

December 19, 2024

Ben Slocum
Chief Executive Officer
Wellpath
3340 Perimeter Hill Drive
Nashville, TN 37211

Sami Mnaymneh
Founder and Co-CEO
H.I.G. Capital
1450 Brickell Avenue, 31st Floor
Miami, FL 33131

Tony Tamer
Founder and Co-CEO
H.I.G. Capital
1450 Brickell Avenue, 31st Floor
Miami, FL 33131

Dear Mr. Slocum, Mr. Mnaymneh, and Mr. Tamer:

I urge Wellpath to ensure that incarcerated patients with tort claims against the company — as well as staff and other creditors — receive fair notice and fair compensation in the course of Wellpath’s bankruptcy proceedings.

On November 11, 2024, Wellpath — one of the largest prison health providers in the country — filed for bankruptcy in the Southern District of Texas.¹ The company has faced financial stress, including from the recent termination of contracts in some jurisdictions, and from medical malpractice lawsuits.² Still, Wellpath — which is owned by private equity (PE) giant H.I.G. Capital — earns over \$2 billion in revenue per year from state, local, and federal jail and prison contracts.³

¹ In re: Wellpath Holdings et al., case number 24-90533, in the U.S. Bankruptcy Court for the Southern District of Texas, November 11, 2024, <https://dm.epiq11.com/case/wpt/info>; Bloomberg, “PE-Backed Prison Health Firm Wellpath, Declares Bankruptcy,” Dorothy Ma and Janine Phakeetham, November 11, 2024, <https://www.bloomberg.com/news/articles/2024-11-12/pe-backed-prison-health-care-firm-wellpath-declares-bankruptcy>.

² Bloomberg, “Prison Health-Care Firm Wellpath Prepares Bankruptcy Filing,” Reshmi Basu and Jill R Shah, November 1, 2024, <https://www.bloomberg.com/news/articles/2024-11-01/prison-health-care-firm-wellpath-prepares-bankruptcy-filing?embedded-checkout=true>; Private Equity Stakeholder Project, “HIG CAPITAL’S AND WELLPATH’S CORRECTIONAL HEALTHCARE INVESTMENT RISKS,” July 2019, <https://pestakeholder.org/wp-content/uploads/2019/07/HIG-Capitals-Correctional-Healthcare-Investment-Risks-PESP-070819.pdf>; *see, e.g.*, Boston Globe, “Massachusetts declines to renew contract with controversial prison health care company Wellpath,” Adam Piore, May 10, 2024, <https://www.bostonglobe.com/2024/05/10/metro/wellpath-vitalcore-prisoner-health/>.

³ *See, e.g.*, BNN Bloomberg, “Prison Health-Care Firm Wellpath Prepares Bankruptcy Filing,” Reshmi Basu and Jill R. Shah, November 1, 2024, <https://www.bnnbloomberg.ca/investing/2024/11/01/prison-health-care-firm-wellpath-prepares-bankruptcy-filing/>; S&P Global, “Research Update: WellPath Holdings Inc. ‘CCC+’ Rating Placed On

Wellpath and its affiliates are currently fighting more than 1,500 lawsuits most of which allege deficient medical care.⁴ As members of Congress have highlighted, common complaints include delays of time-sensitive care, outright denials of care, administering treatment without patients' consent, inadequate staffing, inappropriate use of restraints, and general negligence.⁵ For example, Wellpath staff allegedly refused to provide a schizophrenic man his prescribed medication in a California jail, leading to his attempted suicide,⁶ and failed to provide antibiotics to treat a woman's infection at a Colorado jail, leading to her death nine days after she entered the facility.⁷ Wellpath staff have also been repeatedly accused of sexually abusing incarcerated patients, including in a recently settled South Carolina case involving eight women who reported abuse under Wellpath's care.⁸ Furthermore, Wellpath has been sued by public agencies alleging that the company refused to pay what it owed, such as the Michigan Department of Corrections' suit alleging that Wellpath failed to pay subcontractors tens of millions of dollars for medical services.⁹ Multiple suits have resulted in settlements or judgments in favor of the plaintiffs.¹⁰

CreditWatch Negative On Refinancing Risk From Upcoming Maturities," April 1, 2024, <https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/sourceId/13054062>.

⁴ Debtors' Emergency Motion for Entry of Interim And Final Orders to Enforce the Automatic Stay or in the Alternative Extend the Automatic Stay to Non-Debtor Defendants, In re: Wellpath Holdings, Inc., et al., No. 24-90533 (Bankruptcy Court S.D. Texas November 12, 2024), <https://document.epiq11.com/document/getdocumentsbydocket/?docketId=1124327&projectCode=WPT&docketNumber=17&source=DM>.

⁵ Office of U.S. Senator Elizabeth Warren, Warren, Durbin, Ossoff, Lawmakers Raise Concerns with Wellpath Over Inadequate Healthcare Services in Prisons and Jails Nationwide, December 19, 2023, <https://www.warren.senate.gov/oversight/letters/warren-durbin-ossoff-lawmakers-raise-concerns-with-wellpath-over-inadequate-healthcare-services-in-prisons-and-jails-nationwide>; Office of Congressman David Scott, Letter to Georgia Department of Corrections Commissioner regarding poor healthcare services, March 8, 2024, https://davidscott.house.gov/uploadedfiles/letter_to_gdc_prison_health_care_vf.pdf.

⁶ EIN Presswire, "Lawsuit: Wellpath refused a jail detainee's antipsychotic medication, resulting in him trying to hang himself," April 16, 2024, <https://www.kxan.com/business/press-releases/ein-presswire/704111704/lawsuit-wellpath-refused-a-jail-detainees-antipsychotic-medication-resulting-in-him-trying-to-hang-himself/>.

⁷ Colorado Politics, "Federal judge refuses to dismiss lawsuit against Jeffco jail contractor for detainee's death," Michael Karlik, May 28, 2024, https://www.coloradopolitics.com/courts/federal-judge-refuses-to-dismiss-lawsuit-against-jeffco-jail-contractor/article_7da520d0-1d3d-11ef-af45-f7e2cb7fdb87.html.

⁸ Post and Courier, "Former medical provider for SC jail has 15 days to pay up on \$1.5M settlement for unnecessary exams," Alan Hovorka, October 29, 2024, https://www.postandcourier.com/news/wellpath-settlement-women-vaginal-exams-berkeley/article_f07a2786-9547-11ef-98e6-7b5a3fb6406b.html; WJBF News, "Wellpath employee arrested for Sexual Assault against Augusta Medical Prison inmate," Mike Lepp and Richard Adams, June 27, 2023, <https://www.wjbf.com/news/crime-news/wellpath-employee-arrested-for-sexual-assault-against-augusta-medical-prison-inmate/>.

⁹ Detroit News, "Michigan sues prison health care provider, alleges it shorted subcontractors \$35M," Beth LeBlanc, September 18, 2024, <https://www.detroitnews.com/story/news/local/michigan/2024/09/18/michigan-department-of-corrections-prison-grand-prairie-health-care-services-unpaid-hospitals-emergency-services/75275449007/>.

¹⁰ See, e.g., OPB, "Lawsuit Reveals Details About Josephine County Jail Death Uncovered," Conrad Wilson, May 15, 2020, <https://www.opb.org/news/article/josephine-county-jail-lawsuit-death-investigation/>; Live 5 WCSC, "Medical provider settles \$1.5M in Berkeley County medical malpractice lawsuit," Caitlin Ashbaugh, December 16, 2024, <https://www.live5news.com/2024/12/16/medical-provider-settles-15m-berkeley-county-medical-malpractice-lawsuit/>; Prison Legal News, "Private Medical Contractor Wellpath Pays \$4.5 Million in Death of Mentally Ill Jail Detainee After Judge Finds It Destroyed Evidence," Douglas Ankney, March 1, 2021, <https://www.prisonlegalnews.org/news/2021/mar/1/private-medical-contractor-wellpath-pays-45-million-death-mentally-ill-jail-detainee-after-judge-finds-it-destroyed-evidence/>; Dence v. Wellpath, LLC, No. 1:20-CV-00671-CL, 2024 WL 4349089 (D. Or. Sept. 30, 2024).

Wellpath’s bankruptcy is part of a growing trend of private equity-backed health care companies — including in the prison health care market — filing for bankruptcy.¹¹ The private equity playbook often involves acquiring a company and looting its assets to enrich the private equity owners, leading to a decline in product or service quality, and sometimes causing the company to file for bankruptcy.¹² (The recent bankruptcy of restaurant chain Red Lobster brought this strategy into sharp relief, as the private equity owners blamed the company’s all-you-can-eat shrimp promotion while the parent company suffocated the restaurants into insolvency.¹³) Hospitals and nursing homes are increasingly failing after being gutted by PE firms, and the consequence of such mismanagement can be serious injury or death.¹⁴

In the prison health care market, the victims of private equity greed are even more vulnerable. For example, in 2023 Wellpath’s peer company Corizon — another private equity-backed prison health care provider — filed for bankruptcy in the Southern District of Texas and attempted to use the notorious “Texas Two Step” maneuver to evade liability to incarcerated tort claimants.¹⁵ Along with hiding assets from creditors, Corizon attempted to force them to accept lower settlements, obscured ownership details, inserted unlawful and coercive third-party releases into its bankruptcy plan that deprived victims of meaningful choice, and provided potential victims insufficient notice of their rights.¹⁶ The federal government’s bankruptcy watchdog intervened to challenge Corizon’s exploitation of the bankruptcy system, done at the expense of victims, local businesses, and state and local government agencies.¹⁷ Wellpath should avoid Corizon’s missteps, which triggered

¹¹ Private Equity Stakeholder Project, “Private equity healthcare bankruptcies show no signs of slowing,” August 1, 2024, <https://pestakeholder.org/news/private-equity-healthcare-bankruptcies-show-no-signs-of-slowng/>; Bloomberg Law, “Prison Health Company Bankruptcy Poses Hurdles for Inmates,” Randi Love, April 18, 2024, <https://news.bloomberglaw.com/bankruptcy-law/prison-health-company-bankruptcy-poses-unique-hurdles-to-inmates>.

¹² Private Equity Stakeholder Project, “Private equity behind 65% of billion dollar bankruptcies in 2024,” September 10, 2024, <https://pestakeholder.org/news/private-equity-behind-65-of-billion-dollar-bankruptcies-in-2024/>; Perseus Group, “The Rise in ‘Buy to Sell’ Related Bankruptcies,” <https://www.csiperseus.com/resource/asset-stripping-private-equity-bankruptcies#:~:text=Companies%20purchased%20by%20private%20equity,in%20critical%20sectors%20like%20healthcare>; The Atlantic, “When Private-Equity Firms Bankrupt Their Own Companies,” Brendan Ballou, May 1, 2023, <https://www.theatlantic.com/ideas/archive/2023/05/private-equity-firms-bankruptcies-plunder-book/673896/>.

¹³ Los Angeles Times, “Column: It wasn’t just the endless shrimp — Red Lobster’s corporate owners drove it into bankruptcy,” Michael Hiltzik, May 21, 2024, <https://www.latimes.com/business/story/2024-05-21/column-it-wasnt-just-the-endless-shrimp-red-lobsters-corporate-owners-drove-it-into-bankruptcy>.

¹⁴ Office of U.S. Senator Edward J. Markey, The Steward Health Care Report: How Corporate Greed Hurt Patients, Health Workers, And Communities, September 2024, https://www.markey.senate.gov/imo/media/doc/the_steward_health_care_report.pdf; NBC News, “After private equity takes over hospitals, they are less able to care for patients, top medical researchers say,” Gretchen Morgenson, July 31, 2024, <https://www.nbcnews.com/investigations/private-equity-takes-over-hospitals-less-able-care-patients-jama-rcna164497>.

¹⁵ Motion of the Official Committee of Tort Claimants and Certain Tort Claimants for Structured Dismissal of Chapter 11 Case at 2, In re: Teum Care Services (S.D. Texas 2024), <https://veritaglobal.net/tehum/document/239008624011600000000005>.

¹⁶ Office of U.S. Senator Elizabeth Warren, Warren Urges Justice Department Scrutiny of Corizon’s Bankruptcy System Abuse, February 1, 2024, <https://www.warren.senate.gov/oversight/letters/warren-urges-justice-department-scrutiny-of-corizons-bankruptcy-system-abuse>.

¹⁷ Reuters, “DOJ says prison health company’s bankruptcy should be dismissed,” Dietrich Knauth, February 23, 2024, <https://www.reuters.com/legal/litigation/doj-says-prison-health-companys-bankruptcy-should-be-dismissed-2024-02-23/>.

congressional oversight, opposition from the U.S. Trustee, and a drawn-out process in bankruptcy court.

Many Wellpath claimants are now concerned that their suits are being stayed during the pendency of the company's bankruptcy proceedings — and that they may receive only pennies on the dollar in compensation for viable claims.¹⁸ It is critical that Wellpath commit to ensuring fair payout to creditors, particularly incarcerated patients harmed by medical malpractice, as well as local health care providers and contracting partners. Given the unique vulnerability of many claimants, Wellpath must pay particular attention to ensuring fair notice to incarcerated tort claimants and other incarcerated patients who may have credible claims (whether or not they have filed a lawsuit). For example, Wellpath should provide incarcerated people with notice that contains plain, easy-to-understand language. Notice should also be available in different languages, particularly at facilities that house people in immigration custody who are less likely to be proficient English readers. Most importantly, potential creditors should be given sufficient time to file proof of claims, particularly incarcerated people who often face heightened barriers to pursuing their claims.

Finally, there have been multiple reported instances of Wellpath personnel destroying evidence in ongoing litigation, and the company was previously fined for doing so.¹⁹ Wellpath should take steps to ensure that documents relevant to these proceedings are preserved — including the medical records of incarcerated people who may require access to this evidence to substantiate their claim against Wellpath at the end of the bankruptcy process.

Our bankruptcy system provides companies with the opportunity for a fresh start. Wellpath must not abuse that system to avoid paying what it owes to incarcerated patients with credible claims against it. Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator

Cc: Marcus Alan Helt, McDermott Will & Emery LLP

¹⁸ Boston Globe, “Controversial prison healthcare company Wellpath, declares bankruptcy,” Adam Piore, November 12, 2024, https://www.bostonglobe.com/2024/11/12/metro/wellpath-bankruptcy-prison-massachusetts/?p1=Article_Recirc_InThisSection&p1=Article_Recirc_InThisSection.

¹⁹ OPB News, “Correctional health care provider again destroys evidence in a wrongful death case,” Sage Van Wing, October 4, 2024, <https://www.opb.org/article/2024/10/04/wellpath-delete-evidence-tol/>; Prison Legal News, “Wellpath Sanctioned for Discovery Violations After Stonewalling in Prisoner Lawsuits,” August 15, 2023, Douglas Ankney, <https://www.prisonlegalnews.org/news/2023/aug/15/wellpath-sanctioned-discovery-violations-after-stonewalling-prisoner-lawsuits/>.