



## PRESS RELEASE

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**Attorney General Frosh Announces Settlement with Neiswanger Management Services, LLC in Resident Dumping Case  
Companies to Pay \$2.2 Million and to be Prohibited from Operating Nursing Homes in Maryland;  
State Alleged that NMS Engaged in Unlawful Resident Evictions**

**BALTIMORE, MD (October 26, 2018)** – Maryland Attorney General Brian E. Frosh today announced a settlement with Neiswanger Management Services, LLC (NMS), formerly an operator of five nursing facilities in Maryland, and its owner, Matthew Neiswanger. In [\*State v. Neiswanger Management Services, LLC, et al.\*](#), a civil case filed in the Circuit Court for Montgomery County in December 2016, the State alleged that NMS had engaged in unfair, unsafe, and unlawful discharge practices affecting hundreds of residents and had submitted false claims to the State’s Medicaid program. Under the settlement, Neiswanger and NMS, which discontinued its operation of nursing facilities in Maryland in February 2018, are permanently precluded from engaging directly or indirectly in the management or operation of nursing facilities in Maryland, and from participating as providers in the Maryland Medicaid program; will pay \$2.2 million to the State; and, will drop a federal lawsuit that NMS filed against employees of the Maryland Department of Health in March 2017.

The State alleged that NMS engaged in systemic violations of the discharge-related provisions of the Patient’s Bill of Rights, the Maryland law that protects nursing home residents. The State alleged that, among other things, NMS issued hundreds of eviction notices for asserted non-payment to residents who had not failed to pay, and dumped numerous vulnerable residents in homeless shelters and predatory unlicensed assisted living facilities, where they faced financial exploitation and abuse. The Attorney General’s complaint further alleged that NMS identified residents for eviction based on the status of their public health insurance benefits in order to maximize reimbursement from Medicare and Medicaid. Because the Medicare program typically reimburses nursing facilities at a higher rate than Medicaid, NMS sought to evict residents, according to the complaint, when its facilities were at full capacity and when Medicaid long term care recipients could be replaced with prospective residents whose care would be paid for by Medicare.

During a 17-month period, from January 1, 2015 to May 31, 2016, NMS issued at least 1,061 eviction notices to residents of its facilities. In that same period, Maryland’s 225 other licensed nursing facilities issued a combined total of less than half that number.

“NMS and its leadership compromised the health and safety of hundreds of vulnerable people who were in their care,” said Attorney General Frosh. “To make more money, NMS issued eviction notices to its residents en masse, unsafely evicted residents who continued to need long term nursing care, and often exposed frail residents to dangerous conditions by dumping them in homeless shelters and predatory unlicensed facilities. Today’s settlement ensures that NMS and its owner will no longer operate nursing facilities in Maryland and sends the message that this conduct is unacceptable.”

In a [February 2018 decision](#) in *State v. NMS*, the Court of Appeals of Maryland upheld the Attorney General’s authority under the Patient’s Bill of Rights to prevent nursing homes from illegally dumping frail, vulnerable patients, recognizing that the statute “demonstrate[s] clear legislative intent to limit involuntary discharges and transfers, and ensure that when they do occur, they are subject to procedural controls ensuring a resident’s health and safety.” The Court held that, under the law, “the Attorney General may bring suit on behalf of multiple unnamed residents who have been subject to, or await, imminent, unlawful involuntary discharges, provided that at least one individual’s statutory rights have been violated,” and that the Attorney General may obtain “complete injunctive relief” for violations of the law. The Patient’s Bill of Rights was amended in 1995 at the urging of then-Attorney General J. Joseph Curran, in legislation known at the time as “Anna Mae’s law,” after a Maryland nursing home abandoned an elderly resident on her lawyer’s front porch.

In addition to establishing the correct interpretation of key enforcement provisions of the Patient’s Bill of Rights, *State v. NMS* was one of the first civil cases litigated in State court under Maryland’s False Health Claims Act to proceed beyond the complaint filing stage. In an April 2017 decision in the case, the Circuit Court for Montgomery County recognized that it would violate the statute for a provider to submit claims to the State’s Medicaid program while falsely certifying its compliance with material regulatory requirements. The Supreme Court had endorsed this “implied certification” basis for false claims liability under federal law in its 2016 decision in *Universal Health Services, Inc. v. United States ex rel. Escobar*, 136 S. Ct. 1989 (2016). As a state senator, Attorney General Frosh was a lead sponsor of the False Health Claims Act when it was enacted in 2010.