

Nursing Home Contracts Are Tricky

Sometimes I am amazed that most families that come to see me regarding how to pay for nursing home costs rarely ask me to review the nursing home contract that they have been asked to sign (or have already signed). These contracts can obligate family members to pay tens of thousands of dollars for their loved ones care. The liability is enormous. Here are a few things that can be done to protect you or your family:

First, **do not sign a personal guarantee**. Federal law prohibits a nursing home from requiring the execution of a personal guarantee as a condition to admit a patient. Nursing homes routinely try to get family members to “voluntarily” execute these personal guarantees.

Second, if you are not the patient, be sure to sign any documents in your representative capacity as attorney-in-fact or agent (pursuant to a durable power of attorney), as guardian (pursuant to a guardianship) or as health care surrogate (pursuant to a health care surrogate). Be sure to note on the signature line of any document the representative capacity in which you are signing. If you sign individually, you may become liable in a subsequent breach of contract lawsuit if the nursing home goes unpaid for some reason. Currently, nursing homes are suing individuals under these contracts. Make sure it is not you!

Third, check the admission agreement for a mandatory arbitration clause. If there is one, ask the nursing home to remove it before signing the contract. Arbitration clauses are there to protect the nursing home not you. In the event that you loved one is injured (and that happens), you want the right to seek redress in a court of law.

Fourth, remember that even though you are in a medical setting, nursing home employees work for the nursing home not you. Most nursing homes are owned by large publicly traded medical corporations. These corporations are very concerned with their bottom line because of their shareholders. Thus, corporate policy is not aimed at helping you but instead at insuring the nursing home gets paid the maximum amount. I have seen nursing home staff advise families to sell protected homesteads to pay for the patient’s care when the patient could have been qualified for Medicaid instead (the homestead does not count against you in Medicaid qualification but cash received from the sale of a homestead does).

Fifth, you do not have to go to the first nursing home that the hospital suggests. Take the time to find one that meets the needs of the patient as well as one that has a contract suitable to you. If you need help, contact a geriatric case manager for assistance in locating a facility. Geriatric case managers are individuals who work for you to ensure the needs of the patient are met.

Lastly, take your time. Rush decisions often lead to bad decision making. Have the nursing home contract reviewed. Explore your options. And most of all, take good care of the patient!