

## Nursing Home Contract Review

For most people who enter nursing homes, the contract involved will be the second largest financial contract they make in their life, second only to the purchase of their home. Ideally, big ticket items like that should be considered carefully before signing on the dotted line. Unfortunately, that often doesn't happen. While we agonize for months about the purchase of a car, we are often given little time to do any type of comparison shopping for nursing homes. Often there will be a meeting in a hospital late on a Friday afternoon explaining that the patient cannot go home but rather must move to a nursing home over the weekend. There isn't much time and families often don't have the energy and attention to consider the contracts carefully.

Not reading any consumer contract carefully can be dangerous. The Michigan Supreme Court is perhaps the least sympathetic in the nation towards unfair provisions in consumer contracts. I wrote an article about this in the October 2006 Michigan Bar Journal. If at all possible, it pays to have someone look over contracts like this before signing. It is much less expensive to prevent trouble than to try to get out of trouble after it has already happened.

This does not mean that it is too late to do anything about contracts you have already signed. Many nursing homes have attempted to enforce illegal provisions or not comply with state and federal laws. The nursing home industry is perhaps the most heavily regulated industry in the nation and there are many rules. Rather than simply agreeing with whatever the nursing home says, it might make sense to consult an attorney with expertise in both elder law and consumer law to see if you have any rights. I have served as the chair of both relevant sections of the State Bar of Michigan and have taught courses on both topics at Thomas M. Cooley Law School.

Much the same can be said about other types of long-term care facilities, such as assisted living facilities, homes for the aged, and adult foster care homes. The basic exception is that there are fewer regulations in these facilities.