



HEALTH CARE NEWS

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ATRIA TO REFUND IMPROPER FEES TO NEW YORKERS

Attorney General Eliot Spitzer recently announced a settlement with Atria Communities, one of the nation's major operators of assisted living facilities and adult homes, requiring thousands of dollars to be returned to residents who were charged an illegal "Community Fee." Atria will also modify its admission agreements to comply with New York State law.

"This settlement will ensure that Atria adult residences are clear about what charges pay for which services," Spitzer said. "We hope that other adult living facilities will also examine their fees and admission agreements in light of this settlement so that New Yorkers shopping for senior housing can effectively make apples-to-apples comparisons of senior housing choices."

The Health Care Bureau's probe began after we received a complaint that Atria's East Northport, Long Island facility, a state licensed adult home, was charging residents a *mandatory, non-refundable* "Community Fee" for handicapped accessible transportation, "state-of-the-art" security, 24-hour "country kitchens" and specialized "seasonal banquet dinners."

Our investigation revealed, however, that Atria used the community fee to pay for several other items, such as nutritional assessments, establishment of medication protocols and apartment refurbishment and cleaning. Consequently, we concluded that Atria misled consumers about the nature and purpose of the community fee.



HEALTH CARE HELPLINE AT 1-800-771-7755 option 3

Recently, leading advocacy groups contacted the Health Care Bureau to complain about some "confusing" nursing home practices. One advocate told the Bureau's staff that some nursing homes were only admitting consumers who had friends or relatives sign a "third party guarantee" to ensure payment for care. Other nursing homes, an advocate said, had admission agreements that seemed to have improper involuntary discharge provisions. An investigation by Bureau staff found that 15 nursing homes' had crafted admission policies that did not comply with state and federal laws that (i) prohibit "third party" guarantees which impose financial obligations as a condition of admission and (ii) only allow homes to involuntarily discharge residents in limited circumstances (for example, where resident behavior interferes with the care of other residents). As a result of settlement agreements, the nursing homes will revise their admission contracts to comply with state and federal laws, notify all residents of the changes, and have residents sign new amended contracts.

In addition, we determined that, by including charges for mandatory services such as nutritional assessments and establishment of medication protocols in its "Community Fee" and not in its basic rate, Atria violated state adult home rate regulations. Finally, Atria also violated state regulations that require charges for supplemental services to be optional, not mandatory like Atria's community fee.

Atria will refund all or part of the "Community Fee" to former residents who lived in one of the following Atria facilities for three years or less: Briarcliff Manor (Westchester County), Centerreach, East Northport, Huntington, and Lynbrook (Long Island), Greece and Penfield (Monroe County). Residents who lived at the Chestnut Ridge Adult Home (Rockland County) from January 1997 - June 1999, are also eligible to receive refunds under the settlement.

FINDING THE RIGHT ASSISTED LIVING FACILITY

Here are some useful tips to consider when you are shopping for an assisted living facility:

- **Do your homework.** Tour as many facilities as possible at different times of the day and on weekends, when many homes may reduce their staff and services.
- **Assess services.** Find out what services are included in the daily, weekly, or monthly rate and what services are available for extra charges.
- **Evaluate staffing.** Determine the level of care and services the facility offers. Find out if the facility is adequately staffed by asking for "staff member per resident ratio."
- **Do a background check.** Contact the long-term care ombudsman in your area by calling 1-800-342-9871 or visiting <http://www.ombudsman.state.ny.us>. Some assisted living facilities in New York State are not licensed. Ask the facility's administrator or visit the New York Department of Health website at www.health.state.ny.us to access this information.

Attorney General Eliot Spitzer's Health Care Bureau protects - and advocates for - the rights of all health care consumers statewide. The Bureau operates a Health Care Helpline that assists thousands of New Yorkers with individual problems; investigates and takes law enforcement actions to address systemic problems in the operation of the health care system; and proposes legislation to enhance health care quality and availability in New York State. **To share your views contact the Editor: Rashmi.Vasisht@oag.state.ny.us**