NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed: COMPLAINT
December 18, 2024 11:42

By: MICHAEL A. HILL 0088130

Confirmation Nbr. 3356694

ESTATE OF M.C. MISTER, DECEASED

vs.

PERRYSBURG HEALTHCARE AND REHABILITATION CE, ET AL

CV 24 109020

Judge: NANCY MARGARET RUSSO

Pages Filed: 26

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ESTATE OF M.C. MISTER, DECEASED Through Estate Representative Marita Mister c/o Michael Hill Trial Law 815 Superior Avenue, Suite 623 Cleveland, Ohio 44114 Plaintiff, vs. PERRYSBURG HEALTHCARE AND REHABILITATION CENTER AKA PERRYSBURG HEALTHCARE AND REHABILITATION CENTER, LLC 28546 Starbright Boulevard Perrysburg, Ohio 43551 Also Serve c/o Registered Agent: Jason Dipasqua 555 Anthony Wayne Trail Waterville, Ohio 43566 and CERTUS HEALTHCARE AKA CERTUS HEALTHCARE MANAGEMENT, LLC 30195 Chagrin Boulevard, Suite 350 Cleveland, Ohio 44124 Also Serve c/o Registered Agent: Eric M. Simon 200 Public Square, Suite 3500 Cleveland, Ohio 44114 and CHM OH WEST OPCO HOLDCO, LLC c/o Registered Agent: Jason Dipasqua 555 Anthony Wayne Trail Waterville, Ohio 43566	CASE NO. JUDGE **COMPLAINT** **WITH JURY DEMAND ENDORSED HEREON** **MOTION TO EXTEND DEADLINE TO FILE AFFIDAVIT OF MERIT FILED CONCURRENTLY**

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and)
)
OHIO CARE SKLD, LLC)
1418 65th Street)
Brooklyn, New York 11219)
)
and)
)
PWO PARTNERS, LLC)
c/o Registered Agent:)
Cohen, Labarbera, Landrigan LLP)
99 Brookside Avenue)
Chester, New York 10918)
)
and)
)
PERRYSBURG HEALTHCARE AND)
REHABILITATION CENTER PROPCO, LLC)
8 Lakeside Drive West)
Lawrence, New York 11559)
)
Also Serve c/o Registered Agent:)
)
Jason Dipasqua)
555 Anthony Wayne Trail)
Waterville, Ohio 43566)
_____)

Plaintiff, the Estate of M.C. Mister, Deceased, through Estate Representative Marita Mister, for this Complaint against the above-named Defendants, states and avers upon information and belief:

INTRODUCTION

1. This action involves multiple claims (medical negligence, recklessness, wrongful death, Resident's Rights Law violations, civil conspiracy, and fraud) involving Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC's ("Facility's") inadequate care of M.C. Mister and the

corporate control of the facility leading to such inadequate care that led to M.C. Mister's untimely and wrongful death on December 22, 2023.

2. This is a negligence case against Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC for failing to provide proper care to 88-year-old M.C. Mister. M.C. Mister had a history of swallowing difficulties resulting from a stroke and dementia, which required him to be on a mechanically softened diet. Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC accepted M.C. Mister as a resident, knowing of his medical needs and specialized dietary requirements. Despite this, Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC failed to adhere to M.C. Mister's care plan, provide him with adequate and appropriate medical care, and ensure that he received food consistent with his prescribed diet. On December 22, 2023, such failures resulted in serious injury and M.C. Mister's ultimate death.

3. Plaintiff requests a trial by jury.

4. Plaintiff brings this action for compensation for the harms and losses sustained as the result of the negligence, recklessness, conscious disregard, reckless disregard, conduct by which—through heedless indifference to the consequences—the Defendants or their staff disregarded a substantial and unjustifiable risk that the health care provider's conduct is likely to cause, at the time those services or that treatment or care were rendered, an unreasonable risk of injury, death, or loss to person or property, or intentional misconduct or willful or wanton misconduct, and other wrongful conduct described herein or discovered during litigation.

DEFENDANTS

5. Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and / or employees and does business as Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC.

6. Certus Healthcare aka Certus Healthcare Management, LLC is an Ohio corporation with its headquarters and principal place of business in Cuyahoga County, Ohio that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and / or employees and does business as Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC.

7. CHM OH West OPCO HOLDCO, LLC is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and / or employees and does business as Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC.

8. Ohio Care Skld, LLC is a New York corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and / or employees and does business as Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC.

9. PWO Partners, LLC is a New York corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and / or employees and does business as Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC.

10. Perrysburg Healthcare and Rehabilitation Center Propco, LLC is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and / or employees and does business as Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC.

11. The Defendants employ, manage, and direct the care and service providers who were responsible for M.C. Mister's care, treatment, and safety at Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC while they were a resident there, and / or are responsible for creating unsafe conditions at the Facility through their control of the Facility management that directly led to M.C. Mister's injuries and untimely and wrongful death on December 22, 2023.

12. The Defendants direct and control operations at the Facility and are therefore directly liable for mismanagement of the Facility without regard to piercing the corporate veil.

13. The Defendant organization controls the other corporations in a way that is so complete that the corporations have no separate mind, will, or existence of their own, is exercised in such a manner as to commit fraud or an illegal act against the person seeking to disregard the corporate entity; and injury or unjust loss resulted to the plaintiff

from such control and wrong, meaning the Defendants should be held directly liable for such harms and losses.

14. The Defendants collectively own, manage, control, and/or are responsible for the care delivered to residents of Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC directly or through their domination and control of any putative entity license holder.

VICARIOUS LIABILITY

15. The Defendants employ the care providers who were responsible for ensuring M.C. Mister's care and safety.

16. The Defendants manage, control, and/or employ the nursing staff at the Facility.

17. M.C. Mister and their family looked to the Defendants for care based upon their representations.

18. The Defendants are vicariously liable for the negligent actions of their employees and agents (respondeat superior and agency liability) and/or independent contractors (*Clark v. Southview Hosp. & Family Health Ctr.*, 68 Ohio St.3d 435, 628 N.E.2d 46 (1994), agency by estoppel), including visiting physicians and nurse practitioners contracted with any of the Defendants and / or provided to residents as default or house care providers.

JURISDICTION AND VENUE

19. This Court has Jurisdiction over Defendants because, among other things, all Defendants do, and all times relevant did, purposefully avail themselves of the laws of the State of Ohio, and/or committed tortious acts within the State of Ohio.

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20. Venue is proper in Cuyahoga County, Ohio under Civil Rule 3(B) because, among other reasons one or more Defendants reside, domicile, or carry on their principal place of business in that county.

COMMON FACTS

21. Defendants hold themselves out to the public as providers of long-term nursing home, skilled nursing, and memory care services.

22. Defendants' for-profit model means their primary goal is to maximize profit, measured by revenues minus expenses.

23. For nursing homes generally, the largest individual revenue source is residents (filling beds), and the largest individual expense is the cost of employing nursing staff to provide care to those residents. This creates a financial incentive to take on more residents with greater care needs than the nursing staff can properly care for, a violation of federal nursing home regulations regarding staffing levels.

24. The Defendants manage, control, and / or employ the nursing staff at Facility.

25. The Defendants exercise actual control over the Facility's management and operations to maximize profits, including control over facility-level:

a. Policies and procedures, including regarding resident care;

b. Finances, including obtaining credit and loans, guaranteeing loans (both at the corporate and individual facility level), maintaining funds and banking, obtaining, owning, and leasing facility land and buildings, and capital expenditures.

c. Budgeting, including controlling the amount of funds available for staffing facilities;

d. Personnel management, including hiring and firing, or having authority to hire and fire, the supervisory and management personnel in each facility;

e. Supervision of management, care providers, and staff in each facility, including compliance with federal and state regulations;

f. Employment, such as setting pay scales, shifts, and time and vacation policies;

g. Systems for training, monitoring, and supervising staff;

h. Medical record systems and management;

i. Financial control systems, including budgeting and payment processing;

j. Marketing, including setting the image and expectations residents and their family should expect at the facility, and even the name of the facility;

k. Reporting procedures, including reporting to Medicare as to individual resident care and facility-wide issues.

26. As the result of this control, the Defendants make decisions that affect the day-to-day care of residents of the Facility, such as the resources available for providing nursing staff and care to residents like M.C. Mister, meaning they are responsible for the foreseeable harm that results from careless decisions while voluntarily exercising that control.

27. Defendants failed to ensure, through their operational, budgetary, consultation and managerial decisions and actions, that the facilities were sufficiently staffed to meet the individual needs of its residents, including M.C. Mister.

28. Defendants engaged in a systemic practice to understaff the facilities to maximize profits at the expense of its residents' care.

29. The Defendants' systemic understaffing of the Facility resulted in a "1-star" ("much below average") ranking for Staffing on the Medicare.gov Nursing Home Compare website and 1-star overall ranking.

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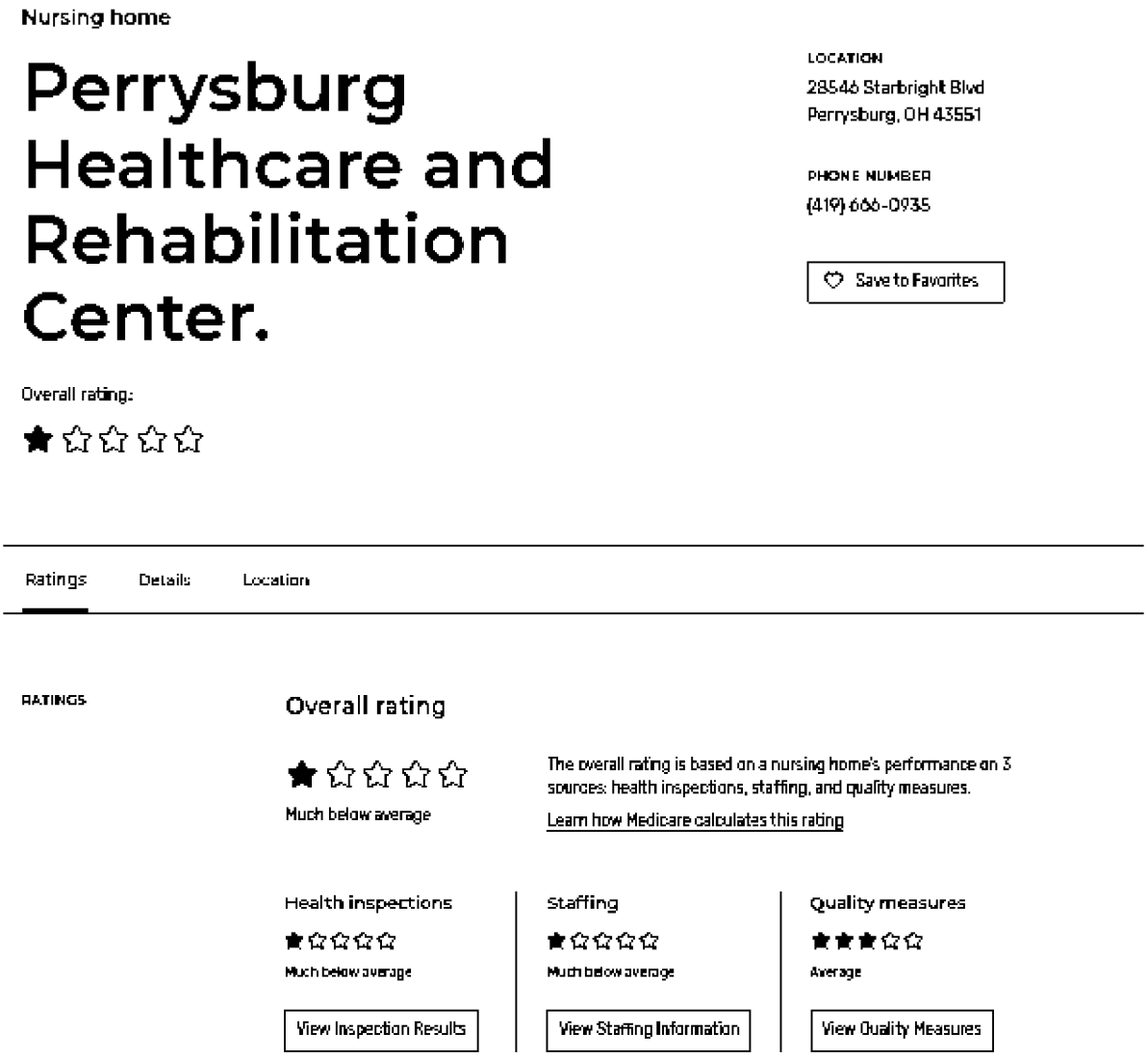


Figure 1: According to the Centers for Medicare and Medicaid, Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC earned a 1-star, or "much below average" rating for Staffing and a 1-star, or "much below average" rating for Health Inspections. This data was taken directly from medicare.gov on December 10, 2024.

30. This lack of sufficient staff directly resulted in M.C. Mister not receiving basic and necessary services to prevent, among other things, neglect leading to his injuries and death.

31. The Defendants also exercise operational and managerial control, and apply this profits-over-safety model, at the following facilities in the State of Ohio:

a. Adams Lane Healthcare & Rehabilitation
1856 Adams Lane
Zanesville, OH 43701

b. Aristocrat Berea Healthcare & Rehabilitation
255 Front Street
Berea, OH 44017

c. Beacon House Senior Living
100 Reservoir Road, Office 2
St. Clairsville, OH 43950

d. Beckett House Healthcare & Rehabilitation
1280 Friendship Drive
New Concord, OH 43762

e. Bryan Healthcare & Rehabilitation
1104 Wesley Avenue
Bryan, OH 43506

f. Candlewood Healthcare & Rehabilitation
1835 Belmore Road
Cleveland, OH 44112

g. Cedar Hill Healthcare & Rehabilitation
1136 Adair Avenue
Zanesville, OH 43701

h. Cityview Healthcare & Rehabilitation
6606 Carnegie Avenue
Cleveland, OH 44103

i. Forest Hill Senior Living
100 Reservoir Road, Office 1
St. Clairsville, OH 43950

j. Heritage Village of Clyde
700 Helen Street
Clyde, OH 43410

k. Heritage Village of Waterville
555 Anthony Wayne Trail
Waterville, OH 43566

l. Kent Healthcare & Rehabilitation
1290 Fairchild Avenue
Kent, OH 44240

m. New Lexington Healthcare & Rehabilitation
920 S. Main Street
New Lexington, OH 43764

n. Niles Way Senior Living
730 Youngstown Warren Road
Niles, OH 44446

o. Point Place Healthcare & Rehabilitation
6101 North Summit Street
Toledo, OH 43611

p. Shadyside Healthcare & Rehabilitation
60583 State Route 7
Shadyside, OH 43947

q. Sterling Suites Senior Living
1126 Adair Avenue
Zanesville, OH 73701

r. Willow Haven Healthcare & Rehabilitation
1020 Taylor Street
Zanesville, OH 43701

Reporting Data – Nursing Home

32. The Defendants are required to report significant amounts of data to the federal agency that oversees operations of nursing homes receiving federal or state funding, the Centers for Medicare and Medicaid Services, or "Medicare."

33. The data the Defendants submit to Medicare regarding its facility includes data on its residents (numbers, care needs, and bed days), its finances, and its nurse and nursing aide staffing levels as compared to resident care needs.

34. This data is certified correct by the Defendants and / or submitted under penalty of perjury and / or civil or criminal penalties.

35. Medicare uses some of this data submitted by Defendants to produce its nursing home 5-star rating system, also known as "Nursing Home Compare."

Nursing Home Resident Care Needs and Staffing Levels (MDS and RUG Scores)

36. Every nursing home receiving Medicare or Medicaid funding—the clear majority of nursing homes, including Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC and others operated and / or controlled by Defendants—is required to provide detailed information regarding the health status, care and treatment, and services provided to each resident in the facility using a questionnaire called the Minimum Data Set, or MDS. This evaluation is done for all nursing home residents regardless of whether their care is being paid for by Medicare.

37. Nursing homes like Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC are required to evaluate every resident using the Minimum Data Set questionnaire shortly after the time of admission, every 90 days thereafter, when a resident has a significant improvement or decline in health (physical, mental, or psychosocial), and upon discharge.

38. Based on this Minimum Data Set, each resident's individual care needs (called "acuity level") are assigned into a group signifying how much nursing or staff care the resident requires, called a Resource Utilization Group score, or RUG score.

39. Each resident's Resource Utilization Group score is contained in Section Z of their Minimum Data Set evaluations, meaning the total care needs of the residents in any facility at a specific time is available by totaling the residents' Resource Utilization Group scores from their Minimum Data Set evaluations.

40. Medicare has commissioned and made available to every nursing home studies and data showing the number of minutes of nursing and nursing aide care a person at a specific RUG level should be expected to require, which Medicare calls "expected staffing."

41. When these Resource Utilization Group scores are combined for all residents in a nursing home facility, the nursing home knows exactly how many minutes of nursing and nursing aide care should be provided, on average, to meet the expected care needs of their residents.

Misleading Advertising

42. In an effort to persuade the families of patients to become customers, Defendants make promises to the families of such potential residents that they will provide a level of care that they know they are incapable of providing.

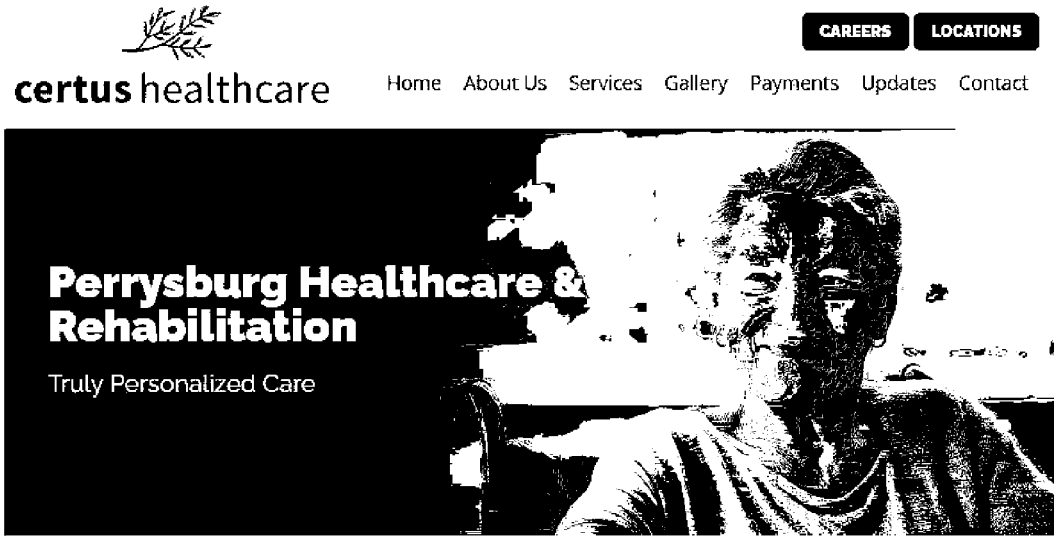


Figure 2: Perrysburg Healthcare & Rehabilitation advertises its services in a way to lead families and potential residents to believe that their services are specialized to each resident. This is done to make individuals believe that their loved one will be cared for at a level that the facility knows it cannot provide based on its 1-star Staffing rating with Medicare. This data was taken directly from medicare.gov on December 10, 2024.

43. The intent and outcome of this misleading practice is to cause residents, their families, and external care providers to believe the nursing facility is much better staffed to provide the promised care than what is actually the practice of the Defendants with regard to staffing the Facility.

44. The intent and outcome of this misleading practice is to drastically limit the budget and overhead needed to run a safe facility in order to maximize profits and syphon resources at the expense of patient safety.

Systemic Understaffing and M.C. Mister's Care

45. Defendants failed to ensure, through their operational, budgetary, consultation and managerial decisions and actions, that Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC was sufficiently staffed, and the staff appropriately trained and informed, to meet the individual needs of M.C. Mister during the period they were a resident at the facility.

46. Defendants engaged in a systemic practice to Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC to maximize profits at the expense of its residents' care.

47. This lack of sufficient staff directly resulted in M.C. Mister not receiving basic and necessary services, assessments, and interventions to prevent, among other things, neglect leading to their injuries at Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC during the period they were a resident at the Facility.

Defendants' Negligence and Recklessness with M.C. Mister

48. Defendants accepted M.C Mister as a nursing home resident for long-term care.

49. Defendants agreed to accept M.C. Mister into their facility and provide care to them in exchange for monetary payment.

50. Prior to being admitted to Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC, M.C. Mister experienced a stroke which, combined with his dementia diagnosis, led to swallowing difficulties and necessitated a mechanically softened diet.

51. Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC was aware of M.C. Mister's medical conditions, including his history of swallowing difficulties and specialized dietary requirements, at the time it accepted them into their care.

52. On December 22, 2023, Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC failed to provide adequate and appropriate care in accordance with M.C. Mister's care plan and prescribed diet, resulting in serious injury and his ultimate death.

53. Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC agreed to provide appropriate care to M.C. Mister and was bound not to cause harm to M.C. Mister through their willful, wanton, and/or reckless actions.

54. M.C. Mister endured mental and physical pain suffering and death as a direct and proximate result of Defendants' failure to provide adequate care due to understaffing the facility.

FIRST CAUSE OF ACTION
(MEDICAL NEGLIGENCE / RECKLESSNESS)

55. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

56. M.C. Mister depended on the Defendants, and their respective nursing and medical staff, for medical and nursing care, treatment, evaluation, and assistance.

57. The Defendants had a duty to provide proper care and treatment to M.C. Mister and to avoid causing injury to M.C. Mister.

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58. The Defendants, including their medical and nursing staff, failed to provide proper care and treatment to M.C. Mister, which they knew or should have known they required, and their negligence was the direct and proximate cause of the injuries that M.C. Mister suffered.

59. The Defendants' failure to provide proper care and treatment included, but is not limited to:

a. Choosing to put inadequate prevention and response interventions in place to prevent injuries;

b. Choosing to provide inadequate resident observation, supervision, and monitoring;

c. Choosing to provide improper training to staff members regarding resident monitoring, assessment, response, and treatment;

d. Choosing to provide too few, and / or underqualified nursing staff members for resident needs at each facility to protect and provide adequate care to residents like M.C. Mister;

e. Choosing to not provide accurate, adequate, or timely information to M.C. Mister's family;

f. Choosing to provide inadequate supervision to prevent accidents and falls;

g. Choosing to violate orders relating to care of M.C. Mister;

h. Choosing to violate state and federal regulations governing care and staffing levels in nursing home facilities by which residents like M.C. Mister are a member of the class of persons intended to be protected from injuries like those they suffered;

i. Failing to ensure the rights and safety of its residents, including M.C. Mister, as required by Ohio and federal regulations;

j. Choosing not to provide appropriate care to M.C. Mister while they were a resident of the Facility; and

k. Such other acts or omissions described in this Complaint or discovered in litigation.

60. These actions constituted a conscious disregard for M.C. Mister's rights and safety with a great probability of causing substantial harm from this misconduct, by which—through heedless indifference to the consequences—the Defendants or their staff disregarded a substantial and unjustifiable risk that the health care provider's conduct was likely to cause, at the time those services or that treatment or care were rendered, constituting an unreasonable risk of injury, death, or loss to person or property, or intentional misconduct or willful or wanton misconduct. The Defendants were aware of the great probability of the harm that could result from their willful, wanton, and/or reckless misconduct.

61. The Defendants' disregard for the rights and safety of residents like M.C. Mister created circumstances under which it became substantially certain that serious injuries would result, entitling Plaintiff to awards for compensatory and punitive damages.

62. The Defendants are directly liable for their own willful, wanton, and/or reckless misconduct.

63. The Defendants are also vicariously liable for their employees' and agents' willful, wanton, and/or reckless misconduct.

64. The Defendants and their medical and nursing staff provided care to M.C. Mister that fell below the standard of care expected of medical care and nursing home organizations, under the same or similar circumstances.

65. The departures from the standard of care are evidenced by violations of sections of Federal Regulations, 42 C.F.R. § 483 et seq., and Ohio Administrative Code sections, OAC 3701-17 et seq., and the Ohio Resident's Rights Law, R.C. section 3721.13.

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66. As a direct and proximate result of the negligent and/or willful, wanton and/or reckless actions of the Defendants described above, M.C. Mister sustained permanent injury and loss including, but not limited to, conscious pain and suffering, disability, and death.

67. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount more than Twenty-Five Thousand Dollars ($25,000.00), for conscious pain and suffering, loss of enjoyment, together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the Plaintiff may be entitled to and/or that the court finds is appropriate and/or equitable.

SECOND CAUSE OF ACTION
(WRONGFUL DEATH)

68. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

69. M.C. Mister depended on the Defendants, and their respective nursing and medical staff, for medical and nursing care, treatment, evaluation, and assistance.

70. The Defendants had a duty to provide proper care and treatment to M.C. Mister and to avoid causing injury to M.C. Mister.

71. The Defendants, including their medical and nursing staff, failed to provide proper care and treatment to M.C. Mister, which they knew or should have known they required, and their negligence was the direct and proximate cause of the injuries that M.C. Mister suffered.

72. The Defendants' failure to provide proper care and treatment included, but is not limited to:

a. Choosing to put inadequate prevention and response interventions in place to prevent injuries;

b. Choosing to provide inadequate resident observation, supervision, and monitoring;

c. Choosing to provide improper training to staff members regarding resident monitoring, assessment, response, and treatment;

d. Choosing to provide too few, and / or underqualified nursing staff members for resident needs at each facility to protect and provide adequate care to residents like M.C. Mister;

e. Choosing to not provide accurate, adequate, or timely information to M.C. Mister's family;

f. Choosing to provide inadequate supervision to prevent accidents and falls;

g. Choosing to violate orders relating to care of M.C. Mister;

h. Choosing to violate state and federal regulations governing care and staffing levels in nursing home facilities by which residents like M.C. Mister are a member of the class of persons intended to be protected from injuries like those they suffered;

i. Failing to ensure the rights and safety of its residents, including M.C. Mister, as required by Ohio and federal regulations;

j. Choosing not to provide appropriate care to M.C. Mister while they were a resident of the Facility; and

k. Such other acts or omissions described in this Complaint or discovered in litigation.

73. Defendants, directly or through their employees or agents, violated M.C. Mister's rights as a resident of the Defendants' facilities, as enumerated in Ohio Revised Code section 3721.13, including, but not limited to:

a. The right to a safe and clean living environment;

b. The right to be free from physical, verbal, mental, and emotional abuse and to be treated at all times with courtesy, respect, and full recognition of dignity and individuality;

c. The right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care;

d. The right to have clothes and bed sheets changed as the need arises, to ensure the resident's comfort or sanitation;

e. The right to participate in decisions that affect the resident's life;

f. The right to have any significant change in the resident's health status reported to the resident's sponsor.

74. These violations are evidence of negligence and conscious disregard of M.C. Mister's rights and safety, and give rise to a statutory cause of action.

75. M.C. Mister endured conscious pain, suffering, and disability, and other harms and losses as the direct and proximate result of Defendants' violations of R.C. 3721.13.

76. These actions constituted a conscious disregard for M.C. Mister's rights and safety with a great probability of causing substantial harm from this misconduct, by which—through heedless indifference to the consequences—the Defendants or their staff disregarded a substantial and unjustifiable risk that the health care provider's conduct was likely to cause, at the time those services or that treatment or care were rendered, constituting an unreasonable risk of injury, death, or loss to person or property, or intentional misconduct or willful or wanton misconduct.

77. The Defendants were aware of the great probability of the harm that could result from their willful, wanton, and/or reckless misconduct.

78. The Defendants' disregard for the rights and safety of residents like M.C. Mister created circumstances under which it became substantially certain that serious injuries would result.

79. The Defendants are directly liable for their own willful, wanton, and/or reckless misconduct.

80. The Defendants are also vicariously liable for their employees' and agents' willful, wanton, and/or reckless misconduct.

81. The Defendants and their medical and nursing staff provided care to M.C. Mister that fell below the standard of care expected of medical care and nursing home organizations, under the same or similar circumstances.

82. The departures from the standard of care are evidenced by violations of sections of Federal Regulations, 42 C.F.R. § 483 et seq., and Ohio Administrative Code sections, OAC 3701-17 et seq., and the Ohio Resident's Rights Law, R.C. section 3721.13.

83. As a direct and proximate result of the negligence / recklessness described above, M.C. Mister sustained injuries that caused their untimely and wrongful death.

84. M.C. Mister's next-of-kin suffered damages as set forth in the Ohio Wrongful Death statute, R.C. 2125.01 et seq., including mental anguish and grief and loss of Decedent's society and companionship.

85. WHEREFORE, Plaintiff demands judgment against Defendants, in an amount more than $25,000.00 to compensate the decedent's next of kin and heirs at law, together with costs of suit, attorneys' fees and expenses, and any other relief the court finds is appropriate and / or equitable.

THIRD CAUSE OF ACTION
(NURSING HOME RESIDENT RIGHTS VIOLATION R.C. 3721.13)

86. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

87. Defendants, directly or through their employees or agents, violated M.C. Mister's rights as a resident of the Defendants' facilities, as enumerated in Ohio Revised Code section 3721.13, including, but not limited to:

a. The right to a safe and clean living environment;

b. The right to be free from physical, verbal, mental, and emotional abuse and to be treated at all times with courtesy, respect, and full recognition of dignity and individuality;

c. The right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care;

d. The right to have clothes and bed sheets changed as the need arises, to ensure the resident's comfort or sanitation;

e. The right to participate in decisions that affect the resident's life;

f. The right to have any significant change in the resident's health status reported to the resident's sponsor.

88. These violations are evidence of negligence and conscious disregard of M.C. Mister's rights and safety and give rise to a statutory cause of action.

89. As a direct and proximate result of Defendants' violations of R.C. 3721.13, M.C. Mister endured conscious pain, suffering, and disability, and other harms and losses including death.

90. WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly, in an amount in excess of $25,000.00, together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the court finds is appropriate and / or equitable.

FOURTH CAUSE OF ACTION
(CIVIL CONSPIRACY)

91. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

92. Defendants had an express agreement, mutual understanding, or tacit agreement to, and/or their agents maliciously combined efforts to:

a. defraud residents and their families by delivering wholly inadequate care, contrary to their promises;

b. systemically understaff their facilities in violation of federal regulations, and for the purposes of their own profit, at the expense of resident health and safety;

c. under-capitalize the facilities and syphon money to themselves and related entities for the purposes of their own profit at the expense of resident health and safety;

d. inflate resident RUG levels to obtain excessive and unjustified payments from Medicare and Medicaid while not providing the care paid for with these taxpayer dollars;

e. not provide the level of care, by understaffing the facility, paid for by taxpayer dollars;

f. misrepresenting to Medicare the staffing level of the facility to increase their rating; and

g. as otherwise may be described in the Complaint or learned through discovery.

93. This understanding constitutes a malicious combination to injure residents of the Facility, including M.C. Mister.

94. In pursuance of this common plan or design to commit tortious acts, the Defendants actively took part in it, or furthered it by cooperation or request, or lent aid or encouragement to the wrongdoers, or ratified and adopted the wrongdoers' acts done for their benefit.

95. The conspiracy caused injury to M.C. Mister.

96. WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly, in an amount in excess of $25,000.00, together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the court finds is appropriate and / or equitable.

FIFTH CAUSE OF ACTION
(FRAUD)

97. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

98. Defendants concealed facts concerning their staffing levels, pay, and the amount of care they were actually capable of providing at Perrysburg Healthcare and Rehabilitation Center aka Perrysburg Healthcare and Rehabilitation Center, LLC.

99. Not only did Defendants conceal this information, they publicly and privately represented that they provide exceptional services in an effort to induce the family of M.C. Mister and other potential customers to place their loved ones in their care and custody.

100. These inducements were made falsely, with knowledge of their falsity, or with such utter disregard and recklessness as to whether they were true or false that knowledge may be inferred with the intent of misleading M.C. Mister's family and other potential customers into placing their loved ones in the care and custody of Defendants.

101. M.C. Mister's family and the family members of other potential customers reasonably relied on Defendants' representations and concealments regarding the degree of care they provide.

102. The result of these inducements and concealments was that M.C. Mister's family, and the family of numerous other residents, allowed their loved one to be placed in Defendants' facility.

103. As a direct and proximate result of Defendants' actions, representations, and concealments, M.C. Mister suffered conscious pain and suffering and death.

104. As a direct and proximate result of Defendants' action, representations, and concealments, M.C. Mister's next-of-kin have experienced harms and losses as a result of their death, including those damages set forth in Ohio's wrongful death statute, Ohio Revised Code section 2125.02 *et seq*.

105. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount in excess of Twenty-Five Thousand Dollars ($25,000.00), together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the court finds is appropriate and/or equitable.

A TRIAL BY JURY IS HEREBY DEMANDED

Respectfully Submitted,

/s/ Michael A. Hill
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