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# SUIT ALLEGES NURSING HOMES VIOLATE BUSINESS, HEALTH PRACTICES

06/16/06 1:20 PDT

Twenty-six Horizon West nursing homes in California, including one each in Napa and Monterey, were charged with unlawful, unfair and fraudulent business practices and health and safety code violations in a class action lawsuit filed Wednesday in Sacramento County Superior Court.

The suit alleges Horizon West Inc., Horizon West Healthcare Inc. and Horizon West Healthcare of California Inc. and its 26 homes are knowingly not providing the minimum level of direct patient care mandated by state and federal regulations. The allegations span the time period between June 10, 2002 and June 10, 2006.

The plaintiffs state the information regarding hours of nursing care provided daily to patients are taken from information Horizon West supplied to the California Office of Statewide Health Planning and Development and that the information has not been independently verified.

Horizon West Healthcare Inc. said the charges are significant misstatements of fact and are an arbitrary presentation of California staffing requirements.

"Each Horizon West's facility's staffing plan is designed to meet or exceed the state regulatory requirement," spokesman J.R. Wilcox said.

The suit alleges Napa Nursing Center in Napa failed to provide the mandated 3.2 nursing hours per patient; failed to provide thousands of hours of legally required nursing care to residents each year; and received 31 notices of deficiencies in 2004 by the Department of Health Services making the facility 280 percent over the statewide average of 11 notices per year.

Georgia Otterson, executive of the Napa Nursing Center, referred comments on the allegations to the company's legal department but she said, "We give great care" and the notices of deficiencies could be as minimal as a hole in a door.

Wilcox said the way in which compliance is measured can affect the calculated outcome. He said if a nursing assistant stays home with a sick child one day, it "can significantly alter the 3.2 staffing ratio for that particular day."

Wilcox said the numbers must not be taken out of context and that the plaintiffs' attorney Stephen Garcia "makes careless 'apples to oranges' comparisons."

"We take every issue very seriously and we will internally evaluate any allegations of non-compliance with state staffing requirements," Wilcox said.

The Monterey Pines Skilled Nursing Center in Monterey is alleged to have provided only 3.1 of the 3.2 state-mandated nursing hours per patient in 2004 and allegedly failed to provide 3,290 hours of legally required nursing care to residents in a single year.

The complaint alleges the Monterey facility received 47 notices of deficiencies by the Department of Health Services in 2005 and 25 notices of deficiencies in 2004 making the facility 420 percent and 220 percent respectively over the statewide average of 11 notices per year.

Kathy Spake, executive director of Monterey Pines did not immediately return calls for comment on the allegations regarding Monterey Pines.

The Valley View Skilled Nursing home in Ukiah, the Lakeport Skilled Nursing Center in Lake County and the Sierra Health Care Center in Davis in Yolo County also were named in the complaint.

The complaint alleges the elderly residents, their insurance companies, Medicare and MediCal are being billed as if the lawfully required care is being provided and that the corporation and its facilities are advertising they are meeting all California laws and regulations when in fact they are not doing so.

Attorney Garcia of Long Beach said, "Inadequate staffing leads to elder abuse. It is that plain and simple." He said all California nursing homes since Jan. 1, 2000 are required to provide 3.2 nursing hours per patient per day.

Garcia said Horizon West Inc. of Rocklin paid the federal government \$4 million in 1999 to settle claims that it bilked Medicare by submitting fraudulent cost reports.

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