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PROPER PLANNING MAY CREATE PEACE OF MIND



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Empowering Clients To Be Advocates

A challenge for us is to empower our older clients and their families to be successful advocates in navigating the healthcare system. It is not unusual for a client or their family to be given false information about their rights. The following are false statements that can be made by facilities and how to effectively respond.

1. Guaranty of Payment: Residential contracts may contain “responsible party” language which imposes personal liability on the person signing the agreement. Requiring a third-party guaranty of payment as a condition of admission is a violation of the federal nursing home reform law and state law. Advise the client not to sign the contract where it contains that language and if the person is signing in a fiduciary capacity to indicate that (i.e. John Smith under durable power of attorney for Mary Smith).

2. Wrongful Discharge. A resident cannot be discharged merely because they are perceived as “difficult.” A resident

can be discharged if the safety or health of other residents is endangered or the resident’s needs can no longer be met. The facility must make reasonable attempts to accommodate the resident and address the problem. A facility must provide a resident with a written thirty day notice of discharge. The resident has the right to appeal and if the appeal is filed within 10 days the discharge is stayed until final ruling after the hearing.

3. Termination of Therapy. A facility may tell the resident’s family “we can’t continue with therapy services because the resident is not making progress.” Progress is not the only goal of therapy. The federal Nursing Home Reform Law states that a facility must provide “services and activities to attain or maintain the highest practicable physical, mental and psycho social well-being of each resident.” If the resident requires skilled nursing services or skilled rehabilitation services Medicare will provide reimbursement.

Let’s work together to educate our clients about their legal rights and encourage them to be advocates.

“Requiring a third-party guaranty of payment as a condition of admission is a violation of the federal nursing home reform law and state law.”

ANNOUNCEMENTS:

Stephanie is the Chair of The Florida Bar Elder Law Section as of July 1, 2003.

Our firm is a proud Business Patron of the Eagle Program of the Academy of Florida Trial Lawyers.

Meet The Staff

Kathy Russo - CLA

Bonnie Hale

- Special Needs Trusts
- Medicaid & SSI
- Nursing Home/ALF Resident Rights
- Estate Planning

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- Guardianship
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