

# PUBLICATION

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## Findings of Fraud Fuel \$7 Million Verdict Against Long Term Care Provider

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**A plaintiff in Nashville, Tennessee obtained a jury verdict of nearly \$7 million in compensatory and punitive damages in a suit against a long-term care facility and its parent companies.**

**The plaintiff, on behalf of her mother (the resident), sued the Nashville long term care facility and its parent companies in relation to her mother's residency at the facility. The plaintiff's mother was a resident of that facility from 2015 until 2017 when she was discharged to a facility in Bowling Green, Kentucky, and then to a facility in Scottsville, Kentucky, until her death later that year.**

The plaintiff alleged that her mother suffered pressure sores to her right and left ischia and worsening foot and heel wounds, aspiration, poor hygiene, and death. The plaintiff asserted that the Chief Nursing Officer of the facility created another acuity tool because she thought "there was more to acuity than what [the defendants] had...there should have been more to it, to make it more accurate." The plaintiff requested that acuity tool through a request for production and later filed a motion to compel. The defendants agreed to produce this acuity tool but did not, according to the allegations in the Second Amended Complaint. The plaintiff further alleged that the defendants falsified the resident's acuity number for the purpose of evading liability, to give the appearance that the facility was adequately staffed, and in order to provide less care and staffing to meet the resident's needs. The plaintiff also alleged that the defendants falsified her mother's wound care assessments by documenting the wounds as pressure-related on November 6, 2016, and then fraudulently altering the wound assessment to document these same wounds as venous/arterial on December 8, 2016. Finally, the plaintiff alleged that the defendants falsified one nurse's licensure status. According to the Second Amended Complaint, the nurse was a licensed practical nurse (LPN) but the defendants falsely represented that he was a registered nurse through assignment sheets and on his employee badge. Based on the allegations of intentionally falsifying, destroying, or concealing records, the plaintiff moved for a special verdict form for the removal of the caps on non-economic and punitive damages.

A jury returned an award on February 14, 2024. The jury found that the Nashville facility was not negligent in relation to the LPN because it found that he complied with the recognized standard of care. The jury found the parent companies and related hospital were negligent because the Chief Nursing Officer failed to comply with the recognized standard of care and that this negligence was a cause of the resident's personal injuries but not her death. The jury further found that the Nashville facility was negligent because it failed to provide adequate nursing staffing as required by the recognized standard of care and that this negligence caused the resident's personal injuries but not her death. The jury found that the Nashville facility was the alter ego of the parent companies.

The jury awarded the plaintiff \$500,000 in pain and suffering, \$425,000 in loss of enjoyment of life, and \$346,273.09 in medical expenses for a total compensatory damages award of \$1,271,273.09. The jury found that the parent companies acted recklessly and should be liable for punitive damages giving an award of punitive damages in the amount of \$5,704,587.06.

The plaintiff sought to remove the caps on non-economic and punitive damages during the pendency of the matter on grounds that the defendants intentionally falsified, destroyed, or concealed records to wrongfully

evade liability. The trial court has yet to rule on that issue. If the cap on damages remains in place, the compensatory damages award would be reduced to \$1,096,273.09 (\$750,000 in non-economic damages plus \$346,273.09 in economic damages). As for punitive damages, the cap is either two times the total amount of compensatory damages awarded or \$500,000, whichever is greater. If the punitive damages cap remains in place, the punitive damages award would be reduced to \$2,192,546.18. The case was tried by the Jehl Law Group for the plaintiff and Howell & Fisher for the defendants.

If you have questions about this ruling, or how it could affect your company in the future, please reach out to [Craig Creighton Conley](#) or any member of Baker Donelson's [Health Care Litigation Team](#).