

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

CONNECTIONS COMMUNITY SUPPORT
PROGRAMS, INC.,

Debtor.¹

Chapter 11

Case No. 21-10723 (MFW)

Hearing Date: May 17, 2021 at 11:30 a.m. (ET)

Objection Deadline: May 10, 2021 at 4:00 p.m. (ET)

**MOTION FOR AN ORDER GRANTING THE OMBUDSMAN ADDITIONAL ACCESS
TO PATIENT HEALTH INFORMATION AND GRANTING RELATED RELIEF**

Eric M. Huebscher, the patient care ombudsman (the “**Ombudsman**”) appointed in the above-captioned Chapter 11 case (collectively, the “**Case**”) filed by Connections Community Support Programs, Inc. (the “**Debtor**” or “**CCSP**”), hereby submits this motion (the “**Motion**”), pursuant to sections 105(a) and 333(c) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”) and Rule 2015.1(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), for entry of an order, substantially in the form attached hereto as **Exhibit A**, granting him additional access to, and authorizing and directing the above-captioned Debtor to allow him access to mental health and alcohol/substance abuse patients and their treating healthcare providers and to disclose to him the Debtor’s patient health information, as described in further detail below and granting related relief as specified herein. In support of this Motion, the Ombudsman respectfully represents as follows:

¹ The Debtor in this chapter 11 case, along with the last four digits of its tax identification number, is as follows: Connections Community Support Programs, Inc. (3030). The address of the Debtor’s corporate headquarters is 3812 Lancaster Pike, Wilmington, Delaware 19805.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. The statutory predicates for the relief requested herein are sections 105(a) and 333(c) of the Bankruptcy Code and Rules 2015.1 and 9014 of the Bankruptcy Rules.

BACKGROUND

3. On April 19, 2021 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in this Court thereby commencing this case (the “**Chapter 11 Case**”).

4. The Debtor is authorized to continue to operate its businesses and manage its properties as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. No trustee or examiner has been appointed in this Chapter 11 Case.

6. Additional factual background regarding the Debtor, including its operations, its capital and debt structures, and the events leading to the filing of this Chapter 11 Case, is set forth in the First Day Declaration, which is fully incorporated herein by reference.

7. The Organization is a multifaceted not-for-profit 501(c)(3) health and human services organization operating and founded in Delaware with over one hundred (100) locations throughout the State of Delaware and more than eleven hundred (1,100) employees (the “**Employees**”). As a non-profit, CCSP has no owners or equity holders who receive distributions or other value from the Debtor. Instead, CCSP exists to pursue its mission of providing therapy and other treatment services for addiction, mental health, and intellectual disabilities issues to its thousands of patients.

8. As a multifaceted health and human services organization, CCSP's experience in providing an array of services to the people of Delaware from varied cultural and ethnic backgrounds is vast. CCSP has also successfully provided services to adults and children at various levels along the continuum of care, from long- and short-term residential programs, community and home-based programs, outpatient programs, medication assisted treatment (MAT), peer support programs, recovery residences and now telehealth services. The Debtor's patients come from a variety of contexts in the community, including individuals living independently, group homes, recovery residences, supportive housing, intact families, justice involved, and returning from incarceration, residential, and out-of-home placements.

9. On April 22, 2021, the Court entered an order directing the appointment of a patient care ombudsman under section 333 of the Bankruptcy Code ("**Order of Appointment**") [Docket 29].

10. On April 26, 2021, the Office of the United States Trustee for the District of Delaware filed the Notice of Appointment of Patient Care Ombudsman (the "**Notice of Appointment**"), appointing Eric M. Huebscher as patient care ombudsman in the Case [Docket No. 50].

11. In connection with the Notice of Appointment, the Ombudsman filed a statement verifying that the Ombudsman has no connection with the Debtor, the creditors, or any other parties in interests, their respective attorneys or accountants, the United States Trustee, or any person employed in the Office of the United States Trustee.

12. Pursuant to Rule 2015.1 of the Bankruptcy Rules and section 333(c) of the Bankruptcy Code, the Notice of Appointment requires that the Ombudsman obtain an order of this Court prior to reviewing confidential mental health or alcohol/substance abuse patient records. *See*

Order of Appointment, p. 2 (“the Ombudsman shall not be entitled to access or review patients records related to treatment of HIV and/or AIDS, mental health or alcohol/substance abuse or to genetic testing unless an order is obtained from the Court approving such access.”). Accordingly, by this Motion, the Ombudsman seeks approval of his reviewing confidential mental health and alcohol/substance abuse patient records.

BASIS FOR RELIEF

13. Section 333 of the Bankruptcy Code requires the appointment of an ombudsman in bankruptcy cases of health care businesses to monitor the quality of patient care and to represent the interests of the debtor’s patients unless the Court orders otherwise. Here, the Court has made such an appointment.

14. An ombudsman under the Bankruptcy Code must (1) monitor the quality of care provided to patients, to the extent necessary under the circumstances, including interviewing patients and physicians; (2) report to the Court, upon notice, orally or in writing at not more than sixty (60) day intervals concerning the quality of patient care provided, and (3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, file upon notice a motion or report with the Court immediately upon making such determination. 11 U.S.C. § 333(b).

15. CCSP exists to pursue its mission of providing therapy and other treatment services for addiction, mental health, and intellectual disabilities issues to its thousands of patients. Section 333(c) contemplates that the Ombudsman will have access to patient health information, subject to approval by the Court. In addition, section 333(b)(1) requires an ombudsman to interview patients. The Ombudsman submits that interviews cannot be effectively conducted in this Chapter

11 Case without access to mental health or alcohol/substance abuse patient health information, information currently excluded under the Order of Appointment.

16. Courts have entered orders in other health care business bankruptcy cases allowing a patient care ombudsman to review patient medical records to fulfill the ombudsman's duties under section 333 of the Bankruptcy Code. *See e.g., In re North Philadelphia Health System*, E.D. Pa., Case No. 16-18931, March 22, 2017 [Dkt. No. 271]; *In re Caritas Health Care, Inc., et al.*, E.D.N.Y., Case No. 09-40901, February 25, 2009 [Dkt. No. 66]; *In re Our Lady of Mercy Medical Center, et al.*, S.D.N.Y., Case No. 07-10609, May 15, 2007, [Dkt. No. 186]; *In re New York Westchester Square Medical Center*, S.D.N.Y., Case No. 06-13050, May 22, 2007, [Dkt. No. 123].

17. Similarly, in the Chapter 11 Case, as further detailed below, access to mental health and alcohol/substance abuse patient information is necessary for the Ombudsman to perform fully his statutory duties.

RELIEF REQUESTED

18. The Ombudsman seeks, *inter alia*, immediate access to mental health and alcohol/substance abuse patients and their treating health care providers, and health information (the "**Patient Health Information**") to the extent necessary to fulfill his statutory duties. The Patient Health Information shall include, but not be limited to, protected health information as defined under 45 C.F.R. § 160.103, quality data and quality improvement reports and analyses, complaints, performance improvement reports, and all other information relating to or pertaining to the patients of the Debtor.

19. The Ombudsman requests that he expressly be authorized to review any and all types of Patient Health Information subject to the restrictions as set forth in the Order of

Appointment, and that the Debtor immediately provide the Patient Health Information to the Ombudsman when and as requested.

20. Since his appointment on April 26, 2021, the Ombudsman has not received any access to the Debtor's records, information, and facilities due to the limitations contained in the Order of Appointment.

21. Given that the Order of Appointment restricts the Ombudsman's access to mental health or alcohol/substance abuse Patient Health Information, until an order is obtained from the Court approving such access, the Ombudsman does not have access to that information. The Ombudsman submits that an order granting the Motion is necessary to resolve the current access issue, given the types of services the Debtor primarily provides to its patients.

22. Section 333(c)(1) of the Bankruptcy Code provides, in pertinent part, that an ombudsman may not review any confidential patient records unless the Court "imposes restrictions on such ombudsman to protect the confidentiality of such records." 11 U.S.C. § 333(c)(1). The Ombudsman suggests that the restrictions and safeguards already set forth in the Order of Appointment are appropriate and sufficient to protect the Patient Health Information.

NOTICE

23. Notice of this Motion will be given to: (a) the Office of the United States Trustee for the District of Delaware; (b) the Internal Revenue Service; (c) the parties included on the Debtor's list of its thirty (30) largest unsecured creditors; (d) the Office of the United States Attorney for the District of Delaware; (e) counsel to WSFS; and (f) any party requesting notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is necessary.

24. No previous motion for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Ombudsman respectfully requests that this Court enter an order authorizing and granting access of Patient Health Information, including confidential patient information, to the Ombudsman and granting such other and further relief as is necessary, just and proper.

Dated: May 3, 2021
Wilmington, Delaware

HUEBSCHER & COMPANY

/s/ Eric Huebscher

Eric Huebscher, President
630 3rd Avenue – 21st Floor
New York, NY 10017
Phone – (646) 584-3141
Email: ehuebscher@huebscherconsulting.com

Patient Care Ombudsman

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

CONNECTIONS COMMUNITY SUPPORT
PROGRAMS, INC.,

Debtor.¹

Chapter 11

Case No. 21-10723 (MFW)

Related Docket No.

**ORDER GRANTING THE OMBUDSMAN ACCESS TO
PATIENT HEALTH INFORMATION AND
CLARIFYING ORDER OF APPOINTMENT**

Upon consideration of the Motion for an Order Granting the Ombudsman Access to Patient Health Information, Clarifying Order of Appointment and Granting Related Relief (the “**Motion**”)² seeking entry of an order pursuant to sections 105(a) and 333(c) of Bankruptcy Code granting the Ombudsman access to and authorizing and directing the Debtor to disclose to him Patient Health Information and Clarifying Order of Appointment; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1332; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and due notice of the Motion having been provided; and it appearing that no other or further notice of the Motion need be provided; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtor, its estate, and all parties in interest; and after due deliberation and sufficient cause appearing therefore, it is:

IT IS HEREBY ORDERED THAT:

¹ The Debtor in this chapter 11 case, along with the last four digits of its tax identification number, is as follows: Connections Community Support Programs, Inc. (3030). The address of the Debtor’s corporate headquarters is 3812 Lancaster Pike, Wilmington, Delaware 19805.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

1. The Ombudsman, as a representative of the interests of patients and in order to properly and efficiently monitor the quality of patient care provided by the Debtor, requires access to the Patient Health Information.

2. The Ombudsman's activities constitute "treatment" within the meaning of 45 C.F.R. § 164.501.

3. The Motion is granted as set forth herein.

4. The Ombudsman, subject to the restrictions set forth in the Order of Appointment, shall have access to and the right to review the mental health or alcohol/substance abuse Patient Health Information, including but not limited to, all patient records and information relating to the Debtor's current and former patients in the facilities of the Debtor, to the extent that the Ombudsman reasonably believes is necessary to fulfill his statutory duties.

5. The Ombudsman shall not use or disclose Patient Health Information other than as permitted under Order of Appointment and as necessary to carry out the statutory duties, functions and purposes of section 333 of the Bankruptcy Code.

6. The Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation of this Order, notwithstanding any provision to the contrary in the Motion.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

CONNECTIONS COMMUNITY SUPPORT
PROGRAMS, INC.,

Debtor.¹

Chapter 11

Case No. 21-10723 (MFW)

Hearing Date: May 17, 2021 at 11:30 a.m. (ET)

Objection Deadline: May 10, 2021 at 4:00 p.m. (ET)

**NOTICE OF MOTION FOR AN ORDER GRANTING THE OMBUDSMAN
ADDITIONAL ACCESS TO PATIENT HEALTH INFORMATION, CLARIFYING
ORDER OF APPOINTMENT AND GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on May 3, 2021, Eric M. Huebscher, the patient care ombudsman (the “**Ombudsman**”) appointed in the above-captioned Chapter 11 case, filed the *Motion for an Order Granting the Ombudsman Additional Access to Patient Health Information, Clarifying Order of Appointment and Granting Related Relief* (the “**Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

PLEASE TAKE FURTHER NOTICE that, responses, if any, to the Motion, must be filed on or before **May 10, 2021 at 4:00 p.m. (prevailing Eastern Time)** (the “**Objection Deadline**”) with the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that at the same time, you must serve a copy of the response on the following parties so as to be received on or before the Objection Deadline: (a) the Debtor, Connections Community Support Programs, Inc., 3812 Lancaster Pike, Wilmington, Delaware 19805 (Attn: Robert D. Katz, Chief Restructuring Officer (robert.katz@eisneramper.com)); (b) the Ombudsman, Huebscher & Company, 630 3rd Avenue, 21st Floor, New York, NY 10017 (Attn: Eric Huebscher (ehuebscher@huebscherconsulting.com)); (c) *proposed* counsel for the Debtor, Chipman Brown Cicero & Cole, LLP, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801 (Attn: William E. Chipman, Jr., Esquire (chipman@chipmanbrown.com), and Mark L. Desgrosseilliers (desgross@chipmanbrown.com), Esquire); (d) counsel to WSFS, Reed Smith, LLP, Three Logan Square, Suite 3100, 1717 Arch Street, Philadelphia, PA 19103 ((Attn: Brian M. Schenker, Esquire (BSchenker@ReedSmith.com) and Derek M. Osei-Bonsu, Esquire (dosei-bonsu@reedsmith.com)); and 1201 N. Market Street, Suite 1500, Wilmington DE 19801 (Attn: Katelin A. Morales (kmorales@reedsmith.com)); (e) the Office of the United States Trustee, J. Caleb Boggs Federal Building, 844 King Street, Lockbox 35, Wilmington, Delaware 19801 (Attn: Rosa Sierra, Esquire (Rosa.Sierra@usdoj.gov)); and (f) counsel to any official committee of unsecured creditors appointed in this case.

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PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON **MAY 17, 2021, AT 11:30 A.M. (PREVAILING EASTERN TIME)** BEFORE THE HONORABLE MARY F. WALRATH, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5th Floor, COURTROOM 4, WILMINGTON, DELAWARE 19801.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: May 3, 2021
Wilmington, Delaware

HUEBSCHER & COMPANY

/s/ Eric Huebscher

Eric Huebscher, President
630 3rd Avenue – 21st Floor
New York, NY 10017
Phone – (646) 584-3141
Email: ehuebscher@huebscherconsulting.com

Patient Care Ombudsman