



**MARGOLIS
& BLOOM**
Planning for Life

Attorneys at Law
Harry S. Margolis
Jeffrey A. Bloom
Lauren E. Marshall
Patricia Christello

Of Counsel
Rebecca J. Benson
India L. Minchoff
Alfred J. O'Donovan, III
Annette M. Hines

Providing
Disability Planning
ElderLaw Services
Estate Planning
Guardianship Services
Probate Administration
Retirement Planning
Special Needs Planning
Trust Administration
www.margolis.com

October 15, 2008

VIA FACSIMILE and
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Roberta Henderson, Administrator
Sudbury Pines Extended Care
642 Boston Post Road
Sudbury, MA 01776

Re: Nursing Home Advocacy on Behalf of [REDACTED]
Our Matter No. 10469

Dear Ms. Henderson:

This office represents [REDACTED] ("Mr. [REDACTED]"), by and through his attorney-in-fact [REDACTED], in connection with his rights as a resident of Sudbury Pines Extended Care (the "Facility"). This letter constitutes a demand for relief under the Massachusetts Consumer Protection Act, General Laws Chapter 93A.

Background

Mr. [REDACTED] was admitted to the Facility on December 26, 2007. He is 92 years of age and suffers from Parkinson's disease and related complications. Mr. [REDACTED] paid the Facility at the private pay rate through April 9, 2008. On or about June 10, 2008, our office filed an application on Mr. [REDACTED] behalf, seeking MassHealth long-term care eligibility beginning on April 10, 2008. A copy of the application cover letter was sent to your office on or about June 10. Mr. [REDACTED] has paid the estimated Medicaid co-payment (patient-paid amount) to the Facility since April 10, 2008.

By notice dated September 10, 2008, the Medicaid caseworker denied Mr. [REDACTED] application for MassHealth benefits because of an allegedly uncompensated transfer of assets. Our office filed a timely appeal from this denial on October 9, 2008 (the "Eligibility Appeal").

Boston:
535 Boylston Street, 8th Floor
Boston, MA 02116
Tel: 617/267-9700



ElderLaw Answers



Metrowest:
665 Franklin Street
Framingham, MA 01702
Tel: 508/370-3900

Roberta Henderson, Administrator
October 15, 2008
Page 2 of 3

By notice dated September 15, 2008 (the "Discharge Notice"), the Facility stated that it intended to discharge Mr. [REDACTED] for non-payment. According to Attorney Patricia Christello of our office, when she contacted you to discuss this matter, you insisted that the Facility would proceed with the discharge without waiting until the conclusion of the Eligibility Appeal; you also refused to tell Ms. Christello who was acting as counsel to the Facility. Our office filed a timely appeal (the "Discharge Appeal") on behalf of Mr. [REDACTED] from the Discharge Notice on October 14, 2008, and you have confirmed your receipt of this appeal.

According to information provided to us by Mr. [REDACTED] attorney-in-fact, the Facility has repeatedly threatened to send Mr. [REDACTED] home in an ambulance on October 15, unless he immediately paid the Facility the full private pay rate, plus interest at the rate of eighteen percent (18%), despite the fact that the Facility had notice that the Eligibility Appeal was pending. The Facility has also failed to provide Mr. [REDACTED] or his representative with a copy of the proposed discharge plan.

Violations of Mr. [REDACTED] Rights

Massachusetts law prohibits the Facility from discharging a resident when a Medicaid application is denied "*until all administrative appeals have been exhausted.*" 940 CMR 4.09(2) (emphasis added).

Despite the timely filing of the Eligibility Appeal and the Discharge Appeal, the Facility has impermissibly issued the Discharge Notice, demanded payment at the private rate, and exerted pressure on Mr. [REDACTED] family. To the grave concern of Mr. [REDACTED] and his family, we have been advised that the Facility has repeatedly threatened to remove Mr. [REDACTED] from the facility today and leave him on the doorstep of his home.

Nursing homes are prohibited, under the Attorney General's regulations, from failing to comply with "any existing state or federal statute, rule or regulation, which provides protection to or for residents . . . of long-term care facilities." 940 CMR 4.02(1). The Facility's actions as set forth above constitute violations of Mr. [REDACTED] rights as a nursing facility resident, and are unfair or deceptive acts or practices as defined by General Laws Chapter 93A.

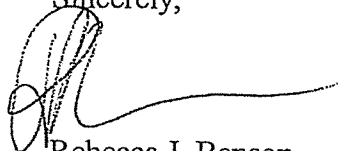
Demand for Relief

On behalf of Mr. [REDACTED], demand is hereby made that the Facility: 1) rescind the Discharge Notice, by a written notice delivered to me by no later than 3:00 p.m. on October 16, 2008; 2) allow Mr. [REDACTED] to remain a resident of the Facility for as long as he requires nursing facility care, pending final administrative decisions on the Eligibility Appeal and any other administrative appeals; 3) address any and all future communications concerning this matter to our office, and not to Mr. [REDACTED] or his family members; and 4) pay Mr. [REDACTED] \$1,200.00 in attorneys' fees.

Roberta Henderson, Administrator
October 15, 2008
Page 3 of 3

The Facility's failure to provide a reasonable offer of settlement within thirty (30) days of the date of this letter exposes the Facility to liability for multiple damages, along with costs and attorneys' fees under Chapter 93A. You may wish you consult with counsel in connection with this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'Rebecca J. Benson', with a long horizontal flourish extending to the right.

Rebecca J. Benson

cc: Ms. Mary McKenna, Director, Long-Term Care Ombudsman Program
Mr. Sherman Lohnes, Health Care Quality Division, Department of Public Health
Thomas O'Brien, Esq., Public Protection Bureau, Office of the Attorney General
Mr. [REDACTED], as Attorney-in-Fact for [REDACTED]
Harry S. Margolis, Esq.
Patricia Christello, Esq.