



PRESS RELEASE

Court of Appeals Upholds Attorney General’s Authority to Prevent Patient Dumping *Decision Stems from Complaint Against Neiswanger Management Services, LLC*

BALTIMORE, MD (February 21, 2018) – The Court of Appeals of Maryland issued a [decision](#) upholding the Attorney General’s authority to prevent nursing homes from illegally dumping frail, vulnerable patients. In its decision, the Court recognized that the Patient’s Bill of Rights, the Maryland law that protects nursing home residents, “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, Jr., 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.

“The Court’s decision reaffirms that the Attorney General has a significant role in ensuring the safety, and protecting the basic rights of elderly, frail and vulnerable people residing in Maryland nursing homes,” said Attorney General Frosh. “Patient dumping is not acceptable. This decision recognizes that the law gives us enforcement tools to stop it.”

The decision arises from the case of *State of Maryland v. Neiswanger Management Services, LLC* (NMS), filed by Attorney General Frosh in December, 2016. NMS has operated nursing facilities in Anne Arundel County, Montgomery County, Prince George’s County and Washington County. The State’s [complaint](#) alleges that, in violation of the Patient’s Bill of Rights, NMS has unsafely and unlawfully evicted hundreds of frail, infirm, mentally ill, and physically and intellectually disabled people. 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. Maryland’s 225 other licensed nursing facilities, all together, issued a combined total of less than half that number during the same period. The State’s complaint alleges that, in a number of cases, NMS dumped evicted residents in homeless shelters and in predatory, unlicensed homes in places far from residents’ families and home communities.

The complaint further alleges that NMS identifies 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 has sought to evict residents, according to the complaint, when its facilities are at full capacity and when Medicaid long term care recipients can be replaced with prospective residents whose care will be paid for by Medicare.

Maryland nursing facilities are required to provide social work and discharge planning services to residents whenever discharge is anticipated. When nursing facilities bill Medicaid, they are seeking reimbursement for providing social work and discharge planning services, and they are certifying that they comply with the basic protections afforded to residents under the Patient's Bill of Rights. The complaint alleges that, in violation of the Maryland False Health Claims Act, NMS often did not provide the social work and discharge planning services for which it billed Medicaid, and that, by submitting claims to Medicaid, NMS falsely certified its compliance with the Patient's Bill of Rights. In addition to seeking injunctive relief against NMS's violations of the Patient's Bill of Rights, the State's complaint seeks treble damages and penalties for violations of the False Health Claims Act.