



FOR IMMEDIATE RELEASE:
February 14, 2017

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NYS Department of Health Releases Survey Results of Buffalo Area Nursing Facility

Center for Elder Law & Justice report will analyze the survey results which document that the 1-star rated facility Emerald North had 22 health deficiencies, including 3 in the most severe category.

February 14, 2017, NEW YORK – Last week, the New York State Department of Health (NYS DOH) released the survey results of nursing facility Emerald North Nursing and Rehabilitation Center (Emerald North) in Buffalo, New York. The facility has been a Nursing Home Compare 1-star rated facility (on a 5-star scale) since 2013. The decline in ratings comes after the transition and sale of the facility to an out of area for-profit ownership group, along with the execution of a financial plan to significantly cut costs. NYS DOH surveys of the facility over the past four years have found deficiencies that rank above average in scope and severity, as compared to other area nursing homes in Erie and Chautauqua counties. A full report of the survey results and analysis will be issued by Center for Elder Law & Justice (CELJ) on February 17, 2017.

The not-for profit, Presbyterian Senior Care of Western New York previously owned and operated the facility. Financial losses led them to turn over the operations to a voluntary receivership from mid-2012 until spring 2014, and then the sale of the facility was finalized to an out of area for-profit ownership group. In order to operate a nursing home, the prospective operator must be approved by the NYS DOH through the Certificate of Need (CON) application process. The financial plan, as outlined in the CON, and approved by the NYS DOH, focused on cutting costs and increasing revenues. The plan included measures to cut operating costs by “decreasing excess staff” and enhance revenues by continuing and expanding their policy of admitting “difficult to discharge from the hospital” patients.

This year, the NYS DOH survey team completed a lengthy visit (7 or 8 days) at Emerald North with an exit conference on January 24, 2017. The written Statement of Deficiencies was publicly issued on February 7, 2017. The DOH survey team issued 22 health deficiencies and of these, 3 were ranked Immediate Jeopardy (IJ) to resident health or safety; the highest level of severity that may be issued by the DOH survey team, for failure to properly document the Advance Directive status of its residents.

“It is important to understand that IJs are rare. IJs accounted for only 2.4% of state-wide citations. These issues were in place for many months. One incident that was cited occurred on September 6, 2016, and the facility did not correct the underlying problem until the survey team brought it to their attention mid-January 2017. Whenever there is a finding of IJ there needs to be concern about how the facility is being managed and resident care,” said **Lindsay Heckler, Attorney at Center for Elder Law & Justice.**

Emerald North’s survey results have been markedly worse over the past four NYS DOH surveys (when compared to the prior operator). As documented from CMS Nursing Home Compare datasets, the decline in results began in 2013, with the first survey after the change in operator under receivership.

DOH Survey Date	Health Deficiencies	Weighted Score
January 2017	22	TBA
March 8 2016	17	104
April 24 2015	16	72
May 7 2014	12	68
June 17 2013	15	138
July 12 2012	5	36
July 27 2011	4	20
July 29 2010	10	44

Ms. Heckler notes that, “All nursing homes that are certified for either Medicare, Medicaid, or both are required to abide by federal and state regulations. The regulations require nursing homes provide quality care and quality of life that is sufficient for residents to attain and maintain their highest practicable physical, emotional and social well-being. Deficiencies in health inspections range from violations in residents’ rights to poor infection control programs. A deficiency is a violation of federal and/or state regulation.”

A full report titled “Emerald North: Profile of a WNY Nursing Home” will be issued by CELJ on Friday, February 17, 2017. In the report, volunteer attorney Professor Tony Szczygiel and attorney Lindsay Heckler from CELJ will fully analyze and summarize the results of the survey, provide possible explanations for the decline in scores, and offer recommendations for steps to address similar issues in Western New York nursing facilities.

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Center for Elder Law & Justice (CELJ) is civil legal services agency in Buffalo, New York, serving eight Western New York counties. Since 1978, CELJ has provided comprehensive free legal services to the community’s seniors, people with disabilities and low income populations. The agency’s services help people maintain the essentials of life- access to health care, securing safe and affordable housing, protective services to remain free from violence, and access to sufficient income to improve their overall quality of life. CELJ is an unrestricted provider and engages in impact litigation, as well as direct client services. CELJ’s mission is to use the legal system to help their clients live independently and with dignity.