

The Betrayal of Elaine Benz

BY BILL LUEDERS

On April 21, the Wisconsin Department of Health Services (DHS) rescinded the citations it had issued to a senior health care facility for having violated state law in evicting my mother, Elaine Benz, last fall.

No reason was given for the state's reversal. My sister, Diane, and I, who have power of attorney for our mom's health care, were never consulted about DHS's decision to dismiss the citations. Nor were we able to challenge what we believe to be false representations made by the facility, ProHealth Care Regency Senior Communities New Berlin, regarding Elaine's level of requisite care.

As I have described in *The Progressive* ("I Want to Go Home," February/March issue and "My Mother's Eviction: An Update," April/May issue) and elsewhere, my family was deeply affected by this eviction. Elaine, who was ninety-seven then and is ninety-eight now, was forced to spend nineteen days in punishing isolation at a physical rehabilitation center, then in full COVID-19 lockdown, after being prevented from returning home to the Regency where she had lived for ten years. We had to scramble to find her a new place to live. She was traumatized by the experience.

On November 8, 2021, in response to my complaint, the Division of Quality Assurance, part of DHS, conducted an investigation. It found that the Regency had committed two violations of state administrative code regarding our mother's eviction. The facility was fined a total of \$1,500, far less than the actual costs incurred by our family due to those events.

The Regency appealed, asking for a hearing before an administrative law judge. Instead of defending the findings of its frontline staff, DHS agreed to dismiss the citations—without even holding the hearing. The Stipulated Settlement Agreement states: "Based on additional information provided with the appeal, before the case conference, during the case conference, and after the case conference, the Department [of Health Services] agrees to rescind" both citations.

What additional information? Who knows?

The DHS, at my request, released what it said was its entire file on the matter, including a stack of medical records stamped as exhibits. But, as the department

confirmed to me, it had no documents that stated a defense of the Regency's actions or that even attempted to explain the significance of the provided records.

No reason at all was reason enough for the department.

In an April 27 letter to DHS Secretary-Designee Karen Timberlake, I protested the state's decision, writing:

"What has happened here is an egregious failure on the part of DHS to enforce state administrative code against an especially flagrant violator. You are making it clear that providers of care to the elderly can violate the state's rules with impunity. As such, [Your decision] to dismiss this case puts all of the state's most vulnerable residents at unnecessary risk."

The state's capitulation to the Regency and its lawyers is also a slap in the face to the department's own investigative staff, who issued the citations only to be overruled.

This was something we feared would happen. In a December 17 email, typed out on my cell phone during a visit with my mom (she had fallen asleep), I raised this concern with officials in the Division of Quality Assurance. I noted that the Regency's owner, ProHealth Care, a "nonprofit" that raked in \$103 million in "revenue less expenses" in fiscal year 2020, "has a lot of money and presumably a lot of clout." The folks there, I wrote, "probably wouldn't have done what they did in the first place if they didn't think they could get away with it."

Now, thanks to the spineless bureaucrats at the Wisconsin Department of Health Services, it looks like that is exactly what will happen.

As tragic as this is, there is nothing especially surprising about it. In my forty years as a journalist, I have seen countless examples of how regulatory agencies come to serve the interests they regulate over the people they are supposed to protect. It would be better to avoid the farce and just admit that, when push comes to shove, protecting the public is the regulators' last priority.

"They betrayed us." That was the first thing Diane said when I told her the citations against the Regency were dismissed. She is exactly right. The state of Wisconsin has betrayed my mother and our family. ♦



Elaine Benz

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