

LK Alert

January 2009

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ADMISSION AGREEMENT REQUIRES RESIDENT'S SIGNATURE TO APPOINT DESIGNATED REPRESENTATIVE

In our last LK Alert, we wrote about a recent Kings County case (New York Cong. Nursing Ctr. v. Gilchrist), wherein a nursing home ("NH") sued an individual for a resident's cost of care, based primarily upon an admission agreement signed by the defendant as designated representative ("DR") for the resident. The NH alleged that the defendant used a Power of Attorney ("POA") to sell the resident's home and then breached the admission agreement by paying the NH only half of the proceeds from the sale of the resident's house (defendant transferred the other half to family members).

The Court held that since the admission agreement specifically authorized the resident "to appoint" a DR, but the resident never signed the agreement, defendant was not actually appointed as DR. Thus, the Court held that defendant could not be held liable for the resident's cost of care based solely upon the admission agreement. However, as noted in our last LK Alert, the Court denied defendant's motion to dismiss due to questions of fact regarding the agreement to apply the house proceeds to the NH bill.

This case illustrates the importance of the resident signing the admission agreement whenever possible, including cases where another individual signs the agreement as designated representative.

Littman Krooks LLP encourages you to share this LK Alert with anyone interested in the issues discussed herein. Please contact Nicole Garcia at (212) 490-2020 or (914) 684-2100 if you are interested in having an attorney from Littman Krooks LLP speak at your facility. Littman Krooks LLP offers legal services in several areas of law, including Accounts Receivable Management, Medicaid, Health Care, Guardianship, Elder law, Estate and Tax planning, Public Benefits, Estate Administration/Probate, and Trusts and Estates.

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