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Michael P. Ciccone, CLERK OF COURT - MAHONING

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

PAUL STARKEY, ADMINISTRATOR OF THE ESTATE OF ANN L. ZABORSKY, DECEASED, c/o Michael Hill Trial Law 815 Superior Ave, Suite 623 Cleveland, Ohio 44114 Plaintiff, vs. GENERATIONS BEHAVIORAL HEALTH AKA GENERATIONS BEHAVIORAL HEALTH, LLC, c/o Registered Agent: CT Corporation System 4400 Easton Commons Way, Suite 125 Columbus, Ohio 43219 and GENERATIONS BEHAVIORAL HEALTH YOUNGSTOWN HOSPITAL AKA GENERATIONS BEHAVIORAL HEALTH – YOUNGSTOWN, LLC, 196 Colonial Drive Youngstown, Ohio 44505 Also Serve c/o Registered Agent: CT Corporation System 4400 Easton Commons Way, Suite 125 Columbus, Ohio 43219 and MARK J. ZEDAR, D.O., 1050 Eggleston Road Aurora, Ohio 44202 and ROXANN JIVIDEN,	CASE NO. JUDGE **COMPLAINT** **WITH JURY DEMAND** **MOTION FOR EXTENSION OF TIME TO FILE AFFIDAVIT OF MERIT ATTACHED**

2026 CV 02655

c/o Generations Behavioral Health –
Youngstown, LLC
196 Colonial Drive
Youngstown, Ohio 44505

and

KEVIN MILLER, PMHNP-BC,
5547 Mahoning Avenue # 187
Austintown, Ohio 44515

and

JENA PALMER, MSN, PMHNP-BC,
2671 Deer Trail
Niles, Ohio 44446

and

STEPHANIE A. BARBATO, C.N.P.,
540 Parmalee Avenue, Suite # 610
Youngstown, Ohio 44510

and

TERRENCE MURPHY, R.N.,
323 S. Main Street
Akron, Ohio 44308

and

CASANDRA LUCAS, R.N.,
c/o Generations Behavioral Health –
Youngstown, LLC
196 Colonial Drive
Youngstown, Ohio 44505

and

KELLIE MURPHY, R.N.,
9500 Euclid Avenue, CA-61
Cleveland, Ohio 44195

and

SYLVIA REDD, L.P.N.,
c/o Generations Behavioral Health –

Youngstown, LLC
196 Colonial Drive
Youngstown, Ohio 44505

and

VANESSA SATTERTHWAITE, R.N.,
705 5th Street
Niles, Ohio 44446

and

JESSICA MAXWELL,
c/o Generations Behavioral Health –
Youngstown, LLC
196 Colonial Drive
Youngstown, Ohio 44505

and

NAGY HEALTHCARE, LLC,
c/o Registered Agent:
Ryan S. Nagy
7031 Barrington Drive
Canfield Oh 44406

and

RYAN S. NAGY, M.D.,
c/o Nagy Healthcare LLC
7031 Barrington Drive
Canfield, Ohio 44406

and

FRANK KAYDO, C.N.P.,
8401 Market Street
Boardman, Ohio 44512-6725

and

JOHN DOES 1 THROUGH 10,
Names and Addresses Unknown

Defendants.

Plaintiff, Paul Starkey, as Administrator of the Estate of Ann L. Zaborsky, Deceased, 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, lack of informed consent, battery and false imprisonment, negligent credentialing, hiring, training, supervision, and retention, and fraud) involving Generations Behavioral Health Youngstown Hospital aka Generations Behavioral Health – Youngstown, LLC's ("Facility's") inadequate care of Ann L. Zaborsky, the care rendered by the physicians, nurse practitioners, and nurses who treated her there, and the corporate control of the facility leading to such inadequate care that led to Ann Zaborsky's untimely and wrongful death on October 22, 2025.

2. In October 2025, Ann Zaborsky, an 83-year-old woman, was nearly blind. She had a total retinal detachment and glaucoma in her right eye and only limited vision, approximately 5% of her eyesight, in her left eye.

3. In the weeks before her admission to the Facility, Ann experienced increased anxiety. She had become withdrawn, had stopped participating in activities, was not sleeping, and had begun tapping her head against the wall.

4. On or about October 3, 2025, Ann was taken to the Mercy Health–St. Elizabeth Youngstown Hospital Emergency Department. She was then transferred to Generations Behavioral Health Youngstown Hospital, an inpatient psychiatric facility. The Facility admitted Ann as an inpatient on an involuntary basis on October 4, 2025, at 9:03 A.M. The Facility's order setting Ann's legal status as "Involuntary Per Orders" was not electronically signed by Dr. Zedar until October 7, 2025, at 1:10 P.M., three days after

her admission, and the Facility's nursing admission assessment recorded her inpatient stay as "Voluntary."

5. Upon admission, the Facility knew Ann's medical history. Its History and Physical documented a past medical history including anxiety, dysphagia, insomnia, retinal detachment, glaucoma of the right eye, psychosis, acute respiratory failure with hypoxia, COVID-19, and bacterial pneumonia, amongst other diagnoses. The Facility's nursing admission assessment likewise recorded a history of "Acute respiratory Failure with Hypoxia" and a total retinal detachment. The Facility also documented that Ann had a history of dysphagia (difficulty swallowing), which placed her at increased risk of aspiration.

PAST MEDICAL HISTORY: Includes hypertension; acidosis; anxiety; dysphagia; iron deficiency anemia; insomnia; retinal detachment; glaucoma, right eye; psychosis; acute respiratory failure with hypoxia; COVID-19; hyperlipidemia; bacterial pneumonia; and vitamin D deficiency.

HISTORY OF PRESENT ILLNESS: This is an 83-year-old female with significant history of hypertension, anxiety, dysphagia, glaucoma, hyperlipidemia, GERD, and osteoporosis, who presented to the emergency room from her nursing facility for exacerbation of behaviors. It was reported the patient has not been sleeping for three days. She has been banging her head on the wall, restless, disorganized, and not redirectable. Once the patient was medically cleared at the hospital, she was transferred to Generations Behavioral Health for further psychiatric evaluation and treatment.

6. Before her admission, Ann had lived at Shepherd of the Valley Assisted Living in Poland, Ohio, since June 13, 2024. She told the Facility's social worker that she liked living there, and the assisted living facility told the Facility that Ann could return once she was stable. Ann could walk under her own power, and on October 7, 2025, staff described her as "ambulating very well."

7. The Facility's admitting psychiatric evaluation diagnosed Ann with acute psychosis, vascular dementia with behaviors, a history of CVA and TIA, and a frontal lobe mass. It documented that Ann was oriented only to herself, had memory deficits, and had poor insight and impaired judgment.

8. Although the Facility knew Ann was nearly blind, its records repeatedly stated otherwise. The History and Physical stated that her "visual acuity is normal" and that her eye movements were tested "by having the patient track my finger." The nursing admission assessment recorded no communication barriers, and numerous nursing shift notes checked "No Problems" for vision.

9. On admission, the Facility scored Ann a 15 on the Morse Fall Scale, which it classified as "Low Fall Risk," rating her gait as "Normal" and her mental status as "Knows own limits." Physician orders entered "Low Fall Risk" and "No Activity Restrictions" for Ann, a nearly blind 83-year-old with dementia. In fact, Ann's secondary diagnoses, her impaired vision and gait, her dementia-related inability to recognize her own limitations, and her psychotropic and sedating medications placed her at high risk for falls.

10. On admission, the Facility also completed a Seclusion/Restraint Screening. It answered "No" to "Preexisting conditions that could place patient at risk with restraints?," marked restraint contraindications "N/A," and answered "No" to "Do you want family notified if restraints are required?" It also answered "No" to whether Ann was

currently on antipsychotic medication, although she arrived on olanzapine (Zyprexa). The Facility's psychiatric provider described Ann as "agitated with admission process." The Facility thus failed to accurately reconcile the medications Ann was taking when she arrived.



Restraint Contraindications:

- ☐ Pre - existing medical conditions/ physical disabilities that pt at risk
- ☐ Seizure Disorder
- ☐ Medication that may impair thermoregulation
- ☐ Behavior issues; self mutilating behavior; head banging
- ☐ Special needs, i.e. mental retardation
- ☐ Age
- ☐ Akinesia/drug withdrawal
- ☐ Fall risk
- ☐ Panic attacks
- ☐ Phobias
- ☐ Pregnancy
- ☐ Post trauma
- ☑ N/A

Seclusion Contraindications

- ☐ Pre - existing medical conditions/ physical disabilities putting pt at greater risk
- ☐ Seizure Disorder
- ☐ Fragile Skin
- ☐ Age
- ☐ Gender
- ☐ Arthritis
- ☐ Blood thinners Rx
- ☐ Phobias
- ☐ Panic Attacks
- ☐ Post trauma
- ☐ Vulnerable to reduce sensory input
- ☑ N/A

Prevention strategies

- ☐ 1:1 time
- ☐ PRN Medication
- ☐ Reading
- ☑ Change of environment
- ☑ Reduce stimuli
- ☐ Listen to music
- ☐ Relaxation technique

Other: _____

Do you prefer specific gender staff to assist when upset?

○ No ○ Male ◉ Female

Preexisting conditions that could place patient at risk with restraints?

○ Yes ◉ No

Prior history of seclusion/restraint?

○ Yes ◉ No

Do you want family notified if restraints are required?

○ Yes ◉ No

Is there anyone else you would like to be notified if restraints are required?

Name: _____

Phone Number: _____

Is the patient currently on antipsychotic medications?

○ Yes; complete AIMS test at completion of assessment. ◉ No

The Facility's Seclusion/Restraint Screening, indicating no restraint risk factors and that family need not be notified if restraints are used.

11. Throughout Ann's admission, the Facility's psychiatric notes stated that Ann "has the capacity and gives informed consent" to antipsychotic medications carrying boxed warnings, in the same notes documenting that she was oriented only to herself, with poor insight and impaired judgment. These notes were authored by Defendants Kevin Miller, PMHNP-BC, and Jena Palmer, MSN, PMHNP-BC, psychiatric nurse practitioners working under Defendant Mark J. Zedar, D.O., Ann's attending psychiatrist, who wrote that he "agree[d] with the nurse practitioner's write-up. Ann's family was not

informed of the material risks of these medications, including the FDA boxed warning that elderly patients with dementia-related psychosis treated with antipsychotic drugs are at an increased risk of death, most often from cardiovascular or infectious causes such as pneumonia. The Facility's records show no documentation that any family member was informed of the boxed-warning risks of these medications or consented to them.

12. The Facility discontinued Ann's olanzapine and started risperidone (Risperdal) on October 4, 2025.

13. On October 13, 2025, Defendant Mark J. Zedar, D.O. ("Dr. Zedar") wrote: "There are some concerns with over sedation. I had a long talk with the daughter. Thus, we are going to reduce the Risperdal." Rather than reduce it, the Facility increased Ann's Risperdal to 0.75 milligrams on October 13, 2025, and again to 1 milligram on October 17, 2025. Upon information and belief, Dr. Zedar told Ann's daughter that Ann's Risperdal would be reduced, and no one told Ann's family that it had instead been increased. The order increasing Ann's Risperdal to a total of 0.75 milligrams daily was electronically signed by NP Kevin Miller on October 13, 2025, at 2:44 P.M., and the order increasing it to 1 milligram daily, effective October 18, 2025, was signed by NP Kevin Miller on October 17, 2025, at 10:57 A.M. The 1 milligram order listed its indication as "schizophrenia," a diagnosis Ann had never been given. Dr. Zedar's note describing the plan to reduce the Risperdal was not entered until October 15, 2025, at 7:03 A.M.

14. The Facility also gave Ann additional sedating medications. It ordered intramuscular injections of lorazepam (Ativan) on October 12 (two orders), October 13, October 14 (two orders), and October 18, 2025, and oral lorazepam on October 19, 2025. These were given alongside trazodone and mirtazapine (Remeron) at bedtime, and on October 19, 2025, the Facility added tramadol, an opioid. This combination of an

antipsychotic, a benzodiazepine, an opioid, and other sedating medications, given to an 83-year-old woman with dementia, dysphagia, and a history of acute respiratory failure with hypoxia, created a known and serious risk of over-sedation, respiratory depression, and aspiration. The FDA requires a boxed warning that the concomitant use of opioids and benzodiazepines may result in profound sedation, respiratory depression, coma, and death, and the risperidone labeling warns that esophageal dysmotility and aspiration have been associated with antipsychotic drug use. Each of the lorazepam orders was signed by NP Miller, most of them a day or more after the injection was ordered: the two October 12 orders were signed on October 13 at 7:45 A.M.; the October 13 order and the two October 14 orders were signed on October 15 at 8:50 A.M.; and the October 18 order was signed on October 19 at 9:14 A.M. The tramadol was ordered by NP Barbato on October 19, 2025, at 8:28 A.M.

15. Upon information and belief, Facility staff administered the intramuscular lorazepam injections to manage Ann's behavior rather than as a standard treatment for her condition. A drug used in that manner is a restraint. 42 C.F.R. § 482.13(e)(1)(i)(B). An order for restraint may never be written as a standing order or on an as-needed (PRN) basis. 42 C.F.R. § 482.13(e)(4)(ii).

16. Once Ann was admitted, Facility staff locked her into a chair to keep her from getting up. The Facility's records contain no physician order for physical restraint, no restraint monitoring documentation, and no notice to Ann's family that she was being restrained. A chair that is locked, or fitted with a tray or belt, so that a patient cannot get up restricts the patient's freedom of movement and is a physical restraint. 42 C.F.R. § 482.13(e)(1)(i)(A). Upon information and belief, Facility staff restrained Ann in this mAnnr on multiple occasions, including on October 19, 2025, without a physician's order,

a face-to-face evaluation, or monitoring, and for the convenience of staff rather than for Ann's safety.

17. The Facility limited family visits to one hour per day, from 2:00 to 3:00 P.M., and required family members to surrender their cell phones and belongings before visiting. Ann's family visited every day. During one visit, the family found Ann's hands covered in feces, and when they went to the sink to get her water, fruit flies flew out of the drain. Ann's daughter, Joanne Starkey, reported these conditions to the Ohio Department of Health. Meanwhile, Facility nursing notes repeatedly described Ann as "Neat, Well-Groomed," and on October 7, 2025, nursing documented both bowel incontinence and "Total Dependence of Staff" for her activities of daily living.

18. Although Ann was nearly blind and had dementia, the Facility's day-shift nursing note of October 7, 2025 checked "Falls Precautions: No." At approximately 5:30 P.M. that day, Ann suffered a witnessed fall. The Facility's evening nursing note, signed at 9:14 P.M. the same night, recorded "Any Falls for This Shift? No" and "Does the patient have pain? No." According to Dr. Zedar's discharge summary, Ann fell when she "tripped over something on the floor."

19. An x-ray of Ann's right wrist was taken, and at approximately 6:00 A.M. on October 8, 2025, the Facility received the result, which showed a nondisplaced fracture of the right wrist. An order to send Ann to the emergency room was written at 5:55 A.M., but Ann did not leave the Facility until 4:45 P.M. – nearly eleven hours after the order and almost a full day after the fall. The Facility's transfer form left the pre-transfer vital signs blank and marked family notification "N/A." Ann returned on October 9, 2025, at 7:43 A.M. with her wrist splinted and in a sling. Upon information and belief, Ann

received no meaningful assessment or treatment of her fracture pain during the hours between her fall and her transfer.

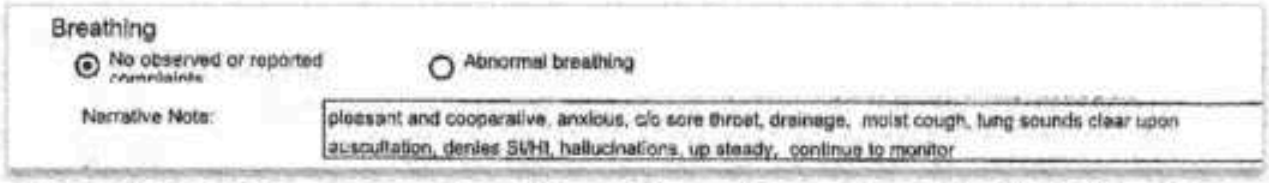
20. The Facility listed Ann's daughter, Joanne Starkey, as her emergency contact, yet it never told Ann's family about her fall, her fracture, or her emergency room visit. The family learned of the fracture only after Ann's death, through her MyChart records. Ann, who had dementia and was oriented only to herself, could not appreciate or report the significance of her injury, and neither her family nor her estate knew, or reasonably could have known, of the fall or fracture until after her death. Ann remained a patient of the Facility, under the continuous care of its physicians, nurse practitioners, and nurses, until October 20, 2025.

21. The Facility ordered Ann's vital signs checked only twice daily, and early warning signs went unexplained. On October 11, 2025, her oxygen saturation was documented at 90%. On October 12, 2025, her heart rate was 134 and her oxygen saturation was 91%. On both days the Facility's medical provider charted "Lungs: Clear bilaterally" and "no acute distress," and attributed the tachycardia to Ann being "up wandering and irritable."

22. On October 15, 2025, Ann developed a cough and cold-like symptoms. Nurse Practitioner Barbato documented "Cough and some congestion. We will order Robitussin." The Facility ordered no chest x-ray, no bloodwork, and no increase in vital sign monitoring. Although the Facility had documented a history of dysphagia, its orders contained no swallow evaluation or aspiration precautions.

23. The same day, Facility nursing documented that Ann complained of a "sore throat, drainage, moist cough," yet on the same form the nurse recorded "lung sounds

clear upon auscultation" and checked "No observed or reported complaints" for breathing.


Breathing
No observed or reported complaints
Abnormal breathing
Narrative Note:
pleasant and cooperative, anxious, c/o sore throat, drainage, moist cough, lung sounds clear upon auscultation, denies SI/HI, hallucinations, up steady, continue to monitor

The Facility's October 15, 2025 nursing shift note, documenting a moist cough while checking "No observed or reported complaints" for breathing

24. Over the following four days, Ann's cough and congestion persisted. The Facility's medical progress notes for October 16, 17, 18, and 19, 2025 each repeated nearly identical language – no shortness of breath, no distress, and "Lungs: Clear bilaterally. No wheezes, rales or rhonchi" – and each continued Robitussin "as needed" without further workup.

25. On October 18, 2025, Ann's oxygen saturation had fallen to 93%. On October 19, 2025, the note recorded "Vital Signs: Not documented." The notes for October 15, 16, and 17 were not electronically signed until October 18, 2025.

26. On or about Saturday, October 18, 2025, Ann told her son that she was not feeling well. She said she did not want to be taken to the common room, because when she was there the nurses did not give Ann her medications.

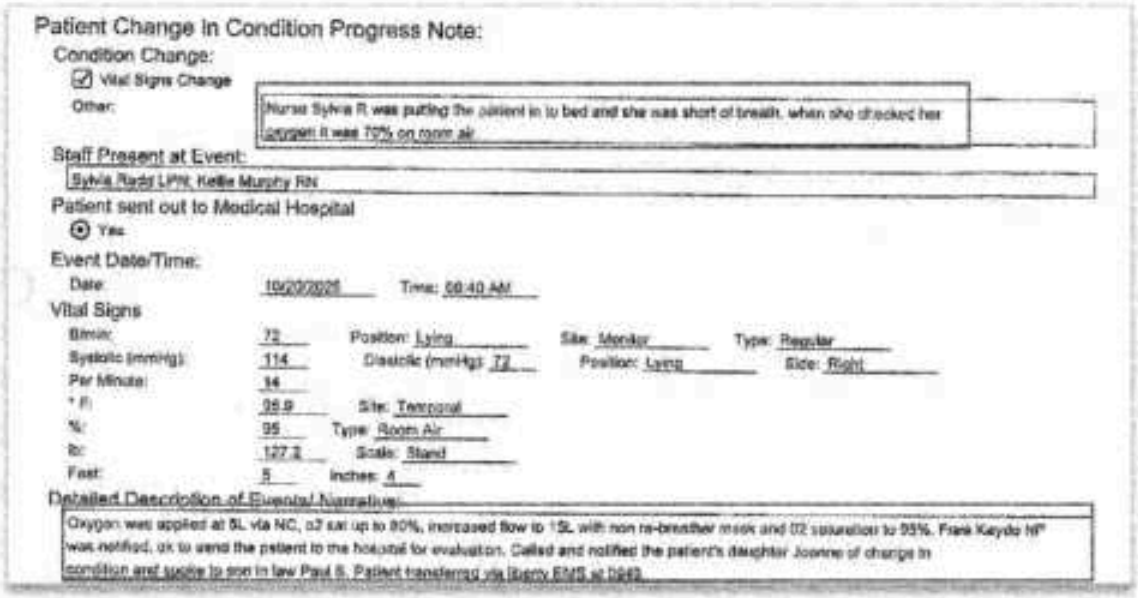
27. On Sunday, October 19, 2025, Facility nurses called Ann's daughter and told her, "Don't come in, she's being very moody." Paul Starkey, Ann's son-in-law, called the Facility back and staff told him Ann had been banging on the desk and yelling. Paul asked to speak with Ann. Her voice was very low, she was out of breath, and she told him, "I can't breathe." When a nurse took the phone, Paul told her that this was new and that Ann had never experienced anything like it. The nurse responded that Ann was locked in the chair because she was hitting her hand on the wall, and suggested that Ann was faking it

and merely anxious. Upon information and belief, the nurse did not notify any physician or nurse practitioner of Ann's complaint that she could not breathe. Upon information and belief, the nursing staff on duty that day included Defendant Sylvia Redd, L.P.N., on the day shift, and Defendant Casandra Lucas, R.N., on the night shift that began at 7:00 P.M. That same day, NP Barbato's progress note recorded that Ann had no "shortness of breath," that her lungs were "[c]lear bilaterally," and "Vital Signs: Not documented"; NP Barbato did not sign that note until 9:18 A.M. on October 20, 2025, about twenty minutes before Ann was found with an oxygen saturation of 70%. At 3:53 P.M. on October 19, NP Miller ordered oral lorazepam for Ann's "agitation," but the records reflect no evaluation of Ann's breathing by any physician or nurse practitioner that afternoon or evening.

28. At 8:49 A.M. on Monday, October 20, 2025, Facility staff administered Ann's morning medications, including Risperdal. Defendant Kevin Miller, PMHNP-BC ("NP Miller"), later documented a "morning one-on-one evaluation" in which Ann had "a fever of 100.1," was confused and irritable, and her "worsening symptoms could be brought on by sickness," yet nonetheless found that she continued to meet inpatient psychiatric hospitalization criteria. The Facility's medication records list Ann's last dose of Tylenol as October 19, 2025, at 4:07 P.M. Ann's fever therefore was not masked by an antipyretic, and it went untreated. Upon information and belief, despite recognizing that Ann might be sick, NP Miller did not request an urgent medical evaluation or transfer. NP Miller's note for that morning also assigned Ann a new diagnosis of "Schizophrenia, paranoid type."

29. At 9:40 A.M. on October 20, 2025, Defendant Sylvia Redd, L.P.N., putting Ann into bed, with Defendant Kellie Murphy, R.N., present, found her short of breath,

with an oxygen saturation of 70% on room air. Oxygen at 5 liters by nasal cannula raised her saturation only to 80%; she required 15 liters by non-rebreather mask to reach 95%. NP Kaydo was notified and approved sending Ann to the emergency department. The Facility's internal medicine physician, Defendant Ryan S. Nagy, M.D., later noted that she "was lethargic and hypoxic" with "concern for pneumonia." Ann was transported by Liberty EMS at 9:49 A.M. and never returned to the Facility. Ann's oxygen saturation of 70% was found approximately fifty-one minutes after Facility staff had administered her morning medications, including Risperdal.



Patient Change In Condition Progress Note:

Condition Change:

☑ Vital Signs Change

Other: Nurse Sylvia R was putting the patient in to bed and she was short of breath, when she checked her oxygen it was 70% on room air

Staff Present at Event: Sylvia Rady LPN, Kellie Murphy RN

Patient sent out to Medical Hospital

⊙ Yes

Event Date/Time:

Date: 10/20/2025 Time: 09:40 AM

Vital Signs

B/min: 72 Position: Lying Site: Monitor Type: Regular

Systolic (mmHg): 114 Diastolic (mmHg): 72 Position: Lying Side: Right

Per Minute: 14

° F: 98.9 Site: Temporal

%: 95 Type: Room Air

lb: 127.2 Scale: Stand

Feet: 5 Inches: 4

Detailed Description of Events/ Narrative:

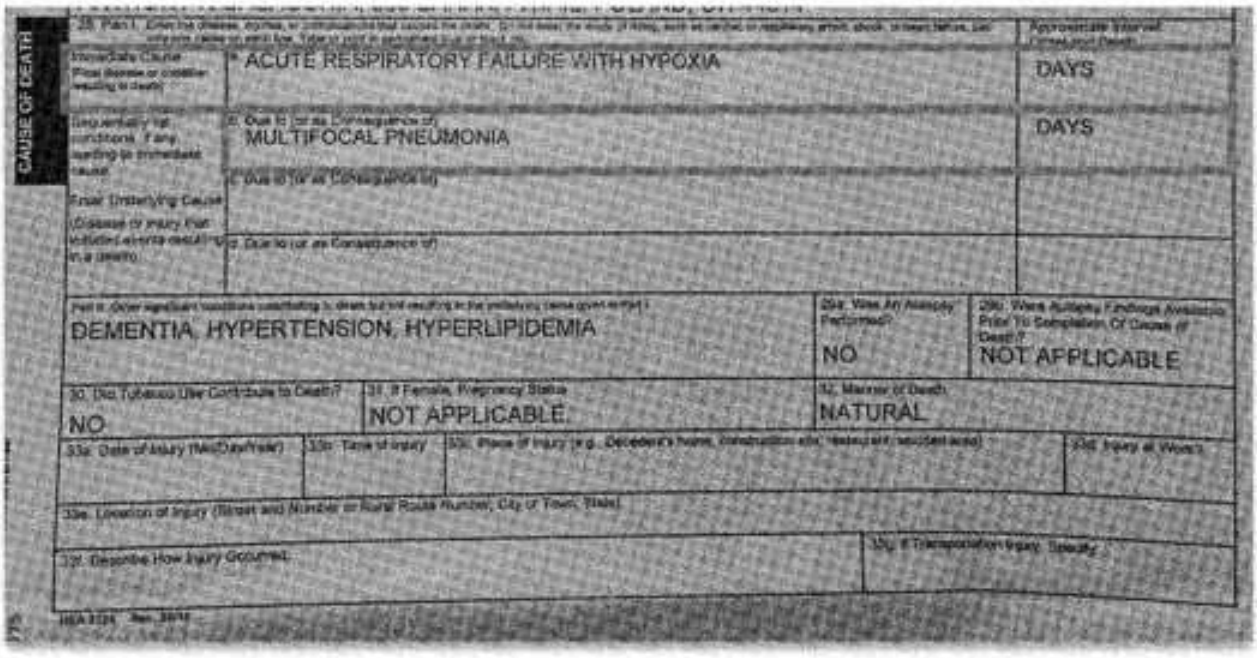
Oxygen was applied at 5L via NC, o2 sat up to 80%, increased flow to 15L with non re-breather mask and 02 saturation to 95%. Frank Kaydo NP was notified, ok to send the patient to the hospital for evaluation. Called and notified the patient's daughter Joanne of change in condition and spoke to son in law Paul S. Patient transferred via Liberty EMS at 0949.

The Facility's October 20, 2025 Change in Condition note, documenting Ann's oxygen saturation of 70% on room air

30. Ann died at St. Elizabeth Health Center on October 22, 2025, at 11:15 P.M., two days after leaving the Facility.

31. Ann's death certificate, completed and signed by her certifying physician, Anthony R. Casacchia, M.D., lists her immediate cause of death as acute respiratory failure with hypoxia, due to multifocal pneumonia, with an interval of "days" between

onset and death for each. It lists dementia, hypertension, and hyperlipidemia as contributing conditions.



CAUSE OF DEATH

Immediate Cause (Final disease or condition resulting in death)	a. ACUTE RESPIRATORY FAILURE WITH HYPOXIA	DAYS
Sequentially list conditions, if any, leading to immediate cause	b. Due to (or as a consequence of): MULTIFOCAL PNEUMONIA	DAYS
Final Underlying Cause (Disease or injury that initiated events resulting in death)	c. Due to (or as a consequence of):	
	d. Due to (or as a consequence of):	

Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I: DEMENTIA, HYPERTENSION, HYPERLIPIDEMIA

29a. Was An Autopsy Performed? NO

29b. Were Autopsy Findings Available Prior To Completion Of Cause of Death? NOT APPLICABLE

30. Did Tobacco Use Contribute to Death? NO

31. If Female, Pregnancy Status: NOT APPLICABLE

32. Manner of Death: NATURAL

33a. Date of Injury (Mo/Day/Year)

33b. Time of Injury

33c. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area)

33d. Injury at Work?

33e. Location of Injury (Street and Number or Rural Route Number; City or Town; State)

33f. Describe How Injury Occurred:

33g. If Transportation Injury, Specify:

HSA-EDR Rev. 3/2018

Ann Zaborsky's death certificate indicates her immediate cause of death was "Acute Respiratory Failure with Hypoxia" in a matter of days, due to "Multifocal Pneumonia" in a matter of days.

32. Plaintiff requests a trial by jury.

33. Plaintiff's Motion for Extension of Time to File Affidavit of Merit pursuant to Civ.R. 10(D)(2)(b) is attached.

34. 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.

PARTIES

35. Plaintiff Paul Starkey is the duly appointed Administrator of the Estate of Ann L. Zaborsky, Deceased, having been appointed by the Mahoning County Court of Common Pleas, Probate Division, on July 9, 2026. He brings this action solely in his representative capacity: the survivorship claims on behalf of the Estate pursuant to R.C. 2305.21, and the wrongful death claim pursuant to R.C. 2125.02 for the exclusive benefit of Ann's children, and next of kin, including Joanne Starkey, Joseph Zaborsky, Victoria Dubos, and Matthew Zaborsky.

36. Generations Behavioral Health Youngstown Hospital aka Generations Behavioral Health – Youngstown, LLC (the "Facility") is, upon information and belief, an Ohio limited liability company that operates a 76-bed, Medicare-certified inpatient psychiatric hospital (CMS Certification No. 364060) at 196 Colonial Drive, which, upon information and belief, is located in Liberty Township, Trumbull County, Ohio, under a license issued pursuant to R.C. 5119.33, and that holds itself out to the public as a provider of inpatient psychiatric hospital services, including but not limited to, geriatric inpatient psychiatric care, together with associated medical and nursing care, through its agents, operatives and / or employees and does business as Generations Behavioral Health Youngstown Hospital aka Generations Behavioral Health – Youngstown, LLC.

37. Generations Behavioral Health, LLC ("Generations") is a limited liability company that, upon information and belief, maintains its mailing address at 4235 Hillsboro Pike, Suite 300, Nashville, Tennessee 37215. Generations is the 100% direct owner of the Facility and of its sister hospital, Generations Behavioral Health – Geneva, LLC. Upon information and belief, Generations' co-chairmen, Edward A. Stack and Zyama S. Goldman, M.D., each hold indirect ownership interest in Generations and the

Facility through one or more intermediate entities whose identities are not presently known to Plaintiff. Generations holds itself out to the public, under a single brand, website, and central intake line, as a provider of inpatient psychiatric hospital services, including geriatric inpatient psychiatric care, together with associated medical and nursing care, through its agents, operatives, and employees.

38. Defendant Mark J. Zedar, D.O. ("Dr. Zedar") is a psychiatrist licensed to practice in Ohio who, at all relevant times, provided psychiatric care to patients at the Facility, including Ann. Upon information and belief, Dr. Zedar reassigns his Medicare billing to the Facility and to other Generations entities.

39. Defendant Stephanie A. Barbato, C.N.P. ("NP Barbato") is a certified nurse practitioner who, at all relevant times, provided medical care to patients at the Facility, including Ann. Upon information and belief, NP Barbato was employed by, and billed through, Defendant Nagy Healthcare LLC.

40. Defendant Nagy Healthcare LLC ("Nagy Healthcare") is, upon information and belief, an Ohio limited liability company that contracted with the Facility and/or Generations to furnish internal medicine and other non-psychiatric medical coverage to Facility patients, including Ann, through physicians and nurse practitioners it employed, including NP Barbato and, upon information and belief, the internal medicine physician who evaluated Ann on October 20, 2025.

41. Defendant RoxAnn Jividen ("Ms. Jividen") is, upon information and belief, the Chief Executive Officer and Administrator of the Facility and the Chief Executive Officer of Generations Behavioral Health – Geneva, LLC, and she is identified to the Centers for Medicare & Medicaid Services as an officer with operational and managerial control of the Facility. Upon information and belief, Ms. Jividen personally participated

in, directed, and approved the staffing levels, budgets, policies, and practices at the Facility described in this Complaint, including those governing nurse staffing, vital-sign monitoring, fall precautions, restraint, family notification, and documentation. A corporate officer or employee who personally participates in tortious conduct is personally liable for that conduct, and Ms. Jividen is sued for her own acts and omissions.

42. Defendant Kevin Miller, PMHNP-BC ("NP Miller"), is a psychiatric-mental health nurse practitioner who, at all relevant times, provided psychiatric care to patients at the Facility, including Ann, under the supervision of Dr. Zedar. NP Miller authored most of Ann's psychiatric progress notes, including notes recording that Ann "has the capacity and gives informed consent"; signed the orders increasing her Risperdal and the orders for intramuscular and oral lorazepam; and documented Ann's fever on the morning of October 20, 2025.

43. Defendant Jena Palmer, MSN, PMHNP-BC ("NP Palmer"), is a psychiatric-mental health nurse practitioner who, at all relevant times, provided psychiatric care to patients at the Facility, including Ann, and who authored Ann's psychiatric progress notes for October 7 and 14, 2025, each recording that Ann "has the capacity and gives informed consent."

44. Defendant Frank Kaydo, C.N.P. ("NP Kaydo"), is a nurse practitioner who, at all relevant times, provided medical care to patients at the Facility, including Ann. NP Kaydo ordered the x-ray of Ann's wrist after her October 7, 2025 fall; ordered her sent to the emergency room early on October 8, 2025; authored the October 11 and 12, 2025 progress notes recording oxygen saturations of 90% and 91% and a heart rate of 134; and approved Ann's transfer on October 20, 2025. Upon information and belief, NP Kaydo was employed by, and billed through, Defendant Nagy Healthcare.

45. Defendant Ryan S. Nagy, M.D. ("Dr. Nagy"), is a physician who, at all relevant times, provided internal medicine care to patients at the Facility, including Ann. Dr. Nagy was notified of Ann's wrist fracture at 6:36 A.M. on October 8, 2025, and documented on October 20, 2025 that Ann "was lethargic and hypoxic" with "concern for pneumonia." Upon information and belief, Dr. Nagy is affiliated with Defendant Nagy Healthcare.

46. Defendant Terrence Murphy, R.N., is a registered nurse who, at all relevant times, provided nursing care to patients at the Facility, including Ann, and who completed the October 7, 2025 evening nursing notes recording "Any Falls for This Shift? No" and that Ann had no pain, hours after her witnessed fall.

47. Defendant Casandra Lucas, R.N., is a registered nurse who, at all relevant times, provided nursing care to patients at the Facility, including Ann, and who documented Ann's positive wrist x-ray and the non-emergency transport arranged on October 8, 2025, and completed the October 19, 2025 night-shift note recording "No active medical problems" and no breathing complaints.

48. Defendant Kellie Murphy, R.N., is a registered nurse who, at all relevant times, provided nursing care to patients at the Facility, including Ann, and who completed the October 7, 2025 day-shift nursing note recording "Falls Precautions: No," and was present on October 20, 2025, when Ann was found with an oxygen saturation of 70%.

49. Defendant Sylvia Redd, L.P.N., is a licensed practical nurse who, at all relevant times, provided nursing care to patients at the Facility, including Ann, and who completed the October 19, 2025 day-shift nursing note recording "No s/s of distress" and "No active medical problems," and found Ann short of breath with an oxygen saturation of 70% on October 20, 2025.

50. Defendant Vanessa Satterthwaite, R.N., is a registered nurse who, at all relevant times, provided nursing care to patients at the Facility, including Ann, and who documented on October 15, 2025, that Ann had a sore throat, drainage, and a moist cough while checking "No observed or reported complaints" for breathing.

51. Defendant Jessica Maxwell is, upon information and belief, a member of the Facility's nursing staff who, at all relevant times, provided care to patients at the Facility, including Ann, and who authored the October 20, 2025 Change in Condition note and electronically signed Ann's October 20, 2025 Nursing Transfer Transition Form on October 24, 2025, two days after Ann's death.

52. Defendants John Does 1 through 10 are individuals and entities whose names and addresses Plaintiff could not discover despite reasonable diligence before filing this Complaint, Plaintiff will amend this Complaint to identify them by name when their names are discovered.

53. All Defendants are referred to collectively as "Defendants," and each allegation against "Defendants" is made against each Defendant to the extent it applies to that Defendant.

54. The Defendants employ, manage, and direct the care and service providers who were responsible for Ann Zaborsky's care, treatment, and safety at Generations Behavioral Health Youngstown Hospital aka Generations Behavioral Health – Youngstown, LLC while she was a patient there, and are responsible for creating unsafe conditions at the Facility through their control of the Facility management that directly led to Ann Zaborsky's injuries and untimely and wrongful death on October 22, 2025.

55. 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.

56. Generations and the Facility operate as a single, integrated enterprise. Upon information and belief: (a) the same individual serves as Chief Executive Officer of both Generations hospitals; (b) the hospitals share common co-chairmen, owners, and officers; (c) all Generations locations are marketed under a single brand, website, and central intake telephone line; (d) the hospitals operate under common policies and procedures; and (e) both hospitals report similarly deficient quality results to CMS, as alleged below.

57. Upon information and belief, in or about 2019, Generations completed a debt recapitalization, financed by senior and subordinated lenders, the proceeds of which were used, at least in part, to redeem a minority equity interest, moving capital out of the enterprise rather than investing it in staffing and patient care at the Facility.

58. In the alternative, Generations exercised control over the Facility so complete that the Facility had no separate mind, will, or existence of its own; Generations exercised that control to commit fraud, an illegal act, or a similarly unlawful act against Ann, including operating the Facility in violation of the staffing, restraint, and patient-rights requirements of state and federal law; and injury and unjust loss resulted to Ann and Plaintiff from that control and wrong. Generations is therefore liable for the acts and omissions of the Facility.

59. The Defendants collectively own, manage, control, and/or are responsible for the care delivered to patients of Generations Behavioral Health Youngstown Hospital

aka Generations Behavioral Health – Youngstown, LLC directly or through their domination and control of any putative entity license holder.

VICARIOUS LIABILITY

60. The Defendants employ the care providers who were responsible for ensuring Ann Zaborsky's care and safety.

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

62. Ann Zaborsky and her family looked to the Defendants for care based upon their representations.

63. The Defendants are vicariously liable for the negligent actions of their employees and agents (respondeat superior and agency liability) and/or independent contractors (agency by estoppel), including Dr. Zedar, NP Barbato, Nagy Healthcare, and the other physicians and nurse practitioners who treated Ann at the Facility.

64. Ann was admitted to the Facility involuntarily, on transfer from an emergency department. Neither Ann nor her family selected Dr. Zedar, NP Barbato, Nagy Healthcare, or any other physician or nurse practitioner who treated her at the Facility. The Facility furnished those providers and held itself out as the provider of Ann's psychiatric and medical care, and Ann and her family looked to the Facility, rather than to any individual provider, for that care. Nagy Healthcare is likewise vicariously liable for the acts and omissions of NP Barbato and its other employees and agents.

JURISDICTION AND VENUE

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

66. Venue is proper in Mahoning County, Ohio, pursuant to Civ.R. 3(C), upon information and belief, because one or more Defendants conducted activities in Mahoning County giving rise to Plaintiff's claims and/or all or part of Plaintiff's claims arose in Mahoning County. Additionally, Decedent's estate was opened in the Mahoning County Probate Court, which appointed Plaintiff as the personal representative of Decedent's estate and retains jurisdiction over the administration of the estate.

COMMON FACTS

67. Defendants hold themselves out to the public as providers of inpatient psychiatric hospital services, offering geriatric services, adult services, intensive treatment care, and dual diagnosis treatment.

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

69. For for-profit inpatient psychiatric hospitals generally, the largest individual revenue source is patients (filling beds), and the largest individual expense is the cost of employing nursing and mental health staff to provide care to those patients. This creates a financial incentive to admit more patients with greater psychiatric and medical care needs than the nursing staff can properly care for, contrary to the federal requirement that a psychiatric hospital maintain adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide the nursing care necessary under each patient's active treatment program. 42 C.F.R. § 482.62(d).

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

71. 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 patient 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 patients and their families should expect at the facility, and even the name of the facility;

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

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

73. 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 their patients, including Ann Zaborsky.

74. Defendants engaged in a systemic practice to understaff the facilities to maximize profits at the expense of their patients' care.

75. This lack of sufficient staff directly resulted in Ann Zaborsky not receiving basic and necessary services to prevent, among other things, neglect leading to her injuries and death.

76. The effects of understaffing are evident in Ann's care at the Facility, which held itself out as a 76-bed hospital: Ann's vital signs were checked only twice daily despite abnormal readings; no fall precautions were in place on the day she fell; it took nearly eleven hours to transfer her to an emergency room after her fracture was confirmed; family visits were limited to one hour per day; her family found her with feces on her hands; and staff locked her in a chair rather than supervising her.

77. 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. Generations Behavioral Health Hospital – Geneva
60 West St, Geneva, OH 44041

b. Generations Behavioral Health Outpatient Clinic – Warrensville Heights
26600 Renaissance Pkwy, Warrensville Heights, OH 44128

c. Generations Behavioral Health Outpatient Clinic – Youngstown
16 Colonial Drive, Youngstown, OH 44505

78. Generations Behavioral Health – Geneva, LLC, like the Facility, is wholly owned by Generations and shares the same ultimate owners and Chief Executive Officer.

Reporting Data – Psychiatric Hospital

79. As a Medicare-certified psychiatric hospital, the Facility is required to report significant amounts of data to the federal agency that oversees hospitals participating in the Medicare and Medicaid programs, the Centers for Medicare and Medicaid Services, or "Medicare."

80. The data the Defendants submit to Medicare regarding its facility includes claims data on each patient's diagnoses, medical comorbidities, and length of stay, as well as annual Medicare cost reports detailing the Facility's patient days, revenues, expenses, and staffing.

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

82. Medicare pays psychiatric hospitals like the Facility under the Inpatient Psychiatric Facility Prospective Payment System, which pays a per diem rate that is adjusted upward for patient characteristics such as advanced age and medical comorbidities. Defendants were therefore paid more to care for elderly, medically complex patient like Ann Zaborsky.

83. Because Medicare pays the Facility more for older and medically complex patients, Defendants had a financial incentive to admit patients like Ann while not providing the staffing and care required to meet their needs.

Psychiatric Hospital Patient Care Needs and Staffing Requirements

84. As a condition of participating in Medicare, a psychiatric hospital must meet the general Conditions of Participation for Hospitals, including the patient's rights requirements of 42 C.F.R. § 482.13 and the nursing services requirements of 42 C.F.R. §

482.23, as well as the special medical record requirements of 42 C.F.R. § 482.61 and the special staffing requirements of 42 C.F.R. § 482.62. 42 C.F.R. § 482.60.

85. A psychiatric hospital must have adequate numbers of qualified professional and supportive staff to evaluate patients, formulate written, individualized comprehensive treatment plans, provide active treatment measures, and engage in discharge planning. 42 C.F.R. § 482.62.

86. A psychiatric hospital must also have a qualified director of psychiatric nursing services and adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide the nursing care necessary under each patient's active treatment program and to maintain progress notes on each patient, with a staffing pattern that ensures the availability of a registered professional nurse 24 hours each day. 42 C.F.R. § 482.62(d).

87. Ohio law imposes parallel duties. The chief clinical officer of a hospital, or the chief clinical officer's designee, must assure that all patients hospitalized pursuant to Chapter 5122 of the Ohio Revised Code receive adequate medical treatment for physical disease or injury and humane care and treatment, including the necessary facilities and personnel required by the treatment plan, freedom from unnecessary or excessive medication, and freedom from restraints unless stated in a written order. R.C. 5122.27(E), (F).

88. As an inpatient psychiatric service provider licensed under R.C. 5119.33, the Facility must also comply with the licensure standards of Ohio Administrative Code Chapter 5122-14, including the patient rights requirements of O.A.C. 5122-14-11.

89. Because the Facility admits geriatric patients with significant medical conditions, such as Ann Zaborsky, Defendants knew that the Facility required sufficient,

qualified nursing and medical staff not only to treat patients' psychiatric conditions, but also to monitor, assess, and respond to changes in their physical health.

Defendants' Notice of Deficient Care

90. Defendants report quality data to CMS under the Inpatient Psychiatric Facility Quality Reporting Program, and they therefore knew how the Facility was performing. The data the Facility and its sister hospital reported for the periods immediately before Ann's admission are summarized in Table 1.

Measure	Reporting Period	Facility (Youngstown)	Ohio Average	Geneva (Sister Hospital)
Patients on antipsychotic medication screened for metabolic disorders (SMD)	CY 2024	25%	79%	19%
Discharged patients who received a transition record (TR-1)	CY 2024	0%	65%	22%
Patients immunized for influenza (IMM-2)	Oct. 1, 2024 – Mar. 31, 2025	17%	72%	19%
Hours of physical restraint use per 1,000 patient hours (HBIPS-2)	CY 2024	0.00 (1.75 total hours reported)	0.14	0.00 (0 hours reported)
Hours of seclusion use per 1,000 patient hours (HBIPS-3)	CY 2024	0.31	0.21	0.00
Patients receiving follow-up care within 7 days of discharge (FAPH-7)	July 1, 2023 – June 30, 2024	27.6%	35.1%	34.7%

Table 1. Inpatient Psychiatric Facility Quality Reporting data reported to CMS by the Facility (CCN 364060) and Generations Behavioral Health – Geneva (CCN 364054), with Ohio averages. Source: CMS Provider Data Catalog.

91. For all of calendar year 2024, the Facility reported a total of 1.75 hours of physical restraint. Upon information and belief, the Facility restrains patients, as it did Ann, by locking them into chairs without physician orders, monitoring, documentation, or reporting, and its reported restraint data do not reflect its actual practices.

92. For the 2024–2025 influenza season, the Facility reported immunizing only 17% of its patients for influenza, compared with an Ohio average of 72%. Ann, an 83-year-

old woman admitted three days after the start of the 2025–2026 influenza season, died of multifocal pneumonia.

93. Defendants were also on notice, before Ann's admission, of the same kinds of failures that injured and killed her. State surveyors acting for CMS cited the Facility and its sister hospital for the deficiencies summarized in Table 2.

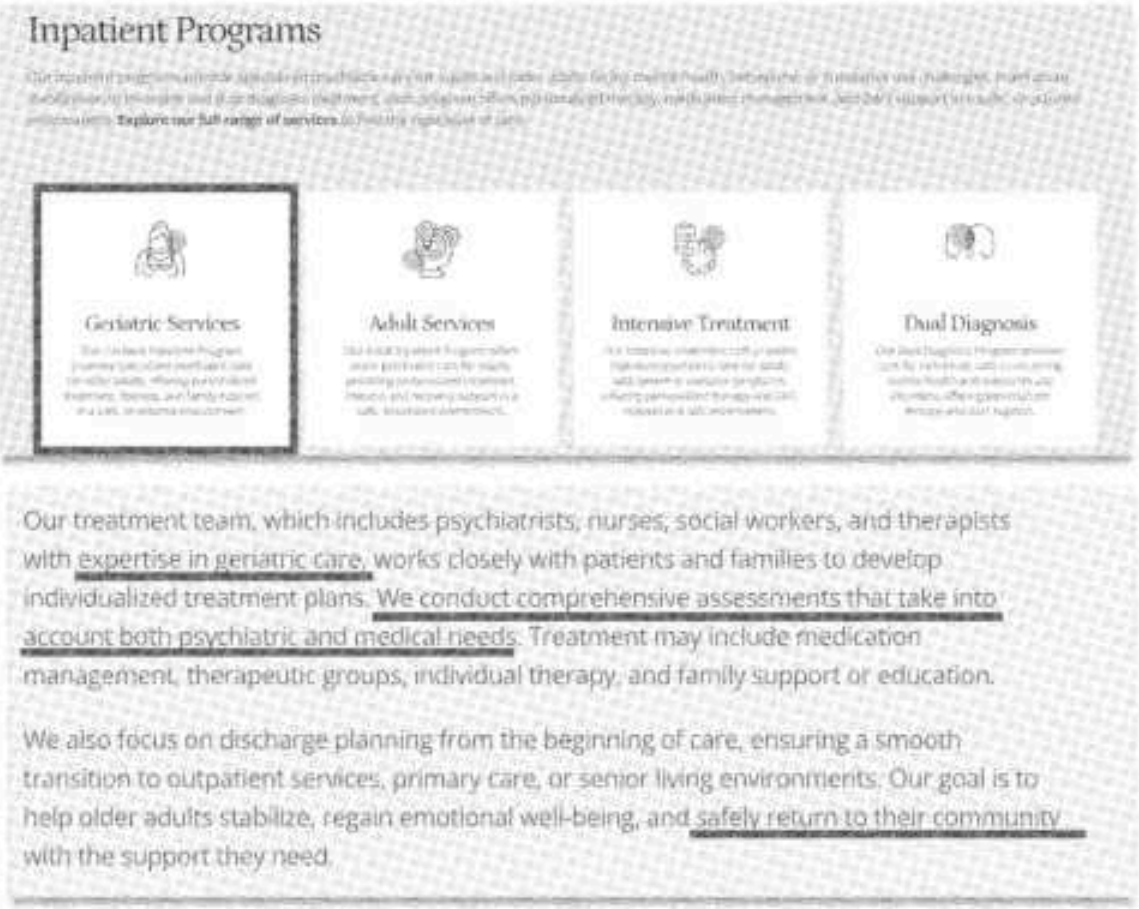
Survey	Hospital	Deficiency Tags	Findings
Nov. 18, 2020	Facility (Youngstown)	A0115, A0144 (patient rights; care in a safe setting)	Failed to investigate injuries of unknown origin in a 74-year-old patient with Alzheimer's dementia who had unexplained bruising and was later diagnosed at an outside hospital with a hip fracture. Surveyors found the deficiency had the potential to affect all 54 patients.
Jan. 7, 2021	Facility (Youngstown)	A0130 (participation in care planning); A0749 (infection control)	Failed to notify a patient's representative of a significant event; the family learned of it from police. Staff violated infection-control policy during a blood-glucose check.
June 13–16, 2016	Geneva (sister hospital)	A0392, A0395, A0208, A0131, A0405, A0144, and others (18 health deficiencies)	Inadequate nurse staffing; inadequate RN supervision, including a fall with a fractured clavicle and a fall not reported to the physician; an accidental Ativan overdose requiring emergency transfer; staff using restraint without required training; and informed-consent failures for a patient held on an emergency basis.

Table 2. CMS survey deficiencies cited at the Facility and at Generations Behavioral Health – Geneva. Source: CMS Form 2567 statements of deficiencies.

94. These findings, and the similarly deficient results reported by both Generations hospitals, are consistent with deficiencies in systems, policies, staffing, and budgets set centrally by Generations, and they show that Defendants knew of the risks to patients like Ann and consciously disregarded them.

Misleading Advertising

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



Generations Behavioral Health Youngstown Hospital advertises several inpatient program care services, and especially that their geriatric services provide specialized treatment in a safe, structured environment

96. The intent and outcome of this misleading practice is to cause patients, their families, and external care providers to believe the Facility is much better staffed and qualified to provide the promised care than what is the everyday practice of the Defendants with regard to staffing the Facility.

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

Systemic Understaffing and Ann Zaborsky's Care

98. Defendants failed to ensure, through their operational, budgetary, consultation and managerial decisions and actions, that Generations Behavioral Health Youngstown Hospital aka Generations Behavioral Health – Youngstown, LLC was sufficiently staffed, and the staff appropriately trained and informed, to meet the individual needs of Ann Zaborsky during the period she was a patient at the Facility.

99. Defendants engaged in a systemic practice to understaff Generations Behavioral Health Youngstown Hospital aka Generations Behavioral Health – Youngstown, LLC to maximize profits at the expense of their patients' care.

100. This lack of sufficient staff directly resulted in Ann Zaborsky not receiving basic and necessary services, assessments, and interventions to prevent, among other things, neglect leading to her injuries at Generations Behavioral Health Youngstown Hospital aka Generations Behavioral Health – Youngstown, LLC during the period she was a patient at the Facility.

Defendants' Negligence and Recklessness with Ann Zaborsky

101. Defendants accepted Ann Zaborsky as an involuntary inpatient for psychiatric treatment following Ann's emergency department evaluation for anxiety, agitation, and tapping her head against the wall.

102. Defendants agreed to accept Ann Zaborsky into their facility and provide care to her in exchange for monetary payment.

103. Upon her admission, Generations Behavioral Health Youngstown Hospital knew that Ann had great difficulty with her vision and that Ann and her family trusted the facility with her care. Generations Behavioral Health Youngstown Hospital knew that Ann was diagnosed with dementia and acute psychosis. During her time as a patient, she was physically restrained and eventually developed a serious cough and congestion.

104. On October 7, 2025, Ann experienced a witnessed fall at Generations Behavioral Health Youngstown Hospital and fractured her right wrist. Her family was not notified of Ann's admission to the emergency department, her treatment for her fractured right wrist, or that she was in a splint and sling.

105. On October 15, 2025, Ann began to exhibit a cough and congestion. Generations Behavioral Health Youngstown Hospital prescribed Robitussin to help manage the coughing and congestion. The staff at the facility continued to chart that she was ultimately fine and her lungs were clear up until October 20, 2025.

106. On the morning of October 20, 2025, Ann was febrile, confused, and irritable, and the Facility's psychiatric nurse practitioner documented that her worsening symptoms could be brought on by sickness.

107. On October 20, 2025, at approximately 9:40 A.M., she was found short of breath with an oxygen saturation of 70% on room air. Oxygen at 5 liters raised her saturation only to 80%, and she required 15 liters by non-rebreather mask before she was sent to the emergency department for evaluation.

108. Ann never recovered from the respiratory infection whose symptoms the Facility documented beginning on October 15, 2025, and passed away on October 22, 2025.

109. Ann's death certificate notes the cause of death as acute respiratory failure with hypoxia, and further notes that it was caused by a multifocal pneumonia.

110. Ann Zaborsky endured mental and physical pain, suffering, and death as a direct and proximate result of Defendants' negligence and recklessness, including but not limited to their failures to assess and treat her respiratory infection, to prevent and respond to her fall, to monitor and limit her medications, to refrain from restraining her, and to staff the Facility adequately.

FIRST CAUSE OF ACTION
(MEDICAL NEGLIGENCE / RECKLESSNESS)
(AGAINST ALL DEFENDANTS)

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

112. Ann Zaborsky depended on the Defendants, and their respective nursing and medical staff, for medical and nursing care, treatment, evaluation, and assistance.

113. The Defendants had a duty to provide proper care and treatment to Ann Zaborsky and to avoid causing injury to Ann Zaborsky.

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

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

a. Failing to perform an accurate fall-risk assessment that accounted for Ann's near-blindness, dementia, and sedating medications, and failing to implement fall precautions, including on October 7, 2025, the day she fell;

b. Failing to promptly evaluate and treat Ann after her fall, delaying her transfer to an emergency room for nearly eleven hours after her wrist fracture was confirmed, and failing to record her pre-transfer vital signs;

c. Failing to notify Ann's family of her fall, her fracture, her emergency room visit, and other significant changes in her condition;

d. Failing to assess, work up, and treat Ann's persistent productive cough, congestion, fever, tachycardia, and declining oxygen saturation, including by failing to order a chest x-ray, bloodwork, or increased vital-sign monitoring;

e. Failing to order a swallow evaluation or implement aspiration precautions despite Ann's documented history of dysphagia;

f. Failing to escalate Ann's abnormal vital signs and her October 19, 2025 report that she could not breathe to a physician or nurse practitioner, and failing to transfer her to a hospital before she became critically hypoxic;

g. Increasing Ann's Risperdal after documenting over-sedation and a plan to reduce it, and administering unnecessary or excessive sedating medications, including intramuscular and oral lorazepam, trazodone, mirtazapine, and tramadol, in combinations that created a known risk of respiratory depression and aspiration;

h. Failing to accurately reconcile Ann's medications on admission;

i. Physically and chemically restraining Ann without a physician's order, a face-to-face evaluation, monitoring, or notice to her family;

j. Failing to maintain accurate, complete, and timely authenticated medical records, including records that misstated Ann's vision, grooming, falls, breathing, and lung examinations;

k. Failing to maintain sufficient numbers of qualified and trained nursing staff, medical providers, and mental health workers to meet Ann's needs;

l. Failing to train and supervise staff regarding patient assessment, fall prevention, restraint, change-of-condition reporting, and documentation;

m. Violating orders relating to the care of Ann;

n. Failing to protect Ann's rights and safety as required by the Ohio and federal statutes and regulations described in this Complaint; and

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

116. The standard of care applicable to Defendants is informed by, and Defendants' breaches are evidenced by, the Ohio and federal statutes and regulations governing psychiatric hospitals, which were enacted to protect patients like Ann from the very harms she suffered. Defendants, directly and through their employees and agents, failed to honor the following rights and requirements, among others:

a. The right to be treated in a safe treatment environment and to receive care in a safe setting (O.A.C. 5122-14-11(B)(2)(a); 42 C.F.R. § 482.13(c)(2));

b. The right to be treated with consideration and respect for the patient's privacy and dignity, and to receive humane care and treatment in a humane psychological and physical environment (R.C. 5122.29(B); R.C. 5122.27(F)(3); O.A.C. 5122-14-11(B)(2)(c), (C)(1));

c. The right to be provided with adequate medical treatment for physical disease or injury (R.C. 5122.27(E));

d. The right to be free from unnecessary or excessive medication (R.C. 5122.27(F)(6));

e. The right to be free from physical and chemical restraint unless authorized by a written order, and never as a means of coercion, discipline, convenience, or retaliation by staff, and the requirement that restraint be applied only by trained staff (R.C. 5122.27(F)(7); O.A.C. 5122-14-11(B)(5); 42 C.F.R. § 482.13(e), (f));

f. The right to make informed decisions regarding care, including the right to be informed of one's health status and to give or withhold informed consent to medications (42 C.F.R. § 482.13(b)(2); O.A.C. 5122-14-11(B)(4), (C)(5), (H));

g. The right to communicate freely with others, including to receive visitors at reasonable times (R.C. 5122.29(D)(1); O.A.C. 5122-14-11(C)(7));

h. The right to have a family member or representative of the patient's choice notified promptly of the patient's admission (42 C.F.R. § 482.13(b)(4); O.A.C. 5122-14-11(C)(8));

i. The requirements that the hospital maintain adequate numbers of registered nurses, licensed practical nurses, and mental health workers, with registered-nurse supervision of nursing care, and that drugs be administered in accordance with orders (42 C.F.R. §§ 482.23, 482.62(d)); and

j. The requirement that medical record entries be accurate, complete, legible, and promptly authenticated (42 C.F.R. §§ 482.24(c), 482.61).

117. A hospital must report to CMS any death that occurs within one week after a patient is restrained where it is reasonable to assume that the restraint contributed directly or indirectly to the death. 42 C.F.R. § 482.13(g). Ann was restrained on or about October 19, 2025, and died on October 22, 2025. Upon information and belief, the Facility made no such report.

118. Defendants' violations of these statutes and regulations are evidence of negligence, of the applicable standard of care, and of Defendants' conscious disregard of Ann's rights and safety.

119. These actions constituted a conscious disregard for Ann Zaborsky'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.

120. The Defendants' disregard for the rights and safety of patients like Ann Zaborsky created circumstances under which it became substantially certain that serious injuries would result, entitling Plaintiff to awards for compensatory and punitive damages.

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

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

123. Upon information and belief, Generations, the Facility, Nagy Healthcare, and Ms. Jividen authorized, participated in, and ratified the conduct of their employees and agents described in this Complaint, including by setting the staffing levels and budgets under which Ann's care was delivered, by failing to investigate or discipline anyone after Ann's fall, fracture, and restraint, and by maintaining documentation practices that concealed those events. R.C. 2315.21(C)(1).

124. Defendants' medical records for Ann repeatedly contradicted her actual condition, including by recording that her visual acuity was normal, that she was "Neat, Well-Groomed" when she had feces on her hands, that she had no falls hours after a witnessed fall, and that her lungs were clear and she had no breathing complaints while she had a moist cough and declining oxygen saturation, and by authenticating notes days after they were written. Upon information and belief, these entries were knowingly false or were made with reckless disregard for their accuracy, and they further support an award of punitive damages.

125. The Defendants and their medical and nursing staff provided care to Ann Zaborsky that fell below the standard of care expected of psychiatric hospitals and medical care organizations, under the same or similar circumstances.

126. The departures from the standard of care are evidenced by violations of sections of Federal Regulations, including the Medicare Conditions of Participation for Hospitals, 42 C.F.R. Part 482, including 42 C.F.R. §§ 482.13 (including subsections (e),

(f), and (g)), 482.23, 482.24(c), 482.61, and 482.62; Ohio Administrative Code Chapter 5122-14, including O.A.C. 5122-14-11; and Ohio Revised Code sections 5122.27 and 5122.29.

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

128. 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 of life, medical expenses, 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 and/or that the court finds appropriate and/or equitable.

SECOND CAUSE OF ACTION
(WRONGFUL DEATH – R.C. 2125.01 ET SEQ.)
(AGAINST ALL DEFENDANTS)

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

130. Ann Zaborsky depended on the Defendants, and their respective nursing and medical staff, for medical and nursing care, treatment, evaluation, and assistance.

131. The Defendants had a duty to provide proper care and treatment to Ann Zaborsky and to avoid causing injury to Ann Zaborsky.

132. The Defendants, including their medical and nursing staff, failed to provide proper care and treatment to Ann Zaborsky, which they knew or should have known they

required, and their negligence was the direct and proximate cause of the injuries that Ann Zaborsky suffered.

133. The Defendants' failure to provide proper care and treatment included, but is not limited to, the acts and omissions described in the First Cause of Action.

134. Defendants also violated the statutory and regulatory rights and requirements described in the First Cause of Action, which violations are evidence of negligence and of Defendants' conscious disregard of Ann Zaborsky's rights and safety.

135. Ann Zaborsky endured conscious pain, suffering, and disability, and other harms and losses as the direct and proximate result of Defendants' negligence, recklessness, and violations of these statutory and regulatory requirements.

136. These actions constituted a conscious disregard for Ann Zaborsky'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.

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

138. The Defendants' disregard for the rights and safety of patients like Ann Zaborsky created circumstances under which it became substantially certain that serious injuries would result.

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

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

141. The Defendants and their medical and nursing staff provided care to Ann Zaborsky that fell below the standard of care expected of psychiatric hospitals and medical care organizations, under the same or similar circumstances.

142. The departures from the standard of care are evidenced by violations of sections of Federal Regulations, including the Medicare Conditions of Participation for Hospitals, 42 C.F.R. Part 482, including 42 C.F.R. §§ 482.13 (including subsections (e), (f), and (g)), 482.23, 482.24(c), 482.61, and 482.62; Ohio Administrative Code Chapter 5122-14, including O.A.C. 5122-14-11; and Ohio Revised Code sections 5122.27 and 5122.29.

143. Defendants' negligence and recklessness caused Ann's death. Among other things, Defendants failed to diagnose and treat Ann's respiratory infection during the five days before she became critically hypoxic, and they administered a combination of antipsychotic, benzodiazepine, opioid, and other sedating medications to an elderly woman with dementia and dysphagia, without aspiration precautions, which increased her risk of respiratory depression, aspiration, and pneumonia. Ann developed multifocal pneumonia and acute respiratory failure with hypoxia, from which she died on October 22, 2025.

144. As a direct and proximate result of the negligence / recklessness described above, Ann Zaborsky sustained injuries that caused her untimely and wrongful death.

145. Ann Zaborsky's next-of-kin suffered damages as set forth in the Ohio Wrongful Death statute, R.C. 2125.01 et seq., including loss of support; loss of services; loss of society, including loss of companionship, consortium, care, assistance, attention,

protection, advice, guidance, counsel, instruction, training, and education; loss of prospective inheritance; mental anguish; and the reasonable funeral and burial expenses incurred as a result of her death.

146. This claim is brought for the exclusive benefit of Ann's children and other next of kin entitled to recover under R.C. 2125.02, including her children, Joanne Starkey, Joseph Zaborsky, Victoria Dubos, and Matthew Zaborsky.

147. 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 and expenses, and any other relief the court finds is appropriate and / or equitable.

THIRD CAUSE OF ACTION
(LACK OF INFORMED CONSENT)
(AGAINST THE FACILITY, GENERATIONS, DR. ZEDAR, NP MILLER, NP PALMER, AND JOHN DOES 1 THROUGH 10)

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

149. Dr. Zedar, NP Miller, NP Palmer, and the Facility's other psychiatric providers prescribed, increased, and administered risperidone, lorazepam, and other psychotropic and sedating medications to Ann.

150. Ann lacked the capacity to give informed consent to these medications. The same notes that recorded that Ann "has the capacity and gives informed consent" documented that she was oriented only to herself, had memory deficits, and had poor insight and impaired judgment.

151. Defendants did not disclose the material risks and dangers inherently and potentially involved with these medications to Ann or to any person with legal authority

to consent on her behalf, including the FDA boxed warning of increased mortality, most often from cardiovascular or infectious causes such as pneumonia, in elderly patients with dementia-related psychosis treated with antipsychotic drugs, and the risks of over-sedation, respiratory depression, and aspiration from the combination of medications Ann received. Upon information and belief, Defendants obtained no valid consent from any such person and no court order authorizing the administration of these medications.

152. The undisclosed risks materialized and proximately caused Ann's injuries: she was over-sedated, developed pneumonia and acute respiratory failure, and died.

153. A reasonable person in Ann's position, or a reasonable surrogate acting on her behalf, would have declined these medications, or the doses and combinations administered, had the material risks been disclosed.

154. As a direct and proximate result, Ann suffered conscious pain and suffering, loss of enjoyment of life, and death, and her Estate incurred medical and other expenses.

155. WHEREFORE, Plaintiff demands judgment against these Defendants, jointly, in an amount in excess of Twenty-Five Thousand Dollars ($25,000.00), for conscious pain and suffering, loss of enjoyment of life, and medical and other expenses, together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief the Court finds appropriate and equitable.

FOURTH CAUSE OF ACTION
(BATTERY AND FALSE IMPRISONMENT)
(AGAINST THE FACILITY, GENERATIONS, AND JOHN DOES 1 THROUGH 10)

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

157. Facility staff intentionally confined Ann by locking her into a chair so that she could not get up or move freely, without a physician's order, a face-to-face evaluation, monitoring, or any lawful privilege, and, upon information and belief, for the convenience of staff.

158. Upon information and belief, Facility staff also administered intramuscular injections of lorazepam to Ann to control her behavior, without valid consent and without a lawful order authorizing their use as a restraint.

159. This conduct constituted intentional, harmful, and offensive contact with Ann's person without her consent, and the intentional confinement of Ann, without lawful privilege and against her consent, within a limited area for an appreciable time.

160. Ann suffered fear, distress, indignity, and physical harm as a result.

161. Facility staff committed these acts within the scope of their employment, and the Facility and Generations authorized, participated in, or ratified them. Defendants acted with actual malice and with conscious disregard for Ann's rights and safety.

162. WHEREFORE, Plaintiff demands judgment against these Defendants, jointly, in an amount in excess of Twenty-Five Thousand Dollars ($25,000.00), for conscious pain and suffering, loss of enjoyment of life, and medical and other expenses, together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief the Court finds appropriate and equitable.

FIFTH CAUSE OF ACTION
(NEGLIGENT CREDENTIALING, HIRING, TRAINING, SUPERVISION, AND RETENTION)
(AGAINST THE FACILITY, GENERATIONS, NAGY HEALTHCARE, AND MS. JIVIDEN)

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

164. The Facility, Generations, Nagy Healthcare, and Ms. Jividen owed Ann a duty to exercise reasonable care in credentialing, granting and continuing privileges to, hiring, training, supervising, and retaining the physicians, nurse practitioners, nurses, and other staff who cared for her.

165. These Defendants breached that duty. Among other things, they permitted physicians and nurse practitioners to repeatedly document normal lung examinations and normal vision that were inconsistent with Ann's condition, to copy forward nearly identical progress notes over multiple days, and to authenticate notes days after the care they describe; they employed and retained nursing staff who did not implement fall precautions, did not report Ann's fall, restrained her without orders, and dismissed her report that she could not breathe; and they failed to train staff in fall prevention, restraint, change-of-condition reporting, and documentation.

166. These Defendants knew or should have known that these providers and staff were incompetent or inadequately trained and supervised, including from the Facility's own records and from the prior regulatory findings described in this Complaint.

167. Upon information and belief, Ms. Jividen, as Chief Executive Officer and Administrator of the Facility, personally participated in and directed the hiring, staffing, training, and supervision decisions described above.

168. As a direct and proximate result, Ann suffered injury, conscious pain and suffering, and death.

169. WHEREFORE, Plaintiff demands judgment against these Defendants, jointly, in an amount in excess of Twenty-Five Thousand Dollars ($25,000.00), for conscious pain and suffering, loss of enjoyment of life, and medical and other expenses,

together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief the Court finds appropriate and equitable.

SIXTH CAUSE OF ACTION
(FRAUD AND FRAUDULENT CONCEALMENT)
(AGAINST THE FACILITY, GENERATIONS, DR. ZEDAR, AND JOHN DOES 1 THROUGH 10)

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

171. Defendants had a duty to keep Ann's family and representative informed of her condition, including significant changes in her condition, and the Facility's records listed Joanne Starkey as Ann's emergency contact. 42 C.F.R. § 482.13(b).

172. Defendants concealed from Ann's family that Ann fell on October 7, 2025, that she fractured her right wrist, and that she was sent to an emergency room on October 8, 2025. The Facility's evening nursing note recorded that she had no falls that shift, and its transfer form marked family notification "N/A." Ann's family did not learn of the fall or fracture until after her death.

173. Upon information and belief, on or about October 13, 2025, Dr. Zedar represented to Ann's daughter that Ann's Risperdal would be reduced because of concerns about over-sedation. That representation was false: the Facility increased Ann's Risperdal that same day and again on October 17, 2025, and no one told Ann's family.

174. On Sunday, October 19, 2025, a Facility nurse told Ann's daughter not to come in because Ann was "being very moody." Later that day, after Paul Starkey reported that Ann had said "I can't breathe" and that this was new, a Facility nurse told him that Ann was faking it and merely anxious. Neither conversation is documented in the

Facility's records; Plaintiff will identify each speaker by name, and the time of each call, through discovery.

175. These representations and concealments concerned facts material to Ann's care and safety. Defendants made them knowing they were false, or with such utter disregard and recklessness as to their truth that knowledge may be inferred, and with the intent that Ann's family rely on them.

176. Ann's family justifiably relied on these representations and concealments. Had they known the truth, they would have objected to the increase in Ann's Risperdal and sought her evaluation or transfer, and on October 19, 2025, they would have come to the Facility and demanded that Ann be medically evaluated and transferred to a hospital before she became critically hypoxic the next morning.

177. As a direct and proximate result of that reliance, Ann lost the opportunity for timely evaluation and treatment and suffered additional conscious pain, suffering, and injury, separate from the injuries caused by the medical negligence alleged above.

178. 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 that the court finds appropriate and/or equitable.

A TRIAL BY JURY IS HEREBY DEMANDED

Respectfully Submitted,

/s/ Michael A. Hill

MICHAEL A. HILL (0088130)
JOSEPH MCCOY (0092669)
MOLLY MORRIS (0102510)
LINA GIRGIS (0106469)
MICHAEL HILL TRIAL LAW
815 Superior Ave., Suite 623
Cleveland, Ohio 44114
(800) 659-2712 (o) | (216) 716-2507 (f)
michael.hill@protectseniors.com
joe.mccoy@protectseniors.com
molly.morris@protectseniors.com
lina.girgis@protectseniors.com
www.protectseniors.com
Counsel for Plaintiff