Nursing Home Residents Seek Immediate Injunction Against State-Sanctioned Resident “Dumping” in Wake of COVID-19 – Plaintiffs Demand that California Adhere to Federal Law –

FOR IMMEDIATE RELEASE

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San Francisco, CA – In a motion filed last Friday, residents in several California nursing homes have petitioned U.S. District Court Judge Haywood S. Gilliam, Jr. to enjoin the State from ongoing violations of federal anti-dumping regulations. As a result of the State’s inaction, the suit alleges that vulnerable nursing home residents have been improperly dumped into hospitals, putting them at risk of COVID-19 and wasting precious resources for sick patients.

According to the lawsuit, nursing homes routinely dump poorer patients in order to make room for higher paying residents. The practice is illegal under federal law, but persists, according to the lawsuit, because of the nursing home’s lobby and control over its State regulator.

Plaintiffs’ case is supported by one of California’s oldest long-term care advocacy organizations, the non-profit California Advocates for Nursing Home Reform (“CANHR”). Patricia McGinnis, Executive Director of CANHR, notes that the organization, “has been trying to stop the State’s implicit support of resident dumping for over a decade. With COVID-19, the situation literally has reached a fever pitch. Impoverished nursing home residents are being warehoused in hospitals in direct violation of federal law.” She added, “This is the worst of both worlds: in addition to putting our elderly citizens at risk, the State’s failure to enforce the law means far fewer hospital beds are available to treat those suffering from COVID-19.”

The individual plaintiffs are Bruce Anderson, John Wilson and Robert Austin who were dumped from their nursing home into hospitals. Each won a readmission hearing before an agency officer. However, because the State refuses to enforce its own hearing determinations, plaintiffs are forced to live in hospital beds. Plaintiffs’ attorney Matt Borden noted that “Bruce Anderson is a good example. He lived in a hospital for over a year. Like thousands of other nursing home residents, his bed could be used to treat more than 36 acute sufferers from COVID-19 or up to a hundred people needing acute hospital care for other reasons.”
The underlying lawsuit has been pending since 2015. CANHR and plaintiffs have sought to discuss the situation with Governor Gavin Newsom, but plaintiffs contend his administration has refused to respond.

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CANHR is a statewide nonprofit organization that has been dedicated to improving the care and quality of life for California’s long term care residents for over 35 years.

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