



The North Carolina State Bar
Authorized Practice Committee

217 E. Edenton Street (27601)
Post Office Box 25908
Raleigh, North Carolina 27611
Telephone: (919) 828-4620
Web: www.ncbar.com

November 9, 2017

Ms. Kate Mewhinney
Clinical Professor - Managing Attorney
Worrell Professional Center
PO Box 7206
Winston Salem, NC 27109

Re: Authorized Practice Committee complaint filed against Trinity Glen
Our file number: 17AP0048

Dear Ms. Mewhinney:

Enclosed please find a copy of the Authorized Practice Committee's action in the above referenced matter. Thank you for bringing this matter to our attention. If you have any questions, please do not hesitate to contact me.

Sincerely,

Joshua T. Walthall
Deputy Counsel

Enclosure

JTW/lb

Alan S. Hicks, Chair
Matthew W. Smith, Vice-Chair



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Trinity Glen
c/o Kevin McIntosh
Young, Morphis, Bach & Taylor, LLP
Attorneys at Law
858 Second Street, NE, Ste. 200
Hickory, North Carolina 28603

LETTER OF CAUTION

Re: Allegation of Unauthorized Practice of Law
File number: 17AP0048

Dear Sir or Madam:

On October 25, 2017, the Authorized Practice Committee of the North Carolina State Bar met and considered the results of its investigation into the above referenced matter as it is charged with doing by N.C. Gen. Stat. § 84-37 and the State Bar's rules and regulations. You were informed of the allegations before the Committee and given an opportunity to respond. You responded through your counsel, Kevin McIntosh. The Committee carefully considered both your response and the other information received by it.

Based upon all of the information available to it, the Committee believes these are the pertinent facts in this matter:

You operate a nursing home and elder care facility. A North Carolina resident entered your facility in December 2016 following a stroke. This resident did not have a durable power of attorney. In an attempt to collect on the resident's bill for staying at your facility, nonattorney staff members at your facility advised the resident's granddaughter that her grandmother was going to be kicked out of the facility if her bill was not paid. They told the granddaughter to have the resident appoint the granddaughter as the resident's agent under a power of attorney. Nonattorney staff members at your facility provided an unsigned power of attorney form to the granddaughter and had your facility's social worker explain the contents of the document to the resident. The social worker then organized and supervised the execution of the document. The power of attorney was notarized by an employee of your facility.

In response to the Committee's inquiry, you indicate through counsel that employees at the facility did not provide this resident with any legal services. You indicate that the granddaughter specifically asked "what could be done to possibly protect her grandmother from untrustworthy family members." You

Alan S. Hicks, Chair
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Trinity Glen
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allege that, in response to this request, the "social worker at Trinity Glen merely mentioned that the grandmother could pursue designating an attorney-in-fact or, in the alternative, someone could file for a petition of guardianship with legal representation through the court system." Without mentioning who gave the granddaughter the form, you admit that a "copy of a blank form was provided to the granddaughter when she asked for a form." You claim, however, that "Trinity Glen had nothing to do with the completion of the blank form" and that the facility's employees did not provide any legal advice to the resident or her family.

The North Carolina General Statutes prohibit individuals or entities other than active members of the North Carolina State Bar from practicing law or providing or offering to provide legal services in North Carolina to other persons, firms, or corporations. Under the statutes, legal services include giving legal advice or counsel, aiding or assisting in representation of a party before the courts, and selecting or assisting in the completion of legal documents like powers of attorney. N.C. Gen. Stat. §§ 84-2.1, 4, and 5.

The Committee considered your response but did not find it to be consistent with the evidence, particularly the granddaughter's testimony to the Committee's staff counsel. The neutral evidence suggests that your facility, for its own financial gain, advised the granddaughter to complete a power-of-attorney, selected the form for her to use, assisted her in the form's completion, and then aided her in executing and filing it. Accordingly, the Committee concluded that there is probable cause to believe that your activities violated the unauthorized practice of law statutes. Thus, it voted to issue this Letter of Caution.

The Committee expects that you will stop engaging in those activities that violate the unauthorized practice of law statutes as a result of this Letter of Caution. The Committee's opinion expressed herein is not a legal determination. The State Bar does not have the authority to order you to discontinue your current practices. Only a court may determine that you have violated, or are violating, any law, and, if appropriate, impose a remedy or penalty for such violation. The State Bar has authority to file a lawsuit against you for injunctive relief, but the Committee is using its discretion not to pursue any proceedings for injunction or other action at this time. The Committee reserves the right to re-visit your conduct in the future in its discretion should you elect to continue it.

Trinity Glen
c/o Kevin McIntosh
Young, Morphis, Bach & Taylor, LLP
Attorneys at Law
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Thank you for your cooperation in this matter. Please contact the Committee's counsel, David R. Johnson or Joshua T. Walthall, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan S. Hicks", written over a horizontal line.

Alan S. Hicks, Chair
Authorized Practice Committee

ASH/lb