

**NO. DC-17-00706**

<b>AMANDA NORRIS AND JAMES JORDAN</b>	<b>§</b>	<b>IN THE DISTRICT COURT</b>
<b>Individually, and AS PERSONAL</b>	<b>§</b>	
<b>REPRESENTATIVES OF THE ESTATE</b>	<b>§</b>	
<b>OF SALLY JORDAN,</b>	<b>§</b>	
<b>Plaintiffs,</b>	<b>§</b>	
	<b>§</b>	
<b>v.</b>	<b>§</b>	
	<b>§</b>	<b>116TH JUDICIAL DISTRICT</b>
<b>METHODIST HEALTH SYSTEM,</b>	<b>§</b>	
<b>Individually and d/b/a METHODIST</b>	<b>§</b>	
<b>RICHARDSON MEDICAL CENTER,</b>	<b>§</b>	
<b>METHODIST RICHARDSON MEDICAL</b>	<b>§</b>	
<b>CENTER, RICHARDSON SNF</b>	<b>§</b>	
<b>OPERATIONS, LP d/b/a THE PLAZA AT</b>	<b>§</b>	
<b>RICHARDSON, GH SNF OPERATIONS,</b>	<b>§</b>	
<b>LLC d/b/a GARNET HILL</b>	<b>§</b>	
<b>REHABILITATION AND SKILLED</b>	<b>§</b>	
<b>CARE, and NEERAJ SHARMA MD,</b>	<b>§</b>	
<b>Defendants.</b>	<b>§</b>	<b>DALLAS COUNTY, TEXAS</b>

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**PLAINTIFFS' NOTICE OF EXPERT REPORTS SERVED ON ALL DEFENDANTS**

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Plaintiffs, Amanda Norris and James Jordan, Individually, and as Personal Representatives of the Estate of Sally Jordan, file this Notice of Expert Reports Served on All Defendants and state that pursuant to section 74.351 of the Texas Civil Practice & Remedies Code, and without waiving Plaintiff's objections to discovery privileges, Plaintiffs have served the written opinions and curriculum vitae of Expert Witnesses David R. Grube, M.D. and Dr. Lige B. Rushing, Jr., M.D., M.S., P.A. upon the following parties on May 19, 2017:

1. **DEFENDANTS, METHODIST HEALTH SYSTEM, INDIVIDUALLY AND D/B/A METHODIST RICHARDSON MEDICAL CENTER AND METHODIST RICHARDSON MEDICAL CENTER, BY AND THROUGH THEIR ATTORNEY OF RECORD, BRANDON KULWICKI, HALL RENDER KILLIAN HEATH & LYMAN, PC, 1701 MARKET STREET, SUITE 200, LB 42, DALLAS, TEXAS 75202.**
2. **DEFENDANT, RICHARDSON SNF OPERATIONS, LP D/B/A THE PLAZA AT RICHARDSON, BY AND THROUGH ITS ATTORNEY OF RECORD, ROBERT M. HAILEY, RUSSELL & WRIGHT, PLLC, 15770 DALLAS PARKWAY, SUITE 1050, DALLAS, TEXAS 75248.**
3. **DEFENDANTS, GH SNF OPERATIONS, LLC D/B/A GARNET HILL REHABILITATION AND SKILLED CARE, BY AND THROUGH ITS ATTORNEY OF RECORD, ROBERT M. HAILEY, RUSSELL & WRIGHT, PLLC, 15770 DALLAS PARKWAY, SUITE 1050, DALLAS, TEXAS 75248.**
4. **DEFENDANT, NEERAJ SHARMA, BY AND THROUGH HIS ATTORNEY OF RECORD, C. TIMOTHY REYNOLDS, STEED DUNNILL REYNOLDS BAILEY STEPHENSON, LLP, 1010 W. RALPH HALL PARKWAY, SECOND FLOOR, ROCKWALL, TEXAS 75032.**

Attached hereto as **Exhibit "A"** and **Exhibit "B"** are the Expert Reports served upon all the Defendants as indicated herein above.

Respectfully submitted,

**MODJARRAD | ABUSAAD | SAID LAW FIRM**  
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By: \_\_\_\_\_

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I certify that on the 19<sup>th</sup> day of May, 2017, a true and correct copy of *Plaintiffs' Responses to Plaintiffs' Notice of Expert Reports Served on All Defendants* was served on Defendants' attorney of record as follows:

**VIA E-SERVICE**

**VIA CMRR 7014 2870 0001 9537 6741**

Brandon Kulwicki

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**VIA CMRR 7014 2870 0001 9537 6734**

Robert M. Hailey

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**VIA E-SERVICE**

**VIA CMRR 7014 2870 0001 9537 7038**

C. Timothy Reynolds

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ATTORNEY FOR DEFENDANT NEERAJ SHARMA



\_\_\_\_\_  
Mohamad Said

**David R Grube MD**  
***Physician and Surgeon***  
**Oregon Medical License #10373MD**  
**5757 SW Englewood Avenue**  
**Corvallis, Oregon 97333**  
**Tel. No. 503-545-7418**

May 19, 2017

Mohamad Said, Esq.  
MAS Law Firm  
212 W. Spring Valley Road  
Richardson, Texas 75081

Re: Sally Jordan's Care

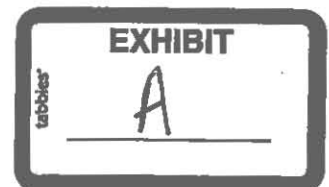
Dear Mr. Said,

Allow me to introduce myself and provide some background, which I believe will support my ability to be an expert witness for the plaintiffs in this case.

My name is David Grube. I recently (2012) retired after practicing family medicine, full time, for 35 years (1977-2012) in Philomath, Oregon. I was Board Certified in Family Medicine from 1975-2016. I received my Medical Degree from the University of Oregon Medical School (now Oregon Health & Science University), completed my Internship in Tucson, Arizona (Tucson Hospital Medical Education Program), and served five years in the United States Public Health Service (National Health Service Corps).

In my work as a family physician, early on I learned the value and importance of advance directives, living wills, and/or durable powers of attorney for health care. I was the President of my local hospital Medical Staff in 1990 when the Patient Self-Determination Act was passed, and I traveled to New York to attend a conference relating to implementation of this law into hospital policy. Subsequent to that, I have given, for over 25 years now, presentations to physicians, nurses, medical students, pre-medical students, church congregations, etc., about advance directives.

I have served, and again currently serve, on the Board of Directors of a local Hospice. I have served seven years of the Oregon Medical Board (two years as Chair), as well as five years on committees of the Federation of State Medical Boards; thus I have a



good understanding of the terms and definitions of the Medical Practice Acts of various States, including Texas.

I have been President of the Oregon Academy of Family Physicians and OAFP Foundation, and, for my entire career, have taught, and continue to teach, locally and nationally, pre-medical and medical students on the topics of medical ethics and professionalism, including medical students at the Texas A&M Health Science Center College of Medicine.

I have given Continued Medical Education lectures on Shared Medical Decision Making and POLST's (Physicians Orders for Life Sustaining Treatments) to medical staffs and hospice staffs.

There are four main tenants in medical ethics, the most important of these being **patient autonomy**. (The others are beneficence, non-maleficence, and justice). Patient autonomy is defined as "The right of **patients** to make decisions about their medical care without their health care provider trying to influence the decision. **Patient autonomy** does allow for health care providers to educate the **patient** but does not allow the health care provider to make the decision for the **patient**." I have reviewed the medical records of Sally Jordan. In her case, the defendants were clearly negligent in her medical care, specifically in not attending to her written wishes, in not communicating her wishes amongst one another, and in causing intolerable suffering at the end of her life.

## LEGAL DEFINITIONS

I understand that related to physicians in Texas "negligence" means the failure to use ordinary care; that is, doing that which a physician of ordinary prudence would not have done under the same or similar circumstances, or failing to do that which a physician of ordinary prudence would have done under the same or similar circumstances.

"Ordinary care," when used with respect to the conduct of a physician caring for a patient such as Ms. Jordan, means that degree of care that a physician of ordinary prudence would use under the same or similar circumstances.

I understand that, related to hospitals and health care facilities in Texas, "negligence" means the failure to use ordinary care, that is, doing that which a hospital of ordinary prudence would not have done under the same or similar circumstances, or failing to do that which a hospital of ordinary prudence would have done under the same or similar circumstances.

"Ordinary care," when used with respect to the conduct of a hospital or other health care facility caring for a patient such as Ms. Jordan, means that degree of care that a hospital of ordinary prudence would use under the same or similar circumstances.

I understand that, in Texas, the term "proximate cause" means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. And, in order to be a proximate cause, the act or omission complained of must be such that a hospital using ordinary care would have foreseen that the event, or some similar event, might reasonably result therefrom. I also understand that there may be more than one proximate cause of an event.

I have been asked as part of my review to give my opinion on the applicable standards of care regarding the medical and nursing care and treatment of Ms. Jordan, on whether the Defendants fell below applicable standards of care in her medical care and treatment of Ms. Jordan, on whether the medical staff or hospital fell below applicable standards of care in their care and treatment of Ms. Jordan, and on whether any substandard care or treatment part was a proximate cause of Ms. Jordan's suffering and prolonged death. My opinions on these issues are detailed below, and are based upon reasonable medical probability.

I have reviewed the following records pertaining to the case of Ms. Jordan:

1. Medical Records of Ms. Jordan
2. Sworn statements of James Jordan and Amanda Norris

## FACTS

Sally Jordan suffered from a lifetime of kyphoscoliosis (curvature of the spine) which subsequently caused her respiratory insufficiency (difficult breathing) and ultimately respiratory infections, and respiratory and circulatory failure.

On October 6, 2014, Ms. Jordan completed her living will, titled Texas Directive to Physicians and Family of Surrogates, which provides do-no-resuscitate provisions as follows:

*"I, Sally Dell Jordan, recognize that the best health care is based upon a partnership of trust and communication with my physician. My physician and I will make health care decisions together as long as I am of sound mind and able to make my wishes known. If there comes a time that I am unable to make medical decisions about myself because of illness or injury, I direct that the following treatment preferences be honored:*

*If, in the judgment of my physician, I am suffering with a terminal condition from which I am expected to die within six months, even with available life-sustaining treatment provided in accordance with prevailing standards of medical care:*

*I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR*

*If, in the judgment of my physician, I am suffering with an irreversible condition so that I cannot care for myself or make decisions for myself and I am expected to die without life-sustaining treatment provided in accordance with prevailing standards of care:*

*I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible."*

*"After signing this directive, if my representative or I elect hospice care, I understand and agree that only those treatments needed to keep me comfortable would be provided and I would not be given available life-sustaining treatments."*

*"If, in the judgment of my physician, my death is imminent within minutes to hours, even with the use of all available medical treatment provided within the prevailing standard of care, I acknowledge that all treatments may be withheld or removed except those needed to maintain my comfort."*

*"This directive will remain in effect until I revoke it. No other person may do so."*

Also on October 6, 2014, Ms. Jordan duly executed her Medical Power of Attorney and designated her son, James Jordan, as her health care agent which empowered him to make any and all health care decisions for her if she were unable to make her own health care decisions. Within the same document Ms. Jordan designated her daughter, Amanda Norris, as the first alternate health care agent empowered with the same abilities should James Jordan be unable or unwilling to make such decisions for her.

On April 17, 2015, Ms. Jordan became extremely short of breath, requiring her admission to Methodist Richardson Medical Center. At this admission, Amanda Norris personally delivered hospital staff with a copy of Decedent's Medical Power of Attorney and Texas Directive to Physicians and Family of Surrogates; in accordance with the Patient Self Determination Act of 1990, this document should have been entered into the Methodist Richardson filing system and a copy should have been added to Decedent's medical file, and displayed in a prominent place.

The Methodist Richardson medical records indicate that on April 20, 2015, her attending physician, Nadia Takieddine, MD, dictated in her History and Physical explicitly divulging Ms. Jordan's "DO NOT RESUSCITATE" order in accordance with her Texas Directive to Physicians and Family of Surrogates.

Ms. Jordan was appropriately treated for her medical conditions and was discharged in fair condition on April 28, 2015. Her hospital records document “no deficit in her neurological condition” (mental capacity intact). In addition, the discharge summary, completed by Ms. Jordan’s attending physician at Methodist Richardson, Nadia Takieddine, MD, listed her code status as “DO NOT RESUSCITATE.”

Upon discharge from Methodist Richardson, Ms. Jordan was admitted to a skilled care facility entitled The Plaza at Richardson. Again, at this time, her daughter, Amanda Norris, provided a staff member with Ms. Jordan’s Medical Power of Attorney and Texas Directive to Physicians and Family of Surrogates. Multiple copies of this document were made and added to her medical file; also, it can be seen that do-not-resuscitate provisions were explicitly documented within her records.

At the beginning of May, Ms. Jordan was transferred to another rehabilitation facility, Garnet Hill. It is incumbent upon any facility receiving a new patient that all of their records be transferred as well. Garnet Hill’s medical records pertaining to Ms. Jordan include her Advance Directive (do-not resuscitate). However, her chart notes of May 1, 2015, indicate that Sally Jordan was to have a “CODE STATUS - Full Code.” This document was electronically signed by Neeraj Sharma on May 4, 2015.

Ms. Jordan’s condition deteriorated about May 3<sup>rd</sup> when she was found to be on the floor, but refusing pain medication. On May 4 her condition rapidly worsened, and she was found by staff to be unresponsive to verbal and touch stimuli. Rather than abide by her wishes, the medical staff administered life-sustaining treatment to Decedent in complete violation of the do-not-resuscitate provisions in her Living Will titled Texas Directive to Physicians and Family of Surrogates.

Ms. Jordan was intubated (a breathing tube was inserted into her trachea) and put on a ventilator (breathing machine), clearly against her medical wishes (which were in her medical records in accordance with the PSDA). In subsequent days, Ms. Jordan regained consciousness. Ms. Jordan died 10 days later (May 14, 2015) after intolerable suffering, not only physical (collapsed lung, etc.) but also loss of dignity (loss of control of bowels, etc.) because of prolonged medical treatments that she had specifically refused in the past, and because the desires of her Advance Directive were not followed. This was medical negligence.

#### APPLICABLE STANDARDS OF CARE

For physicians and nursing home facilities that provide care for patients with stated end-of-life wishes, the applicable standards of care are as follows:

1. Physicians and nursing home facilities have a duty to determine the end of life wishes of their patients;



2. Physicians and nursing home facilities have a duty to effectuate those end of life wishes of their patients once known;
3. For patients who have a stated wish to not be resuscitated, physicians and nursing home facilities have a duty to honor that wish;
4. If a patient is transferred to another facility, there is a duty to ensure that the patient's medical record, including any advance directive requests, is transferred with the patient.

#### **VIOLATION OF DUTY OF CARE – THE PLAZA**

The Plaza violated the standard of care by failing to ensure that staff was properly trained in handling medical records for patients being transferred to another facility. As the custodian of Ms. Jordan's medical records, The Plaza and its employees had a duty to ensure that Ms. Jordan's full and complete medical record, including her advance directive and power of attorney forms obtained from Ms. Jordan's daughter, were properly delivered to the Garnet Hill facility.

#### **VIOLATION OF DUTY OF CARE – GARNET HILL**

Garnet Hill violated the appropriate standard of care in a number of ways, including:

1. Failing to properly perform an intake of Ms. Jordan upon her arrival at the facility;
2. Failing to determine Ms. Jordan's end-of-life wishes during her time at the facility;
3. Failing to ensure that Ms. Jordan's medical record as received from the Plaza was complete, including Ms. Jordan's advance directive and power of attorney;
4. Failing to abide by the Ms. Jordan's stated end-of-life wishes by performing unwanted life-extending measures;
5. Failing to provide appropriate hospice/palliative care as needed and instead calling for emergency medical technicians when Ms. Jordan was found unresponsive;
6. Failing to ensure that staff was properly trained to effectuate the end of life wishes of its patients.

Garnet Hill's conduct rises to the level of negligence under the definitions stated above. Garnet Hill violated the duty of care owed to Ms. Jordan by not only failing to determine her end of life wishes, but subjecting her to unwanted medical intervention which prolonged her dying process needlessly and against her wishes. This failure, in my opinion, is in total violation of standard medical procedure and counter to the level of care health care facilities must provide to their patients.

#### **VIOLATION OF DUTY OF CARE – DR. NEERAJ SHARMA**

Dr. Sharma, as Ms. Jordan's attending physician, violated the duty of care by failing to properly determine Ms. Jordan's end of life wishes. Further, Dr. Sharma electronically signed a "Physician's Telephone Order" which incorrectly stated Ms. Jordan's do-not-resuscitate status as "CODE STATUS Full Code." There is no documentation that any change in Ms. Jordan's Code Status was discussed with her or her Surrogates. By failing to correctly determine Ms. Jordan's end of life wishes, and incorrectly ordering Ms. Jordan as a "full code" patient, Dr. Sharma's conduct was negligent under the definition stated above.

#### VIOLATION OF DUTY OF CARE – METHODIST RICHARDSON HOSPITAL

Ms. Jordan had a completed advance directive that was discoverable, and a DNR order was also in her records at Methodist Richardson. Therefore, the Methodist Richardson Hospital emergency staff should have known her DNR status, and, even if discovering her DNR status after the emergency medical technicians had resuscitated her in the ambulance, should have discontinued that artificial respiratory support once she arrived at the hospital. Failure to discontinue artificial respiratory support in accordance with Ms. Jordan's express wishes was a violation of the duty of care.

#### CAUSATION

Hospitals, nursing homes, physicians, and all health care providers are bound to honor end-of-life requests of mentally capable individuals. Health care facilities and staff have a duty to effectuate a patient's end of life wishes. If the facility and its staff are unaware of the patient's end of life wishes, they have a duty to determine those wishes if reasonable and possible. If a patient has a DNR designation, the facility and staff have a duty to honor that wish. When a patient is transferred to a different facility, there is a duty to make sure the patient's medical record, including any advance directive requests, is transferred with them, and honored.

In the case of Sally Jordan, the Plaza failed to ensure that her end of life wishes were effectuated. The Plaza and its staff failed to ensure that Ms. Jordan's medical records, including her advance directive and DNR classification, were properly transferred to the receiving facility, Garnet Hill. It is my opinion that by failing to ensure proper transfer of her medical records, the Plaza was a proximate cause of Ms. Jordan's injuries, including her unwanted medical treatment in contrary to her expressed wishes and prolonged death suffered as a result.

Garnet Hill failed to properly effectuate Ms. Jordan's end of life wishes. Garnet Hill staff and medical personnel failed to conduct proper intake screening to determine what Ms. Jordan's end of life wishes were. They failed to ensure that a complete medical record was received from the Plaza facility. In addition, Garnet Hill failed to make proper notation of Ms. Jordan's DNR status and, when she was found in an unconscious state, began emergency life saving measures rather than palliative care only, which would have allowed her the peaceful death she desired. It

is my opinion that the actions of Garnet Hill were the direct and proximate cause of the injuries suffered by Ms. Jordan at the end of her life.

Dr. Sharma either ignored, incorrectly dictated, or overlooked Ms. Jordan's DNR status. This was medical negligence. This resulted in a series of events that prolonged Ms. Jordan's death, and, in the interim, caused her intolerable and unwanted suffering. This also caused severe and unnecessary suffering of her son and daughter. It is my opinion that Dr. Sharma's actions were the direct and proximate cause of Ms. Jordan's injuries.

Methodist Richardson Hospital failed to withdraw life-sustaining measures from Ms. Jordan. This prolonged her suffering and extended her life against her wishes. The actions of emergency room staff in continuing life-sustaining treatment in contradiction to Ms. Jordan's DNR on file at the hospital was a direct cause of Ms. Jordan's agony and suffering at the end of her life.

Sincerely,

A handwritten signature in cursive script, appearing to read "David R. Grube".

David R Grube MD

Tel 214-368-3611

**LIGE B. RUSHING, JR., M.D., M.S., P.A.**

FAX 214-696-3695

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May 19, 2017

Mr. Mohamad Said  
Modjarrad Abusaad Said, Law Firm  
212 W. Spring Valley Rd.  
Richardson, TX 75081

Re: Sally Dell Jordan

Dear Mr. Said,

I am a practicing physician licensed by the State of Texas. I received my M.D. Degree from Baylor University College of Medicine, Houston, Texas, and interned at Harris Hospital, Fort Worth, Texas. I received my specialty training in internal medicine and rheumatology at the Mayo Clinic, Rochester, Minnesota. I am board certified in internal medicine, rheumatology, and geriatrics. I also have a Master of Science Degree in medicine from the University of Minnesota, the Mayo Clinic affiliation. At the time of the occurrence of this case, I was actively engaged in the practice of internal medicine, rheumatology, and geriatrics. I continue to practice actively in these specialties as of this date. I currently office at the Presbyterian Professional Building I, and I am on the attending staff of the Presbyterian Hospital of Dallas, Texas.

All the opinions expressed in this report are based on my review of records and I reserve the right to amend these opinions in the event that additional records or information is forthcoming.

It is my understanding that for this report to constitute a good faith effort to satisfy the requirements of the Tex. Civ. Prac. and Remedies Code § 74.351, it must fulfill two purposes: (a) the report must inform the healthcare provider being sued of the specific conduct the plaintiff has called into question; and (b) the report must provide a basis for the trial court to conclude that the claims have merit. This report constitutes a good faith effort to satisfy these requirements.

This report is prepared for use as a § 74.351 document and is not to be used for any



other purposes.

I have been asked to determine whether or not the care and treatment provided by the Garnet Hill Rehabilitation and Skilled Care facility and its staff, including Neeraj Sharma, (hereafter called Garnet) to Sally Jordan met the applicable standards of care and if the care did fall below such standards, what harm if any resulted from the breach of the standards. My method to make this determination was as follows:

First, I reviewed the following records concerning Sally Jordan to determine the underlying facts including such things as the patient's subjective and objective condition, the course of care and treatment by Garnet and the treatment outcomes.

In this case, I have reviewed the following records:

1. Garnet Hill Rehabilitation and Skilled Care facility;
2. Methodist Hospital at Richardson;
3. ETMC-EMS Ambulance;
4. The Plaza at Richardson; and
5. Sally Jordan's death certificate.

Second, I compared Garnet's conduct in their care and treatment of Sally Jordan's illnesses, injuries, and conditions as revealed in the records to the accepted standards of care in order to determine whether they met or fell below those standards of care.

Third, I evaluated what effect the breaches in the standards of care had on Sally Jordan. This is the method employed by every physician who is asked to evaluate the quality of another professional caregiver's care and treatment of a patient, whether in the context of a lawsuit or a hospital, or a nursing home or a physician's office. In other words, this method is the generally accepted method for evaluating whether or not a long-term care facility, a hospital, or a physician's care and treatment of a patient met or fell below the accepted standards of care. The opinions expressed here are based on my review of the pertinent medical records, my education, training, and experience as a practicing board certified internist, geriatrician, and rheumatologist and my knowledge of the accepted medical and nursing standards of care for the diagnoses, care and treatment of the illnesses, injuries, and conditions involved in this claim.

Sally Dell Jordan was born on January 28, 1943 and died on May 14, 2015. The cause of death listed on her death certificate is: a. Cardio respiratory failure, b. Severe restrictive lung disease, c. Kyphoscoliosis. She died at the Methodist Richardson Hospital.

Mrs. Jordan had severe scoliosis and restrictive lung disease. She was in chronic respiratory failure and was on continuous oxygen at 4 L per minute via nasal cannula. She has had recurring episodes of acute respiratory infection/failure. She has a decubitus ulcer on her back. She had to sleep in the upright position and also use a BiPAP machine. She had specifically expressed that her code status was to be DO NOT RESUSCITATE. She does not want to be intubated. This information is documented on the METHODIST HEALTH SYSTEM history and physical, Jordan-00283. Mrs. Jordan also executed a Texas Directive to Physicians and family or surrogates (living will) on 10/6/14. It was and is abundantly clear that she did not want any heroic measures for resuscitation such as intubation and ventilation.

Mrs. Jordan was admitted to Garnet Hill Rehabilitation and Skilled Care facility on 05/01/2015 where she remained until 05/04/2015.

The Garnet Hill nurse notes 05/04/2015 – 00018 – read as follows: resident supine on bed with 4 L per minute O2 supplementation via nasal cannula. Head of bed raised. Short of breath noted. Resident initially responsive but deteriorates to unresponsive status on both verbal and physical stimuli. Vital signs – 97.9, 107, 22, 126/59, 96% O2 on 4 L per minute O2 supplementation via nasal cannula. Medicine/Levaquin held. Supervisor and MD notified. Tried to reach responsible party in vain. Left a voice mail message on contact phone. Resident left at 10:20 AM on the stretcher by 911 ambulance to Methodist medical of Richardson. This note was authored by Paul Macharia, LVN.

5/4/2015 10:35:00 a.m. the Wiley fire department ambulance record reads as follows: 72F reported by NH staff to be unconscious. Staff states that patient was "fine earlier this morning" and that she is typically alert and conversant. Upon arrival patient semi Fowlers in bed, unresponsive to voice/pain, decrease breath sound/air movement, with patent airway and SPO2 to within normal limits. Pinpoint pupils; nursing staff states patient does not take any opiates and had "refused to even take a Xanax earlier that day". Patient prepared for transport without incident. In route, IV established and patient administered 4 mg Narcan, 4 mg Zofran,. Patients respiratory effort declined, with decreasing SPO 2 levels and rapidly increasing CO2 levels. Ventilations assisted via BVM, SPO2 levels improve significantly but CO2 levels varied widely on monitor. Approximately 5 minutes prior to arrival at hospital, patient began to have sluggish but purposeful movements of hand/arms. At hospital, patient sat up in bed under her own power prior to initiating RSI, respiratory effort remained poor."

The Garnet Hill Rehabilitation and Skilled Care records provided to me contain records from the Plaza at Richardson – Jordan – 00172. If these records were in fact transmitted from the Plaza at Richardson to Garnet Hill in a timely fashion then Garnet Hill did in fact have documentation of Mrs. Jordan's DNR status. This entry reads as follows "4/30/2015 advanced directives CODE STATUS-DNR." This clearly documents that the records from the Plaza at Richardson that were transmitted to Garnet Hill when Mrs. Jordan was admitted to Garnet Hill from the Plaza at Richardson contain documentation of Mrs. Jordan's DNR status. The failure of Garnet Hill and its staff to follow Mrs. Jordan's advanced directives was clearly below the accepted standard of care and this caused Mrs. Jordan's unwanted resuscitation.

The standard of care for a facility like Garnet Hill requires that they establish the code status for each patient/resident as soon as possible when the patient is admitted. This code status could be the standard DNR or a FULL CODE. There are a number of modifications of the code which may be specified. If no code status is designated then this information must be documented also in order to meet the standard of care.

After her resuscitation Mrs. Jordan lived until 05-14-15 and died at the Methodist Hospital of Richardson Texas.

The medical record from the Plaza at Richardson 04/29/2015 documents the advanced directives CODE STATUS-DNR. Jordan-00090.

During the course of my medical practice I have provided primary care to more than 10,000 hospitalized and nursing home patients. Many of these patients have had illnesses and conditions similar to or identical with Sally Jordan. I have written orders for and supervised the execution of orders for the care and treatment of these patients by the RN's, LVN's and CNA's who were assigned to provide the hands on care for my patients. I am therefore intimately familiar with the standards of care for the RNs LVN's and CNA's who were providing care for Mrs. Jordan. I have been permitted to testify in multiple Texas courts regarding the standard of care for the facility involved in this case and the RNs, LVN's and CNA's involved in this case.

The standard of care for Garnet and its staff requires that it provide that level of care and treatment that a reasonable, prudent similar facility and staff would provide under the same or similar circumstances. Specifically, in order to meet the standard care a skilled nursing facility, such as the above named Defendant, must

maintain clinical records on each resident in accordance with the accepted professional standards and practices that are complete, accurately documented, readily accessible, and systematically organized. A complete clinical record contains an accurate and functional representation of the actual experience of the individual in the facility. It must contain enough information to show that the facility knows the status of the individual, has adequate plans of care, and provide sufficient evidence of the effects of the care provided.

The standard of care also requires that Garnet and its staff honor and faithfully execute Sally Jordan's DNR directive. Garnet should have documented the fact that Sally Jordan had a DNR in their own records. This information should have been prominently displayed so that all of the nursing staff would be aware of her DNR status and be positioned to honor this directive. The DNR should have been noted in the care plan and it was not. This omission is below the accepted standard of care.

According to the nurses notes Mrs. Jordan became unresponsive to both verbal and physical stimuli. The nurse's notes do not indicate that she was in any evident or apparent distress or pain. Quite the contrary she was unresponsive to both verbal and physical stimuli.

If Sally Jordan had not been artificially ventilated by the emergency medical team in the ambulance and resuscitated she would have, more likely than not, based on reasonable medical probability died peacefully and without any struggle. She would have had to go through the "dying process" only once. Since she was resuscitated against her will she underwent the dying process a 2<sup>nd</sup> time on 05/14/15. She also experienced substantial pain and suffering from the time of her resuscitation due to chronic respiratory failure as documented in the record.

The care and treatment rendered to Sally Jordan by the defendants in this case fell below the accepted standards of care in the following ways:

1. Failed to follow Sally Jordan's DNR directive.
2. Failed to inform the emergency medical team of Sally Jordan's DNR directive.

The defendants' conduct that is called into question is described in the 2 items above.

The harm that was done in this case was that Sally Jordan was resuscitated against her will and directive, and therefore had to undergo the "dying process" twice. She



also experienced considerable pain and suffering following her resuscitation 05/04/15 and the date of her death on 05/14/15.

All the opinions expressed in this report are based on reasonable medical probability.

Yours truly,



Lige B. Rushing, Jr., M.D., M.S.