agency who assist in monitoring this Facility are my agents, or "designees," in carrying out the duties required in § 333(b) of the U.S. Bankruptcy Code.

## II. Facility Funding and Occupancy

DADS' records reflect that the Trinity Haven Healthcare Center, Inc., (Trinity Haven or Facility) controlling party structure includes Benjamin and Sandra Moncrief who share equal partnership in the company. The Facility is a freestanding, for-profit nursing facility located in Midland, Texas.

Trinity Haven is licensed by DADS and is dually certified to provide services to Medicaid and Medicare eligible recipients. The Facility is licensed for one-hundred fourteen (114) beds. The current occupancy is ninety-seven (97) residents, which is eighty-five (85%) percent of their capacity. Historically, the Facility held an occupancy rate between eighty-eight (88) and ninety

(90) residents. Trinity Haven serves a predominately geriatric resident population.

### III. Staffing

Staffing levels at the Facility among administrative and direct-care staff are stable. Benjamin Moncrief assumed the position of Administrator in January 2007. Until three (3) years ago, Mr. Moncrief served as Administrator of the facility for many years. Sandra Moncrief has served as Director of Nurses (DON) for one and a half (1 ½) years, and three (3) years ago, she too held the position of DON for many years. Ms. Sylvia Cannon has served as Activity Director since August 2006. Ms. Cannon is related by marriage to Benjamin and Sandra Moncrief. Nurse staffing is as follows: three (3) Registered Nurses, five (5) Licensed Vocational Nurses, and forty-six (46) Certified Nurse Aides or Certified Medication Aides. Social work services are provided by contract through a consulting Social Worker. No staff vacancies were reported.

### IV. Ombudsman Visits and Complaint Activity

The Managing Local Ombudsman for Permian Basin Area Agency on Aging is Cindy Oglesby. Ms. Oglesby visited the facility on February 16<sup>th</sup> and 26<sup>th</sup>, 2007, and March 6<sup>th</sup> and 23<sup>rd</sup>, 2007. A Certified Volunteer Ombudsman is also assigned to the facility, visiting twice a month on average. During these visits, both the Managing Local Ombudsman and Volunteer Ombudsman visited with residents and received one (1) complaint of a lost item. This matter is partially resolved as the resident was provided a used replacement. A second complaint is pending regarding transportation. Currently, all transportation services are contracted, and provide for medical trips for residents. Activities are limited to on-campus activities, while the residents report wishing to leave the campus for activities. The facility recently began providing some off-campus outings for residents, but does not have a facility van to provide regular transportation for this purpose. The owner/Administrator reports that he plans to purchase a transportation van in the first half of 2008. The Ombudsman will endeavor to provide more detail in future reports

on interviews with residents and will continue to document any complaints received on regular visits.

The Managing Local Ombudsman and Volunteer Ombudsman report that during this first sixty (60) day period, the facility staff demonstrated improved professionalism and the building appeared cleaner.

#### V. Regulatory Services

DADS' Regulatory Services Section conducted an annual inspection at the facility on November 30, 2006. Five (5) deficiencies were written for the following issues: F 170, Mail not received on Saturdays; F 275, Resident Assessments not completed annually for two (2) of sixteen (16) residents sampled; F 276, Quarterly Review Assessments not completed in a timely manner for seven (7) of sixteen (16) residents sampled; F 287, Automated Data Processing, whereby resident assessments were not properly transmitted for one (1) of three (3) closed records and discharge tracking forms not completed and transmitted for six (6) of six (6) discharged residents; and F 465, Other Environmental Conditions, whereby handrails were not maintained to provide a sanitary environment. All deficiencies were corrected on or before January 31, 2007.

#### VI. Other Facilities in the Area

The average occupancy rate for the region is sixty-eight (68%) percent. Three (3) other nursing facilities are located within ten (10) miles of Trinity Haven. Their licensed capacity is one-hundred sixty-two (162), one-hundred twelve (112), and one-hundred forty-seven (147) beds. Each licensed nursing facility in Midland, Texas is Medicaid and Medicare certified. Two (2) of the nursing facilities in Midland specialize in providing care for people with Alzheimer's; Trinity Haven does not.

## VII. Medical Care, Records, and Supplies

The Facility's Medical Director was contacted on April 9, 2007. Dr. Robert Vogel reported that he was aware of the bankruptcy filing, and had not noticed any decline in care as a result of the filing. Dr. Vogel reported that he visits daily during the weekdays, and serves every resident in the nursing facility. He reported that medical supplies are available and adequate to meet his patients' needs. Dr. Vogel reports that he is owed payment for his services. At a rate of \$1,000.00 per month, he was partially paid for services delivered between May and November 2006 (owed \$3,500.00). He reports that he has not received payment for services delivered from December 2006 to present.

Medical records are stored at a central nurses' station. Confidentiality of records appears maintained.

## VIII. Vendor Relationships

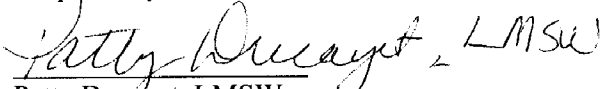
According to interviews with the Administrator, vendor relationships are stable.

## IX. Miscellaneous

The Administrator reports that he will soon begin work to the outside of the building, including covering the outdoor patio.

Date: April 14, 2007

Respectfully submitted,

  
Patty Duçayet, LMSW  
Trinity Haven Health Care Patient Care  
Ombudsman