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September 1, 2016

Jon Weizenbaum, Commissioner
Texas Department of Aging and Disability Services
John H. Winters Human Services Complex
701 W. 51st St.
P.O. Box 149030
Austin, Texas 78714-9030

RE: SNF LICENSES BY SHLOMO RECHNITZ OF BRIUS HEALTHCARE

Dear Mr. Weizenbaum,

On behalf of the National Union of Healthcare Workers, I am writing to alert your agency about severe regulatory sanctions recently imposed on a nursing home company, Brius Healthcare, that operates a Skilled Nursing Facility (SNF) in Texas. We request that the Department of Aging and Disability Services (DADS) investigate the aforementioned sanctions and, if appropriate, bar the company from licensing health care facilities in Texas until it has remedied the systemic resident-care violations that serve as the basis for the regulatory action. We request that DADS immediately refrain from issuing any licenses to Brius while its investigation is underway.

The National Union of Healthcare Workers represents 12,000 caregivers employed in hospitals, nursing homes, clinics, and assisted living facilities, including two California nursing homes operated by Brius. A core part of our mission is to advocate for our patients and to secure higher standards care for the public.

On July 8, 2016, California's Department of Public Health (CDPH) took a reportedly unprecedented action by denying five nursing home licensure applications submitted by Shlomo Rechnitz, the owner of Brius Healthcare, due to the company's widespread violations of federal and state nursing home standards. We are concerned that these systemic practices may put Texas nursing home residents at risk. CDPH reports that Mr. Rechnitz' nursing homes committed 386 serious violations of federal and state regulations during the past three years, including violations that led to the deaths and injuries of multiple residents. I have attached copies of the five "Notices of Denial of Application" issued by the CDPH last month.

Until recently, Brius operated nursing homes only in California, where it controls more than 50 SNFs. In 2013, Brius expanded to Texas and currently operates the following 136-bed licensed SNF in Dallas:

The Rehabilitation & Wellness Centre of Dallas LLC

4200 Live Oak Street
Dallas, TX 75204-6733
Facility Type: Skilled Nursing Facility
Facility ID Number: 103496

NORTHERN CALIFORNIA
5801 Christie Ave., Suite 525
Emeryville, CA 94608-1986

SOUTHERN CALIFORNIA
225 W. Broadway, Suite 155
Glendale, CA 91204-1332

WASHINGTON, D.C.
1100 Vermont Ave. NW, Suite 1200
Washington, D.C. 20005

According to records from the Texas Secretary of State and the Office of the Texas Comptroller, The Rehabilitation & Wellness Centre of Dallas is controlled by the following corporation whose principal officer is Shlomo Rechnitz, the CEO of Brius Healthcare:

The Rehabilitation & Wellness Centre of Dallas, LCC

Business Entity Type: Foreign Limited-Liability Company

Secretary of State (SOS) file number: 0801873782

Brius, LLC

5900 Wilshire Blvd Suite 2600

Los Angeles, CA 90036

Last month's action against Brius by California regulators raises significant concerns for Texas consumers and regulators. If California's nursing home regulators have deemed Brius to be ineligible for licensure due to systemic resident-care violations, shouldn't Texas regulators also investigate and, if necessary, take similar action against the company?

California is the state where Brius has operated the longest (since 2006) and where nearly all of its facilities are located. Consequently, the company's track record in California offers the most comprehensive record of its performance. Furthermore, the majority of the violations cited by California regulators are violations of federal nursing home standards, which also govern Texas' SNFs. Brius' 2013 arrival in Texas appears to represent an effort to escape the intensifying regulatory scrutiny and sanctions it has received in its home state, where it is now unable to license additional facilities due to its poor track record.

The attached "Notices of Denial of Application" contain 21 pages of details regarding a number of Brius' most severe violations in California. The company's record of infractions, however, is lengthier. The following bullet points represent just a handful of additional actions and investigations of recent years:

- Since 2010, the Center for Medicare and Medicaid Services (CMS) has decertified more Brius nursing homes than any other nursing home operator in California. Although Brius operates only 6% of California's 1,249 SNFs, Brius' nursing homes make up more than half of the state's SNFs that have been decertified by CMS since 2010 due to their failure to meet minimum conditions of participation.
- On August 28, 2014, the California Attorney General referred to Brius as a "serial violator" of state and federal laws in a legal motion to block the sale of nineteen SNFs to Brius. The Attorney General cited Brius' systemic pattern of violations, including widespread infectious diseases and several patient deaths due to neglect. The motion included a declaration by then-Interim Director for the CDPH's Center for Health Care Quality expressing her "significant concerns as to the wisdom of the sale of additional skilled nursing facilities to Rechnitz" due in large measure to his "demonstrated record of repeated and ongoing noncompliance with state and federal regulatory requirements, and resultant enforcement actions." The official goes on to state that "Rechnitz's failure to cooperate fully with [Department of Health Care Services] and CMS creates great doubt as to whether Rechnitz can satisfy [California's Health and Safety Code Section 1256] 'good character' requirement."
- On August 28, 2015, the California Attorney General filed involuntary manslaughter charges against Brius' Verdugo Valley Skilled Nursing & Wellness Centre, LLC, which operates a 138-bed skilled nursing facility in Montrose, CA, following the "senseless, tragic and unnecessary death" of a resident. A medical expert determined that the resident "died prematurely and needlessly... due to the woefully substandard monitoring, assessments, care, and treatment he received while the resident at Verdugo Valley," according to the Sacramento Bee.
- On October 22, 2015, the FBI raided Brius' Alta Vista Healthcare & Wellness Center (Riverside, CA), seizing documents at the facility as part of an ongoing investigation. The FBI refused to detail the nature of the investigation "due to the fact that the search warrant was sealed by the court," according to the Riverside Press-Enterprise. This facility is the second Brius SNF to be rated by FBI agents.

- An investigative report by the Sacramento Bee revealed that Brius' SNFs "were tagged with nearly triple as many serious deficiencies per 1,000 beds as the statewide average in 2014, according to the latest figures from the federal Centers for Medicare and Medicaid Services."
- In 2011, the California Attorney General filed felony criminal charges of abuse and neglect against Brius' Verdugo Valley Skilled Nursing & Wellness Centre, LLC (Montrose, CA) following the suicide of a 34-year-old resident who reportedly killed himself "by pulling the pin on a hand-held fire extinguisher and firing it down his throat." In December 2011, the Brius facility accepted an injunction that required three years of independent monitoring of the facility's performance.
- On January 5, 2015, CMS decertified Brius' South Pasadena Convalescent Hospital after years of substandard care, regulatory violations, and the tragic death of one of its residents. On November 7, 2014, Courtney Cargill, checked herself out of the facility, purchased some gasoline, walked to a nearby alley, and doused herself in gasoline and set herself alight. Ms. Cargill was immediately rushed to a nearby hospital where she died hours later as a result of her burn wounds.
- Molly Davies, Administrator for Los Angeles' Long-Term-Care Ombudsman Program, referred to the substandard conditions her staff observed at some of Brius' skilled nursing facilities as evidence of the company's "flagrant disregard for human life."

Given last month's actions by your regulatory counterparts in California as well as the vast evidence of serious and often deadly conditions in SNFs operated by Shlomo Rechnitz and Brius, NUHW requests that DADS undertake the following actions:

1. Investigate the actions taken by the California Department of Public Health on July 8, 2016 that denied Mr. Rechnitz and Brius from licensing five SNFs in California;
2. If appropriate, bar Mr. Rechnitz and Brius from licensing any health care facilities in Texas until it has remedied the systemic violations cited by federal and state regulators;
3. Immediately refrain from issuing any licenses to Mr. Rechnitz and Brius while your investigation into the aforementioned matters is underway.

Enclosed, please find copies of the CDPH's "Notice of Denial of Application," recent legal actions taken by the California Attorney General's office, and a news report from the Sacramento Bee. Should you have any questions, please contact Francisco Casique, Research Analyst, at 510-834-2009. Thank you for your urgent attention to this matter.

Sincerely,



Sal Rosselli, President

Attachments

cc: Kristi Jordan, Deputy Commissioner, Department of Aging and Disability Services
 Cindy Bourland, Director of Licensing and Credentialing, Department of Aging and Disability Services
 Sen. Charles Schwertner, Co-Chair, Texas Senate Committee on Health & Human Services
 Sen. Lois Kolkhorst, Co-Chair, Texas Senate Committee on Health & Human Services
 Rep. Myra Crownover, Chair, The House Committee on Public Health
 Sen. Royce West (SD-23)
 Rep. Morgan Meyer (D-108)