



January 28, 2019

Brett R. Corson, Esq.
Sloan and Walsh LLP
One Center Plaza, 8th Floor
Boston, MA 02108

Dear Attorney Corson,

The following regards the Estate of March v. Genesis, and my opinions regarding it, as you requested through email on January 11, 2019.

Professional Credentials

I have been employed for more than 36 years as President & CEO of a group of non-profit agencies that provide 1,000 units of housing for persons with serious mental illness and other persons experiencing homelessness in New Hampshire. Several of these supportive housing programs regularly transition and accept patients from medical institutions, including New Hampshire Hospital, back to into care and housing. I have also worked to a significant degree with homeless veterans, and I was a member of the Department of Veterans Affairs Advisory Committee on Homeless Veterans, reporting to the Secretary of the VA. I have spent most of my career developing and creating general oversight to programs that work with vulnerable and complex populations. I have attached a copy of my Curriculum Vitae.

Materials Received and Reviewed

This report is based on, but not limited to, materials provided by your office and include the following items relevant to the housing agreements of Genesis House:

- Contract with the State of New Hampshire
- Contract Amendment
- Genesis Policies and Procedures
- Award of Permanent Housing for Handicapped Homeless program and copy of Agreement with BHHS
- Genesis Behavioral Health Participation Agreement with the Support Housing Program

In addition, I have reviewed materials relevant to the case of the Estate of March v. Genesis, including:

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- Depositions
- Plaintiff's Disclosure of Experts
- NH Hospital Short Stay Discharge Summary
- Lakes Region Mental Health Center documents (Budget, Certificates, Board of Directors, etc.)
- Laconia Police Department Records
- Kasey Riley Records
- Interrogatories

I reserve the right to amend this report if other evidence becomes available.

Request for Opinions Regarding the Estate of March v. Genesis

I have been asked to provide my opinion on:

- 1) The standards of care for supportive housing programs in New Hampshire as it was in 2013, as it relates to the admission of residents.
- 2) The policies and procedures of Genesis House, regarding acceptance, placement and reentry of clients its supportive housing program.
- 3) Whether housing personnel at Genesis House complied with their policies and procedures in accepting Kasey Riley into the McGrath Street house initially and then "allowing" (as plaintiff alleges) him to return to the house following his discharge from New Hampshire Hospital.

Opinions Regarding the Estate of March v. Genesis

- 1) *The standards of care for supportive housing programs in New Hampshire as it was in 2013, as it relates to the admission of residents.*

In 2013, supportive housing programs were funded through a variety of mechanisms, including federal, state, and local funding sources. Most supportive housing programs in New Hampshire were funded by the Department of Housing and Urban Development (HUD), requisite on a funding match from other, typically private sources. In 2013, Genesis House operated with HUD-funding passed-through the State of NH. At that time, there were between five and ten programs similar to Genesis House in New Hampshire. Generally speaking, the purpose of these programs and funds is to provide critical housing to persons who have a disabling behavioral health condition and who are also: in a housing crisis, unstably housed, homeless, or at risk of becoming homeless. Collectively they served more than 200 individuals in 2013.

These types of programs had similar admissions procedures. To admit an individual, housing programs received referrals from health and human service organizations, community members, or the individuals seeking housing. The housing program then qualified the individuals by completing intake procedures based upon criteria developed from HUD standards and other State contractual requirements. If qualified, the individual completed paperwork, including a leasing agreement, to become a legal tenant, with responsibilities to pay rent and other considerations of

the leasing agreement. The individual then moved into housing and generally began receiving medical care or other services.

Funding for these programs was granted on a year-by-year basis, pursuant to an annual competition. Funds were limited and allowed for a rent subsidy and a minimal level of housing support staff. Funding did not typically provide for clinical experts, such as psychiatrist or prescribers, to assess BH functioning.

Because of funding restrictions, the prevailing practice, at that time, in my opinion, was that housing providers relied very heavily on the clinical expert opinions of staff at state and local hospitals for medical assessments regarding fitness to reside in that housing. Upon initial entry, individuals typically had documentation of illness/disability from a medical provider. An individual's return home to the facility, which would be their legal residence, was a typical process. Upon returning from a hospital visit, which may occur often depending on a client's illness or disability, housing staff relied upon hospitals and any clinicians the agency may have on staff to verify an individual's fitness to reenter housing.

2) The policies and procedures of Genesis House, regarding acceptance, placement and reentry of clients its supportive housing program.

I have reviewed the policies and procedures of Genesis in regards to client admission and placement, and find them to be typical of programs operating at that time. The below excerpt is taken directly from "Genesis Behavioral Health: Policies and Procedures":

Admission Criterion for Genesis Housing (All criterion must be met):

- a. McGrath Street Apartments:
 - i. The consumer meets eligibility criterion for Severe Mental Illness (SMI) or Severe and Persistent Mental Illness (SPMI) per He-M 401;
 - ii. The consumer is currently enrolled in Genesis Behavioral Health's Community Support Program (CSP);
 - iii. The consumer meets the HUD definition of homelessness;
 - iv. Evidence of the consumers disability and homelessness is documented in the clinical record;*
 - v. A high level of Functional Support Services is medically necessary and prescribed in the Individual Service Plan (ISP);
 - vi. The consumer is able to successfully complete the Housing Safety Assessment Tool;
 - vii. The consumer is able to independently manage medication for several days;
 - viii. The consumer has the willingness, ability and skills to manage living in a congregate living environment

* HUD grant requirement

I have similarly reviewed the policies for retaining residence, as spelled out in the lease agreement and determined that they are also typical of programs operating at that time. It is difficult for a provider to evict or deny a tenant access to their home, with substantial violation of the lease have been documented. Per the lease agreement, I find several criteria for eviction, including non-payment and illegal activity, which agree with my understanding of the prevailing practice at that time.

3) Whether housing personnel of Genesis House complied with their policies and procedures in accepting Kasey Riley into the McGrath Street house initially and then “allowing” (as plaintiff alleges) him to return to the house following his discharge from New Hampshire Hospital.

Based on the testimony and records available to me, Mr. Riley was a qualifying candidate for the supportive housing program at Genesis. His risk of homelessness, disability status, and low-income status are well documented, and the HUD requirements for eligibility into the Genesis supportive housing program would have been met.

With respect to Mr. Riley’s return to his home at McGrath Street following the discharge from New Hampshire Hospital, it is my opinion that the actions of Genesis’ housing staff were appropriate. It is reasonable that staff relied upon the determination of New Hampshire Hospital that Mr. Riley was safe to re-enter the community. Prior to the IEA, there was no documented violation of the terms of the lease, nor was there any documented basis to evict Mr. Riley. Barring eviction, staff did not reasonably have recourse once Mr. Riley was deemed safe by New Hampshire Hospital.

Involuntary admissions may occur often in the population served by this program, specifically those people who are homeless or at risk of becoming homeless, and who have a documented disability. Refusing to allow a resident back into their home once they have been deemed safe to re-enter the community by a medical professional in a hospital setting would be unreasonable, and not in accordance with industry standards. It would also frustrate the purpose of this program, which is to provide housing to the most vulnerable people.

In summation, it is my opinion, to a reasonable degree of professional certainty, that housing staff at Genesis acted reasonably and appropriately with regard to Mr. Riley’s admission and re-entry into McGrath Street.

Sincerely,

Peter J. Kelleher, CCSW, LICSW
President & CEO