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October 11, 2007

Hon. Rosemary Gambardella, U.S.B.J.
United States Bankruptcy Court
Martin Luther King Jr. Federal Building
50 Walnut Street, 3rd Floor
Newark, NJ 07102

**Re: Pascack Valley Hospital Association Inc., Case No. 07-23686
(RG)/Response of the Debtor to Motion of United States
Trustee to Designate Case as a "Health Care Business" and
for the Appointment of a Patient Care Ombudsman/Return
Date: October 17, 2007 at 2:00 PM**

My dear Judge Gambardella:

This firm is counsel for Pascack Valley Hospital Association Inc., the above Debtor and Debtor-in-Possession ("PVH" or "the Debtor"). Please accept this letter memorandum, in lieu of formal brief, as the Debtor's response to the Motion filed by the U.S. Trustee to designate the Debtor as a Health Care Business and for the appointment of a Patient Care Ombudsman ("Ombudsman"). The Debtor also relies in response upon the Affidavit of Jane Connorton, President and CEO of PVH, filed and served simultaneously herewith ("Connorton Affidavit").

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In summary, Debtor agrees with the U.S. Trustee that it is a Health Care Business as defined in 11 U.S.C. § 101 (27A) but opposes the U.S. Trustee's Motion insofar as it seeks the appointment of the Ombudsman ("Ombudsman Motion").

Put plainly, the appointment of an Ombudsman is neither necessary nor appropriate in this case and conversely will be costly and duplicative. As set forth in the Connorton Affidavit, there are no issues of patient care or safety at PVH and the New Jersey Department of Health and Senior Services ("DOH") is carefully monitoring the operations of the Debtor to insure that none arise. The U.S. Trustee does not, because she cannot, offer any urgent reason why an ombudsman should be appointed. The Ombudsman Motion does not cite to any patient care issues for a simple reason – there are none. Rather, the Ombudsman Motion recites, by rote, and relies solely upon the wording of the statute which, itself, does not mandate such an appointment. Under the facts of this case, there is no bases for the relief sought by the U.S. Trustee.

Bankruptcy Code Section 333 expressly authorizes the Court, in the exercise of its discretion, to excuse the appointment of a patient care ombudsman if it finds that such appointment "is not necessary for the protection of patients under the specific facts of the case." Although this Section was enacted as part of the BAPCPA and is therefore relatively new, there are at least two reported decisions wherein the bankruptcy court declined to order the appointment of a patient care ombudsman. See In re Saber, 369 B.R. 361 (Bkrtcy.D.Colo. 2007) (Patient care ombudsman not required for private surgery practice where evidence showed that bankruptcy filing not related to quality of patient care or patient privacy matters and there will be

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adequate cash flow during the bankruptcy so as not to impair patient care); In Re Total Women Healthcare Center, 2006 WL 3708164 (Bkrtcy.M.D.Ga 2006) (Ombudsman not required where evidence shows patient care not adversely affected by bankruptcy filing). In the instant case, the U.S. Trustee seeks the appointment of a patient care ombudsman notwithstanding the following uncontroverted facts:

1. PVH will be closing its facilities and will have neither in-patients nor out-patients approximately five weeks after the Ombudsman Motion is heard;
2. The in-patient census continues to decline and now stands at less than 70;
3. PVH has filed a detailed Closure Plan with the DOH setting forth the proposed sequence and timing of its closure;
4. The DOH has closely monitored the quality of patient care and staffing levels and will continue to do so until the Hospital is fully closed;
5. There are no issues of patient care and safety at PVH and the high quality of patient care and staffing will continue to be fully maintained;
6. The tasks of the Ombudsman will be completely duplicative of those being performed by the DOH; and
7. Although PVH has sufficient financial resources to maintain the quality of patient care and safety and the integrity of patient records, the added costs of the Ombudsman will be substantial and burdensome.

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In light of these facts and the applicable law, it is abundantly clear that the appointment of a Ombudsman is unnecessary to protect patient care and safety and will be a waste of scarce resources that would be better deployed elsewhere.

For the foregoing reasons, the Debtor respectfully requests that the U.S. Trustee's Motion be denied insofar as it seeks the appointment of a patient care ombudsman.

Respectfully submitted,

/s/ Simon Kimmelman

Simon Kimmelman
Valerie A. Hamilton

SK/VH/vg

Enclosure

cc: Mitchell B. Hausman, Esq. (w/enc. - via e-mail)

purpose of the bankruptcy filing is to effectuate an orderly liquidation of PVH's assets and the expeditious closure of PVH's facility.

3. Towards these ends, on October 1, 2007, PVH submitted a Certificate of Need application with the New Jersey Department of Health and Senior Services ("DOH") for the closure of the hospital. On October 8, 2007, PVH submitted to DOH for its approval a proposed Closure Plan ("Closure Plan") that sets forth the proposed time line for the discontinuation/closure of all of PVH's in-patient and out-patient services by November 21, 2007.

4. Although PVH is a licensed 280-bed acute care hospital, its present patient census is less than seventy (70) and is expected to continue to decline as the Debtor systematically implements the discontinuation/closure of all its clinical services per the Closure Plan.

5. By way of example, by October 19, 2007, PVH will discontinue all elective in-patient admissions. Pursuant to the Closure Plan, on November 9, 2007, all specialty and sub-specialty non-surgical out-patient procedures will be discontinued; by November 14, 2007, all emergency department admissions will be discontinued (the Emergency Department will remain open for seven (7) additional days for "Treat and Release" purposes only); and by November 19, 2007, it is anticipated that all remaining in-patients will be discharged.

6. The Closure Plan and the dates set forth therein are subject to the DOH's approval.

7. In short, in approximately five weeks' time, it is projected that PVH will have no patients and will provide no medical services.

8. The DOH is closely supervising and monitoring PVH's ongoing operations, especially with respect to issues of patient care and safety and adequacy of staffing levels. John

Calabria, Director CN and Healthcare Facility Licensure at DOH and Allison Gibson, Director of Assessment and Survey at DOH have been accessible to PVH's administration as needed for consultation and direction. DOH receives patient census information from PVH at least twice a week. The DOH also conducts on-site inspections of PVH's facility on an "unannounced" basis. Three such inspections have occurred since the date of PVH's bankruptcy filing, the most recent of which occurred on October 11, 2007. During each of these inspections, the DOH representative reviewed PVH's closure plan, interviewed patients and staff and found no problems or issues with respect to patient care and safety or staffing levels. Moreover, because of the Court approved DIP financing and use of cash collateral, PVH has and will continue to have sufficient funds to maintain high quality patient care and adequate staffing until it closes its doors.

9. Given the on-going communications with the DOH concerning the Debtor's operations and Closure Plan, the unannounced on-site inspections by DOH personnel and the adequate staffing levels in place at PVH, a patient care ombudsman is unneeded and duplicative of the oversight provided by the DOH. Moreover, appointment of an ombudsman under these circumstances will impose unnecessary administrative costs upon the Estate.

10. For these reasons, the Debtor opposes the appointment of a patient care ombudsman.


Jane Connorton

Sworn to and subscribed before me this
11th day of October, 2007


Notary Public

**KAREN WRIGHT
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 19, 2008**