

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

In re:

Center City Healthcare, LLC d/b/a
Hahnemann University Hospital, *et al.*,¹
Debtors.

Chapter 11

Case No. 19-11466 (KG)

Jointly Administered

Re: D.I. 15

**RESPONSE OF THE ACCREDITATION COUNCIL FOR GRADUATE
MEDICAL EDUCATION TO MOTION OF THE DEBTORS FOR ENTRY OF
INTERIM AND FINAL ORDERS PURSUANT TO SECTIONS 105(a), 363, AND
1108 OF THE BANKRUPTCY CODE (A) AUTHORIZING THE DEBTORS TO
IMPLEMENT A PLAN OF CLOSURE FOR HAHNEMANN UNIVERSITY
HOSPITAL AND (B) SCHEDULING A FINAL HEARING**

The Accreditation Council for Graduate Medical Education (“ACGME”), by its undersigned counsel, hereby submits its Response to the *Motion of the Debtors for Entry of Interim and Final Orders Pursuant to Sections 105(a), 363 and 1108 of the Bankruptcy Code (A) Authorizing the Debtors to Implement a Plan of Closure for Hahnemann University Hospital and (B) Scheduling a Final Hearing* [D.I. 15] (the “Closure Motion”). In support hereof, the ACGME respectfully states as follows:

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Center City Healthcare, LLC (3341), Philadelphia Academic Health System, LLC (8681), St. Christopher’s Healthcare, LLC (8395), Philadelphia Academic Medical Associates, LLC (8165), HPS of PA, L.L.C. (1617), SCHC Pediatric Associates, L.L.C. (0527), St. Christopher’s Pediatric Urgent Care Center, L.L.C. (6447), SCHC Pediatric Anesthesia Associates, L.L.C. (2326), StChris Care at Northeast Pediatrics, L.L.C. (4056), TPS of PA, L.L.C. (4862), TPS II of PA, L.L.C. (5534), TPS III of PA, L.L.C.(5536), TPS IV of PA, L.L.C. (5537), and TPS V of PA, L.L.C. (5540). The Debtors’ mailing address is 230 North Broad Street, Philadelphia, Pennsylvania 19102.

INTRODUCTION

1. The ACGME is a not for profit corporation organized under the laws of the State of Illinois, and is headquartered at 401 North Michigan Avenue, Chicago, Illinois.² The mission of the ACGME is to improve healthcare and population health by assessing and advancing the quality of resident physicians' education through accreditation. Although it has a staff of over 250 employees, including 35 FTE accreditation site visitors, it is highly dependent upon its volunteer Board of Directors, Review Committees, and other activity participants. The ACGME's Board of Directors is composed of members of the profession, as well as public members. Representatives of the federal government have the rights of attendance and voice at meetings of the Board of Directors. Accreditation actions of the ACGME are volunteer, peer review decisions. Each year physicians, other healthcare personnel, and members of the public volunteer over 84,000 hours of their time to the ACGME.

2. The ACGME accredits 35 residency and fellowship programs sponsored by Hahnemann University Hospital (Hahnemann) with over 560 residents and fellows.³

3. The purposes of this Response are (1) to explain to the Court the importance of immediate placement of these residents/fellows in different residency and

² The ACGME has seven member organizations: American Association of Colleges of Osteopathic Medicine; American Board of Medical Specialties; American Hospital Association; American Medical Association; American Osteopathic Association; Association of American Medical Colleges; and Council of Medical Specialty Societies.

³ The ACGME Glossary of Terms defines "sponsoring institution" as follows:

Sponsoring Institution: The organization (or entity) that assumes the ultimate financial and academic responsibility for a program of graduate medical education consistent with the ACGME Institutional Requirements. The Sponsoring Institution has the primary purpose of providing educational programs and/or health care services (e.g., a university, a medical school, a hospital, a school of public health, a health department, a public health agency, an organized health care delivery system, a medical examiner's office, a consortium, or an educational foundation).

Clarification: When the Sponsoring Institution is not a rotation site for the program, the major associated hospital for the program is the primary clinical site (see Primary clinical site).

fellowship programs and what the ACGME and others known to the ACGME are doing to facilitate this, and (2) to request that, whatever may be ordered by the Court in these proceedings, it be consistent with the ability of residents/fellows to achieve such immediate placement.⁴

RELIEF REQUESTED

4. By this Response, the ACGME respectfully requests that, in any order entered with respect to the Closure Motion, the Court order that the Debtors take all actions necessary to allow residents/fellows to achieve immediate placement in different residency and fellowship programs.

RESPONSE

I. The Current Setting Relating to Residents and Fellows at Hahnemann University Hospital

5. As the residency/fellowship year is roughly from July 1 through June 30, more than 100 residents and fellows have just moved to Philadelphia, many with spouses and children, to begin their Hahnemann residencies and fellowships. They have just settled into new apartment leaseholds and other living accommodations; many of their spouses have new jobs; and they are making arrangement for daycare and schooling for young children. Most of them obligated themselves in good faith to Hahnemann residencies/fellowships in March 2019 through the National Resident Matching Program, in which Hahnemann offered positions as early as July 2018 to begin about July 1, 2019.

⁴ Much of the substance of this Response was sent by the ACGME to Debtors' counsel in a letter of July 5, 2019.

6. More than 400 other residents/fellows, who had begun training in the recent past, intended to continue and complete their clinical training at Hahnemann under similar circumstances (3-8 years, depending on the residency; 1-3 years, depending on the fellowship). It should be noted that “transfers” of residents and fellows from program to program are quite rare in the world of residencies and fellowships.

7. Shortly before Hahnemann filed for bankruptcy on June 30, these more than 560 residents/fellows learned of the impending closure of Hahnemann, and, with that, the imminent demise of their residency and fellowship programs at Hahnemann.⁵ A significant number of these residents/fellows are international physicians, currently residing in the United States on J-1 visas, whose immigration status is immediately threatened by this circumstance.

II. Residency/Fellowship

8. A residency is formalized, post-MD/DO degree, clinical training necessary for physician specialty certification and licensure. There are over 4,000 ACGME-accredited residency programs in the United States in 29 specialties with over 100,000 residents currently enrolled.

9. A fellowship is formalized, post-residency clinical training necessary for physician subspecialty certification. There are over 7,000 ACGME-accredited fellowship programs in the United States in more than 100 subspecialties with over 30,000 fellows currently enrolled.

⁵ According to the Hahnemann University Hospital website, accessed July 6, 2019, What is the timeline for the closure?
An orderly wind down to closing will be put in place beginning on July 1st. Final closing is scheduled for September 6, 2019, or when the last patient is discharged or transferred from the hospital.

10. Residencies and fellowships require highly specialized resources that include specialty and subspecialty faculty, specialized healthcare equipment and facilities, and a patient population sufficiently numerous and diverse in all conditions encompassed by the specialty/subspecialty to provide each resident with adequate clinical training. Each resident/fellow must undergo supervised clinical training to prepare him/her to perform independently each procedure in the specialty/subspecialty upon completion of the residency/fellowship. Both quantity and quality of all resources are particularly important. Adequate resources to train one resident/fellow may be inadequate resources to train two or more residents/fellows.

11. The primary funding for residencies and fellowships is through Medicare (over \$10 billion/year) and Medicaid (over \$2 billion/year). The ACGME has nothing to do with such funding. However, per federal statute and regulation, ACGME-accredited residencies and fellowships are eligible for such funding, and withdrawal of ACGME accreditation is likely to result in loss of such funding.

12. Interruption of a residency/fellowship year is highly disruptive to resident and fellow education. The longer the interruption, the more likely the clinical education of a resident or fellow will be extended to make up for lost time.

13. If a residency or a fellowship is to close, the least disruption to resident/fellow education would be caused if closure occurs at the end of the residency/fellowship year, with sufficient advance notice to enable residents/fellows to locate and enroll in different programs at the beginning of a residency/fellowship year. That did not occur here.

III. Hahnemann Residency/Fellowship Closure Policy

14. The ACGME requires, as an element of institutional accreditation, that Sponsoring Institutions have in place, and make known to residents and fellows, a Closure Policy. The Hahnemann residency/fellowship closure policy states, in part,

8. If a resident/fellow desires to transfer to another residency/fellowship program, the Program Director and the Office of Academic Affairs, Department of Graduate Medical Education will assist the resident/fellow in identifying a new program.

9. Should the resident/fellow identify and be accepted into another program, the resident/fellow will be released from their contract with a 30 – day written notice.

15. The ACGME has urged Hahnemann (1) to comply with this policy, and other interested parties to permit Hahnemann to comply with this policy, (2) to publicize this policy among residents/fellows, and (3) do whatever is necessary to ensure that Hahnemann and other residency/fellowship related personnel are following its own policy.

IV. ACGME Facilitation of Placement of the Hahnemann Residents/Fellows

16. By letter of June 26, 2019 from the Hahnemann Designated Institutional Official (DIO), the ACGME learned that closure of Hahnemann University Hospital was imminent. On June 28, 2019, the ACGME, consistent with its policies and procedures, implemented a web-based process that enables ACGME-accredited residency/fellowship programs throughout the country to offer positions to Hahnemann residents and fellows. The ACGME used this same system to facilitate the placement of residents/fellows after Hurricane Katrina.

17. As of the morning of July 8, 2019, the ACGME has identified 838 available positions for displaced Hahnemann residents/fellows, mainly from the mid-Atlantic states, but some from elsewhere in the country. The vast majority of these are contingent on the

receiving institution's being eligible for receipt of Medicare payment relating to the new positions, as provided in CMS requirements.

18. The available positions in each specialty/subspecialty do not match perfectly with the needed positions. However, the number of available positions continues to grow each day.⁶ The ACGME informs the Hahnemann DIO daily of these positions, and ACGME personnel speak with that individual on nearly a daily basis.

19. ACGME specialty/subspecialty Review Committees (composed of national specialty/subspecialty experts who volunteer their services to the profession), in an attempt to facilitate ACGME-accredited programs that wish to offer positions to the Hahnemann residents/fellows, are on alert to expeditiously process requests for increases in resident/fellow complement in this regard. As stated above, numbers of all resources are particularly important, and these committees are constituted with experts prepared to assess the adequacy of the required resources.

20. In addition, the ACGME anticipates receiving applications from several new specialty programs in the Philadelphia area.

21. Despite the urgency of immediate transfer of residents/fellows to different programs, the ACGME has learned of very few such transfers. In addition, the ACGME has received first-hand reports of barriers to such transfers imposed by both Hahnemann and Drexel.

22. The ACGME has processes for accreditation of reconstituted residency/fellowship programs that include transfer of sponsorship from one sponsoring institution to another. The extent of such accreditation review, and the time necessary for each

⁶ Also, Philadelphia internet news of July 3, 2019 reports that Cooper Health and Jefferson Health have websites where Hahnemann residents/fellows may apply.

such review, is largely dependent upon the extent of change in each program, particularly change in faculty, facilities, patient volume, and mix of conditions inherent in patients. The norm is for each program to submit an application with elaborate details of the reconstituted program to the ACGME through its online system, and thereafter to undergo a site visit by an ACGME site visitor. The primary function of the site visit is to verify the substance of the application. The process from program submission of application to accreditation decision usually takes 9 to 12 months.

23. The current ACGME accreditation status of Hahnemann as a sponsoring institution is Continued Accreditation with Warning. Its residency/fellowship programs are entering dormancy (due to closure of clinical services) or disintegration. The ACGME cannot wait much longer before it further exercises its accreditation responsibility to the public and the residents/fellows, and authority over the sponsoring institution and its programs. Actions available to the ACGME include immediate accreditation withdrawal of Hahnemann as a sponsoring institution, which would result in simultaneous accreditation withdrawal of all ACGME-accredited residency and fellowship programs.

24. The ACGME has scheduled an all-day visit to Hahnemann on Friday, July 12, 2019 by a team of at least 8 ACGME personnel.⁷ The purpose of the visit will be to assess the current state of affairs relating to Hahnemann and its sponsored residency programs, and particularly relating to residency/fellowship programs as ongoing programs of graduate medical education and resident/fellow transfer to other programs. The ACGME will chart its course based on the results of this visit.

⁷ The normal ACGME site visit to a program is one day in duration, and it is conducted by a single site visitor. These are extraordinary circumstances requiring extra personnel and expeditious accreditation assessment.

WHEREFORE, the ACGME respectfully requests that any order entered with respect to the Closure Motion be consistent with the ability of residents/fellows to achieve immediate placement in different residency and fellowship programs.

Dated: July 8, 2019
Wilmington, Delaware

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