

IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT IN AND FOR PALM  
BEACH COUNTY, FLORIDA

JAYNE DUBOIS PAUL as Personal  
Representative of the Estate of WARREN  
PAUL,

Plaintiff,

v.

MANOR CARE OF BOYNTON BEACH FL,  
LLC d/b/a MANORCARE HEALTH SERVICES  
- BOYNTON BEACH,

Defendant,

Case No.:

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**COMPLAINT**

COMES NOW, Plaintiff, JAYNE DUBOIS PAUL as Personal Representative of the Estate of WARREN PAUL by and through the undersigned counsel and sues the Defendant, MANOR CARE OF BOYNTON BEACH FL, LLC d/b/a MANORCARE HEALTH SERVICES - BOYNTON BEACH (hereinafter referred to as "Defendant"), and alleges:

**GENERAL ALLEGATIONS**

1. This is an action for damages that exceed FIFTY THOUSAND (\$50,000.00) DOLLARS.
2. At all times material, WARREN PAUL, was admitted to Defendant's nursing home located in Palm Beach County, Florida.
3. JAYNE DUBOIS PAUL has been appointed Personal Representative of the Estate of WARREN PAUL.

4. On February 1, 2022, WARREN PAUL was admitted to Defendant's facility with pre-existing heel pressure sores. His sacral area was intact but based on the heel injuries and co-morbidities it was obvious he was at high risk for sacral skin breakdown and needed aggressive interventions to prevent sacral skin breakdown.

5. Defendant failed to heed that warning and neglected WARREN PAUL.

6. On February 10, 2022, nine days after arrival, WARREN PAUL's Unstageable Pressure Injury was first identified. Defendant's records concede "Unstageable pressure injury to the right buttock, in-house acquired. Staff will assist with reposition and turning."

7. On February 14, 2022, a care plan for the left buttock skin alteration was created, 4 days later. There was no documentation regarding pressure relieving surfaces to bed until February 19, 2022. Multiple skin grids failed to indicate the use of pressure reducing interventions.

8. The first documentation for the use of a wheelchair cushion was on March 29, 2022. The ADL documentation indicated that [REDACTED] was transferred out of bed daily. Defendant's staff should have provided him a pressure relieving seat cushion.

9. On February 18, 2022, the left and right buttocks wounds were reclassified to a large unstageable pressure injury to the sacrum.

10. On February 22, 2022, a care plan for a sacral unstageable wound was created.

11. On April 6, 2022 a surgical debridement was performed.

12. On May 4, 2022 WARREN PAUL was sent to the hospital with sepsis caused by the severe and infected sacral injury.

13. On May 5, 2022, a surgical consultation revealed “patient with chronic sacral wounds from nursing home. Patient’s wife states that at the nursing home he was not being turned or properly cared for.”

14. Imaging revealed a large decubitus ulcer in the coccygeal region, extending to the surface of the coccyx, concerning coccygeal osteomyelitis. The physical exam revealed Stage IV sacral wound with slough. Assessment/plan included: stage IV sacral wound. He required multiple additional surgical debridements.

15. WARREN PAUL succumbed to his wrongful death on November 10, 2022 from septic shock with the Stage 4 bedsore still present and ultimately fatal at the time of his death. A photograph of the Stage 4 bedsore is shown below:



16. Defendant’s failures include the following:

**A. Prevent pressure injury**

- a. Mr. Paul developed a stage 2 pressure injury to his left buttocks on 2/10/2022, just 9 days post admission
- b. Mr. Paul developed an unstageable pressure injury to his right buttock on 2/10/2022, just 9 days post admission

**B. Prevent deterioration of pressure injuries**

- a. Mr. Paul’s pressure injuries to his left and right buttocks were reclassified as one large unstageable sacral pressure injury on 2/18/2022
- b. Multiple documentations indicated that Mr. Paul’s sacral wound deteriorated further from 4/20/2022 – 5/4/2022

**C. Prevent infection of pressure injuries**

- a. Mr. Paul was noted with sign and symptoms of infection to his sacral wound on 5/4/2022
- b. Mr. Paul was transferred to the hospital on 5/4/2022, due to sacral wound
- c. infection
- d. Mr. Paul's sacral wound culture was positive with multiple organisms on 5/11/2022, and his WBC was 20.05 on 5/4/2022

**D. Delay in transferring to a higher level of care**

- a. Mr. Paul should have been reassessed and/or transferred to a higher level of care once he was noted with a deteriorating wound on 3/30/2022 or 4/20/2022

**E. Implement pressure relieving device to bed**

- a. The first notation of a pressure relieving mattress was on 2/19/2022, 18 days post admission, and 9 days after the pressure injuries to Mr. Paul's buttocks were noted
- b. Pressure relieving devices were not included on the care plan until 3/17/2022

**F. Implement pressure relieving device to chair**

- a. The first notation of a pressure relieving seat cushion was on 3/29/2022, 2 months post admission, and 6 weeks after the pressure injuries to Mr. Paul's buttocks were noted
- b. Pressure relieving devices were not included on the care plan until 3/17/2022

**G. Implement effective turning and repositioning program**

- a. Frequency for offering/assisting with turning and repositioning were not documented
- b. An intervention to document repositioning was not initiated until 2/25/2022, 15 days after the skin damage was done

**H. Implement a toileting schedule/plan**

- a. Frequency for offering/assisting with toileting were not documented
- b. A care plan for incontinence was not created

**I. Implement appropriate plan of care to prevent skin breakdown**

- a. A skin care plan addressing pressure injuries to the left and right buttocks was developed 4 days post identification
- b. Pressure relieving devices were not included on the skin care plan until 3/17/2022
- c. The skin care plan did not include incontinent care
- d. A care plan for incontinence was not created

e. A care plan addressing the sacral pressure injury was developed 4 days post identification

**J. Maintain accurate and complete medical records**

a. Missing change in condition for pressure injuries on 2/10/2022

b. Missing change in condition for the reclassification of the sacral pressure injury on 2/18/2022

c. A care plan for incontinence was not created

d. A care plan for pressure injuries observed on 2/10/2022 was not created until 2/14/2022

e. Pressure relieving devices were not included on the care plan until 3/17/2022

17. At all times material hereto Defendant was vicariously liable for all acts and/or omissions of its agents (actual and apparent), employees, servants and administrators.

18. Defendant owned, operated and managed the nursing home during Plaintiff's residency and as such owed Plaintiff a duty to exercise reasonable care in its operation of the nursing home according to §400.023(3), Florida Statutes.

19. Plaintiff has performed all conditions precedent to bringing this action as required by Chapter 400 of the Florida Statutes.

**COUNT I – CHAPTER 400 DEATH CLAIM**

Plaintiff re-alleges paragraphs 1-19 herein.

20. Pursuant to Section 400.022, Florida Statutes, and the state rules and regulations adopted and promulgated there under, along with all applicable Federal Regulations, all of which constitute a part of the established and recognized standard of care within the community, Defendant owed a duty to Plaintiff to ensure that his rights were not violated, deprived or infringed upon in any way.

21. The foregoing rights include, but are not limited to:

a. The right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency;

b. The right to be treated courteously, fairly, and with the fullest measure of dignity; and

c. The right to be free from mental and physical abuse.

22. These statutorily mandated responsibilities include providing appropriate staff with sufficient training to implement the provisions of Section 400.022, Florida Statutes.

23. Defendant owed a duty to Plaintiff to properly hire, retain and supervise nurses on Defendant's staff and to ensure that any such licensed nurses exercised care consistent with the prevailing professional standard of care for a nurse.

24. Defendant's responsibilities and obligations to Plaintiff are non-delegable such that Defendant has direct liability for violations, deprivations or infringements by any person or entity under Defendant's control, direct or indirect including the employees, agents, servants, administrators, consultants, and independent contractors, whether in-house or outside entities, individuals, agencies or pools.

25. Notwithstanding the duties and obligations of Defendant to prevent violations, deprivations and infringements of Plaintiff's statutorily mandated resident's rights, such rights were violated, deprived or infringed by the acts and omissions of

Defendant. The rights violated, deprived or infringed upon include, but are not limited to:

a. The right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency;

b. The right to be treated courteously, fairly, and with the fullest measure of dignity; and

c. The right to be free from mental and physical abuse.

26. As a direct and proximate result of Defendant's violations, deprivations or infringements, WARREN PAUL died on November 10, 2022.

27. The beneficiaries for Plaintiff's wrongful death are:

a. The Estate,

b. JAYNE DUBOIS PAUL, spouse.

28. As a direct and proximate result of Defendant's violations, deprivations or infringements, medical and funeral expenses were incurred.

29. As a direct and proximate result of Defendant's violations, deprivations or infringements, the Plaintiff's survivors identified above have suffered loss of companionship along with extreme mental pain and suffering.

WHEREFORE, Plaintiff, JAYNE DUBOIS PAUL as Personal Representative of the Estate of WARREN PAUL, demands judgment against Defendant for damages in

excess of FIFTY THOUSAND (\$50,000.00) DOLLARS, costs, interest and further demands trial by jury.

**COUNT II – CHAPTER 400 SURVIVAL CLAIM**

Plaintiff re-alleges paragraphs 1-19 herein.

30. Pursuant to Section 400.022, Florida Statutes, and the state rules and regulations adopted and promulgated thereunder, along with all applicable Federal Regulations, all of which constitute a part of the established and recognized standard of care within the community, Defendant owed a duty to Plaintiff to ensure that his rights were not violated, deprived or infringed upon in any way.

31. The foregoing rights include, but are not limited to:

a. The right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency;

b. The right to be treated courteously, fairly, and with the fullest measure of dignity; and

c. The right to be free from mental and physical abuse.

32. These statutorily mandated responsibilities include providing appropriate staff with sufficient training to implement the provisions of Section 400.022, Florida Statutes.

33. Defendant owed a duty to Plaintiff to properly hire, retain and supervise nurses on Defendant's staff and to ensure that any such licensed nurses exercised care consistent with the prevailing professional standard of care for a nurse.

34. Defendant's responsibilities and obligations to Plaintiff are non-delegable such that Defendant has direct liability for violations, deprivations or infringements by any person or entity under Defendant's control, direct or indirect including the employees, agents, servants, administrators, consultants, and independent contractors, whether in-house or outside entities, individuals, agencies or pools.

35. Notwithstanding the duties and obligations of Defendant to prevent violations, deprivations and infringements of Plaintiff's statutorily mandated resident's rights, such rights were violated, deprived or infringed by the acts and omissions of Defendant. The rights violated, deprived or infringed upon include, but are not limited to:

a. The right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency;

b. The right to be treated courteously, fairly, and with the fullest measure of dignity; and

c. The right to be free from mental and physical abuse.

36. As a direct and proximate result of the failure of Defendant to comply with the requirements of Chapter 400 of the Florida Statutes, WARREN PAUL suffered

damages including loss of dignity; humiliation; bodily injury; pain and suffering; mental anguish; discomfort; aggravation of an existing disease or physical defect; medical, hospital and nursing expenses.

WHEREFORE, Plaintiff, JAYNE DUBOIS PAUL as Personal Representative of the Estate of WARREN PAUL, demands judgment against Defendant for damages in excess of FIFTY THOUSAND (\$50,000.00) DOLLARS, costs, interest and further demands trial by jury.

Dated this 14th day of December, 2023.

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