

PREPARED BY THE COURT

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MERCER COUNTY

DOCKET NO. C 73-08

DEPARTMENT OF THE PUBLIC ADVOCATE

Plaintiff

v.

ASSISTED LIVING CONCEPTS, INC.

Defendant

SYPEK, MARIA M. P.J. Ch.

ON THE BRIEFS:

Ronald K. Chen, Public Advocate
State of New Jersey – Department of Public Advocate
On behalf of the Plaintiff

Brian Rath, Esq.
Buchanan, Ingersoll & Rooney for the Defendants

June 11, 2008

This matter comes before the Court by way of an Order to Show Cause filed by the Plaintiff, State of New Jersey, Office of the Public Advocate to Enforce an Administrative Subpoena, and opposition having been filed on behalf of the Defendant by Buchanan, Ingersoll & Rooney, and the Court having reviewed all the documents filed and after hearing oral argument by Gwen Orłowski, Esq., and Rebecca M. Estelle, Esq, for

CLERK OF SUPERIOR COURT
SUPERIOR COURT OF N.J.
MERCER COUNTY
RECEIVED AND FILED

JUN 12 2008

Sue Regan
SUE REGAN
DEPUTY CLERK OF SUPERIOR COURT

Plaintiff and Brian Rath, Esq., for defendant and for good cause shown makes the following findings:

This matter arises from a verified complaint and order to show cause filed on May 28, 2008 by the Department of the Public Advocate ("Plaintiff") against Assisted Living Concepts, Inc. ("Defendant") seeking to enforce an administrative subpoena issued to Defendant. On May 30, 2008, the Court signed the order to show cause setting the return date for June 5, 2008. The parties later consented to adjourn the return date to June 11, 2008.

Plaintiff is a State Department which was established pursuant to the Public Advocate Restoration Act of 2005, N.J.S.A. 52:27EE-1 et seq. Plaintiff was created based on the Legislature's finding that "[t]here is a great need for consumer protection and advocacy on behalf of the indigent, the elderly, children, and other persons unable to protect themselves as individuals or a class." N.J.S.A. 52:27EE-2(a). The Division of Elder Advocacy of Plaintiff (the "Division") has the authority to intervene in or institute proceedings involving the interests of the elderly before any department, commission, agency, or board of the State and institute litigation on behalf of the elderly when authorized to do so by the Public Advocate. N.J.S.A. 52:27EE-63. Additionally, brought within the Division is an

Ombudsperson for the Institutionalized Elderly (the "Ombudsman"),

N.J.S.A. 52:27EE-65, whose office has the authority, on its own initiative, to

investigate any act, practice, policy or procedure of any facility or

government agency which it determines does or may adversely affect the

health, safety, welfare or civil or human rights of any patient, resident or

client in a facility. N.J.S.A. 52:27G-8(c). Pertinent to this application,

Plaintiff also has the authority to:

issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers and other documents, and administer oaths to witnesses in any matter under the investigation of the office. If any person to whom such subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers or other documents required, the public advocate may apply to the Superior Court, which may order the person to appear and give testimony or produce the books, papers or other documents, as applicable.

N.J.S.A. 52:27EE-5(f).

Defendant is the owner and operator of eight assisted living facilities throughout New Jersey including the Chapin House. Defendant's assisted living facilities are licensed and regulated by the New Jersey Department of Health and Senior Services (the "DHSS") pursuant to N.J.A.C. 8:39-1 et seq. (the "DHSS").

In this matter, Plaintiff seeks an order from the Court directing Defendant to produce certain information pursuant to a subpoena it issued.

According to Plaintiff, in September 2007, it became aware that Mary Merklinger, an 83 year-old resident of the Chapin House, had been informed that she would be discharged from the Chapin House after she had "spent-down" more than \$300,000 in private funds and had become eligible for the assisted living Medicaid program. Plaintiff states that after it and the DHSS investigated Mrs. Merklinger's complaint, it discovered that Defendant had adopted a policy which prohibited its residents from converting from private pay status to Medicaid upon "spend-down." See Cert. of Debra Branch, ¶ 8. Plaintiff provides that it and the DHSS also learned that Defendant's initial applications for all eight of its assisted living facilities in New Jersey, upon which the Certificates of Need and Licenses were issued (the "Certificate Applications") or the "Certificate, contained the following language:

The Applicant is committed to serving a moderate to low-income population which would include Medicaid eligible clients. The Applicant will apply to become a contracted Medicaid provider to serve low-income eligible clients. Approximately 20 percent of all residents will be Medicaid clients at the opening of the building. As private-pay residents spend down this percentage may increase to as high as thirty percent. Residents will not be asked to move from the Residence because of spend-down situations.

See id., Exh. C.

Furthermore, Mrs. Merklinger's rental agreement provides that her apartment assignment may be changed if she becomes a Medicaid recipient

but does not provide that she can be removed from the Chapin House if she begins to receive Medicaid. See Cert. of Marilou Rochford, Exh. A.

After this investigation, Plaintiff claims that it, the Ombudsman and the DHSS intervened in the involuntary discharge of Mrs. Merklinger. On October 29, 2007, the DHSS informed Defendant that the discharge of Mrs. Merklinger would violate its Certificate of Applications. Defendant subsequently agreed to allow Mrs. Merklinger to remain at the Chapin House and convert her from private pay to Medicaid.

Plaintiff states that it thereafter sought assurances from Defendant that no other residents would be involuntarily discharged from any of its assisted living facilities because of a "spend-down" and that all such residents would be permitted to convert to Medicaid as mandated by the Certificate requirements. Plaintiff alleges that Defendant refused to supply such assurances and instead indicated that it planned on challenging the DHSS's interpretation of its licensing requirements. Plaintiff responded by sending a letter to Defendant on December 10, 2007 seeking information and documents relevant to its investigation of Defendant's involuntary discharge policy. Plaintiff claims that Defendant failed to produce such information, and therefore, on January 4, 2008, it served Defendant with an Administrative Action Subpoena Duces Tecum (the "Subpoena") on

Defendant's attorney. The Subpoena demands Defendant to produce the following information pertaining to each person who resides or resided at its eight assisted living facilities in New Jersey beginning on August 1, 2006:

1. The admission/discharge summary (the "face sheet") for each resident which shall include an explanation of any facility coding, including but not limited to the key for "pay type" coding.

2. The name and facility address, including room number, for each and every resident who is or was a New Jersey Medicaid assisted living residence waiver beneficiary at any of the aforementioned ALC facilities.

3. The name and facility address, including room number, for each and every resident who is presently applying for the New Jersey Medicaid assisted living residence waiver program, to the extent that a facility has knowledge of an application.

4. For each resident who did reside at any of the aforementioned facilities during the time period at issue, but who no longer resides at an ALC facility, the date of discharge, the reason for the discharge, all correspondence pertaining to the discharge, and the address to which the resident was discharged.

See Cert. of Gwen Orłowski, Exh. C.

Plaintiff thereafter received a letter from Defendant dated February 1, 2008 indicating it had rejected the Subpoena in its entirety but also assuring that it would "not evict any current resident on account of conversion from private pay to Medicaid at any of its New Jersey facilities" pending negotiations with the DHSS. Plaintiff states that it temporarily refrained

from seeking the enforcement of the Subpoena while these negotiations were ongoing, but later renewed its Subpoena demands on April 11, 2008 after it learned that Defendant was allegedly involuntarily discharging or threatening to discharge Medicaid eligible residents of the Chapin House. Plaintiff states that it had been informed by a representative of South Jersey Legal Services that residents of the Chapin House had consulted it regarding possible involuntary discharges from the Chapin House. Plaintiff also asserts that it learned that at a March 26, 2008 meeting, Defendant indicated that it would be making a request to the DHSS to be released from the "no discharge policy" for spend-down conversions as set forth in the Certificate.

Plaintiff states that it soon received a letter from Defendant dated April 21, 2008 providing that Defendant would still not comply with the Subpoena, that it would "not evict any current residents on account of conversion from private pay to Medicaid status at any of its New Jersey facilities," and that it had "not evicted any resident based upon conversion from private pay to Medicaid status." See Cert. of Gwen Orlowski, Exh. G.

However, Plaintiff asserts that it has learned that Defendant's representations are contrary to its actions regarding some of the residents of the Chapin House. Plaintiff first provides that it was contacted by Dan Elkins, the son of Julia Elkins, a resident of the Chapin House. Mr. Elkins

informed Plaintiff that his mother had become eligible for and applied for the Medicaid waiver program. Mr. Elkins claims that on April 11, 2008, he was informed by Cristen Collins, the Chapin House Residence Director, that Defendant had a new corporate policy under which it would not accept any new Medicaid residents or permit conversions to Medicaid by current residents. Mr. Elkins states that he asked Ms. Collins on several occasions including April 21, 2008, The date of Defendant's letter, regarding his mother's discharge, but alleges that Ms. Collins did not yet have an answer for him as to whether his mother would be permitted to convert to Medicaid. Mr. Elkins provides that he was finally informed by Alecia Brennan of the Cape May County Board of Social Services on May 21, 2008 and May 30, 2008, that his mother had been found eligible for the assisted living Medicaid waiver program and that she had been given a slot which would have to be accepted by the Chapin House. Finally, on or about June 2, 2008, Ms. Collins advised Mr. Elkins that the Chapin House would accept the Medicaid slot for his mother.

Plaintiff also provides that on May 6, 2008, it was contacted by Marilou Rochford, Mrs. Merklinger's daughter, who informed it that Ms. Collins had told her the previous day that the Chapin House was no longer accepting Medicaid and that several Medicaid eligible residents had been

and were being involuntarily discharged from the Chapin House. Ms.

Rochford also reported that the Chapin House was going to force her mother into a smaller room in an attempt to coerce her mother to leave the Chapin House.

On May 7, 2008, the Ombudsman conducted an investigation and discovered that at least three residents of the Chapin House who were either on Medicaid or were Medicaid eligible were involuntarily discharged between March 26, 2008 and April 21, 2008. Plaintiff claims that one of these residents was discharged on or about April 7, 2008 after being told by Ms. Collins that the Chapin House did not accept Medicaid. See Cert. of Gwen Orłowski, Exh. E.

Finally, Plaintiff states that after several stories describing its order to show cause were reported by the media, it received approximately fifteen phone calls between June 3, 2008 and June 9, 2008 concerning alleged involuntary discharges of past and present residents of assisted living facilities owned by Defendant.

As a result of these actual and threatened discharges, Plaintiff now files this current application seeking an Order directing Defendant to comply with the Subpoena issued on January 4, 2008. Plaintiff contends that its Subpoena was issued properly and that Defendant has unjustifiably failed to

comply with it. Plaintiff argues that Defendant's compliance is now necessary in light of Defendant's perceived misrepresentations concerning what it intends to do with the elderly residents who have "spent-down" their resources. Plaintiff also notes that Defendant adopted a corporate policy as early as 2006 to reduce the number of Medicaid residents living in its assisted living facilities. See Supp. Cert. of Gwen Orlowski, Exh. A. Therefore, Plaintiff maintains that the Court should order Defendant to provide the information requested by the Subpoena.

In response, Defendant states that it contemplated decreasing the number of Medicaid recipients in its assisted living facilities because participation in the Medicaid waiver program is voluntary and because it believed that each facility had the discretion to do so. However, Defendant states that it received notification from the DHSS that it believed that there existed an unwritten condition upon its approval of the Certificate whereby Defendant was required to accept the conversion of any private pay resident to Medicaid. After the DHSS confirmed its position in its aforementioned letter of October 29, 2007, Defendant provides that it accepted Mrs. Merklinger's Medicaid waiver and states that she has been a Medicaid Waiver resident to this date.

As to the allegedly unwritten condition imposed upon the assisted living facilities pursuant to the Certificate, Defendant states that it sought clarification from the DHSS about this condition by way of letters dated January 9, 2008. Defendant claims that on January 11, 2008, the DHSS contacted it and indicated that it was willing to engage in discussions to attempt to resolve the disputes over the extent of the Medicaid waiver participation of Defendant's assisted living facilities. Defendant asserts that this dialogue remains an ongoing process today.

Defendant attempts to explain the circumstances of Julia Elkins through Ms. Collins' certification which states that she mistakenly advised Ms. Elkins' son that the Chapin House would not accept Medicaid waiver benefits of Ms. Elkins were she to convert. The assertion continues that after she was instructed by Defendant's representatives that it would not discharge any resident who converted to Medicaid waiver status pending its negotiations with the DHSS, she informed Mr. Elkins of her error. Thereafter, on May 12, 2008, Ms. Elkins' application for Medicaid benefits was accepted, and on the same day, the Chapin House agreed to accept these benefits.

With respect to Mary Merklinger, Ms. Collins states that the Chapin House contains Medicaid designated units for those residents who take part

in the Medicaid waiver program. Ms. Collins claims that she had been notified that representatives of Defendant and/or the Chapin House had previously advised Mrs. Merklinger and Ms. Rochford that Mrs. Merklinger would need to be moved to an appropriately designated Medicaid unit. However, Ms. Collins asserts that Ms. Rochford has been uncooperative with the Chapin House staff in their attempts to move Mrs. Merklinger to such a unit. Moreover, Ms. Collins claims that she never informed Ms. Rochford that the Chapin House was no longer accepting Medicaid and never discussed the discharge status of any other resident.

As to the Ombudsman's investigative findings, Ms. Collins claims that the individual discharged on April 7, 2008 ("E.P.") was not discharged because she was Medicaid eligible. Ms. Collins states that she was approached by E.P.'s daughter in early April 2008 and was informed that E.P. would be applying for Medicaid in six months and wanted to know if E.P. would be accepted as a Medicaid resident. Ms. Collins states that she advised E.P.'s daughter that she lacked authority to accept Medicaid waiver benefits but invited her to request a Medicaid waiver conversion. Ms. Collins asserts that at no time did she inform E.P. or her daughter that her Medicaid waiver benefits would not be accepted. Shortly thereafter, on April 7, 2008, Ms. Collins states that E.P.'s daughter presented her with a

voluntary move-out notice providing that E.P. was to move out of the Chapin House. Ms. Collins states that after she signed the notice, E.P.'s daughter requested the form back and added the incorrect statement "notified on 4-4-08 Medicaid not acceptable." However, Ms. Collins asserts that her that the statement was incorrect and again invited her to request conversion at the time E.P. applied to the State for her Medicaid benefits.

Furthermore, Ms. Collins claims that since February 1, 2008, only two residents of the Chapin House who were Medicaid waiver beneficiaries have been discharged. Ms. Collins alleges that these residents were not discharged because of their Medicaid statuses, but rather were discharged because each needed a level of care that the Chapin House was unable to provide.

Finally, Defendant denies that it has involuntarily discharged any resident at any of its eight assisted living facilities in New Jersey due to their conversion to Medicaid status. As to K.W., a resident of the Goldfinch House, Defendant states that she was discharged for a failure to pay for the services provided to her. Furthermore, Defendant claims that it has accepted the conversion of four other residents to the Medicaid waiver program.

The issue before the Court is whether to order Defendant to comply with the Subpoena. Pursuant to R. 1:9-6, Plaintiff is entitled to file an order

to show cause before the Court in order to enforce a subpoena of a public agency:

Application for Compliance on Notice. If in such a case the statute does not provide for an application ex parte, an order to show cause may issue on the motion and supporting affidavit. The order shall be made returnable in not less than 2 nor more than 10 days, requiring such person to show cause before the court why the subpoena or other direction should not be complied with or such misconduct refrained from, and upon the return of the order the court shall afford the person an opportunity to be heard under oath. The court may order a person determined by it to have failed, without justification, to obey the subpoena or other direction, answer a proper question, produce any such thing, or to have been guilty of misconduct, to appear before the officer or agency at a time or times and place mentioned in the order and there to proceed as may be directed in the order.

An administrative subpoena must be "sufficiently limited in scope, relevant in purpose, and specific in directive so that compliance will not be unreasonably burdensome" Greer v. New Jersey Bureau of Securities, 288 N.J. Super. 69, 80 (App. Div. 1996) (quoting Greenblatt v. New Jersey Bd. of Pharmacy, 214 N.J. Super. 269, 275-76 (App. Div. 1986)). See also In re Doe, 294 N.J. Super. 108, 119 (Law Div. 1996) (providing that an administrative subpoena must be sought for a "lawfully authorized purpose," documents requested must be "relevant to the inquiry," and adequate specification of those documents must be provided) (quoting Oklahoma Press Publishing Co. v. Walling, 327 U.S. 186, 209 (1946)).

Defendant first contends that the Subpoena is in excess of Plaintiff's statutory authority as it seeks to enforce compliance with the requirements of the Certificate. Defendant states that assisted living licensing standards are within the sole jurisdiction of the DHSS. Defendant claims that the DHSS already sent its own surveyors on May 14, 2008 to each of its assisted living facilities in order to gather the very information that Plaintiff seeks in the Subpoena. Finally, Defendant argues that Plaintiff lacks the authority to act in the DHSS's stead and enforce DHSS regulations.

Plaintiff responds by arguing that it issued the Subpoena based on its concern that the discharges of Medicaid-eligible residents are contrary to the Certificate Application, their contracts with the assisted living facilities, verbal assurances made to residents and based on its concern for the health, safety and welfare of the elderly. That is, Plaintiff is asserting that there may be breach of contract and potentially fraud issues involved and thus it is not seeking to enforce DHSS regulations. Plaintiff claims that it is not required to have licensing jurisdiction over an entity whose information it seeks, and in fact has statutory authority to access the records it seeks in the Subpoena. Furthermore, Plaintiff states that it is authorized to investigate private facilities which are subject to regulation or supervision by any other government agency.

It is true that the DHSS has the sole authority in evaluating an applicant prior to the approval of the applicant's certificate of need, N.J.S.A. 26:2H-7.16, and the central responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services. N.J.S.A. 26:2H-1. However, administrative agencies have the power to subpoena persons over whom they have no licensing or regulating jurisdiction if those persons may have information relevant to a matter properly under investigation. In re Waterfront, 32 N.J. 323, 334 (1960) (citing ICC v. Goodrich Transit Co., 224 U.S. 194 (1912)).

Furthermore, the Division has the explicit statutory authority to access the records of facilities offering health or health-related services:

The Division of Elder Advocacy shall have access to the records and facilities of every agency, funded entity, or other recipient of public funds to the extent that any such records and facilities are related to the expenditure of public funds, provided that the division complies with all privacy and confidentiality protections applicable to those records and facilities, notwithstanding any contrary provision of law. Notwithstanding the foregoing, the Division of Elder Advocacy shall have access to any facility or institution, whether public or private, offering health or health-related services for the institutionalized elderly which is subject to regulation, visitation, inspection or supervision by any government agency, provided such access is permitted by State or federal law. All agencies shall cooperate with the Division of Elder Advocacy and, when requested, shall provide specific information in the form requested.

N.J.S.A. 52:27EE-64(c).

Thus, a ruling that Plaintiff lacks the authority to issue the Subpoena would be in contravention of its clear statutory authority to request and access records of Defendant, the owner of assisted living facilities. Plaintiff is not seeking here to approve a Certificate or even rule on certain provisions of such a certificate, but rather is attempting to obtain information out of a concern for the health of the elderly and representations made by Defendant. It is clear that Plaintiff and the Division have the statutory authority to do so.

Defendant next argues that the Subpoena is in excess of Plaintiff's statutory authority because it does not support a valid investigation. Defendant contends that Plaintiff's support for the Subpoena offers no factual evidence of any adverse present or future effect upon any resident of any of its assisted living facilities. Specifically, Defendant asserts that Plaintiff has failed to demonstrate that any resident was discharged because of a Medicaid conversion and has failed to show any action which has adversely affected the health, safety and welfare of any resident.

The Court first notes that the facts as presented by Plaintiff are controverted as to the alleged discharges and threatened discharges here. Certainly Plaintiff has demonstrated that Defendant at one point adopted a policy to reduce the number of Medicaid residents and in fact threatened to discharge Mrs. Merklinger after she had "spent-down" her funds and became

eligible for Medicaid. However, Defendant has shown that it did not discharge Mrs. Merklinger and that she remains a Medicaid-recipient resident of the Chapin House to this day. As to Mrs. Elkins, Defendant has shown that her application for Medicaid benefits was approved and that she also remains a resident of the Chapin House. Finally, as to the other residents who Plaintiff allege were discharged from assisted living facilities because they applied for Medicaid, Defendant has provided an explanation behind their departure from their respective facilities that does not involve their eligibility for Medicaid for each of these residents. Thus Plaintiff has not yet demonstrated in this application that an actual discharge has occurred from any of Defendant's assisted living facilities at this point.

The Court further notes, however, that at the investigative stage, Plaintiff is not bound to accept the above explanation and or reactions. The "corrective" or "cooperative" measures of Defendant do not negate Plaintiff's authority here. Moreover, the Court finds that Plaintiff is not required to present facts of an actual discharge in order to trigger its authority here to issue a subpoena upon Defendant. In Doe, supra, the court cited to United States v. Morton Salt Co., 338 U.S. 632 (1950) where the United States Supreme Court upheld the broad powers of administrative inquiry, expressly likening the proper scope of an administrative subpoena to

the broad powers of inquiry possessed by the grand jury. Id. at 119. The Doe court then provided that this position was affirmed by United States v. Powell, 379 U.S. 48, 58 (1964), where the Court stated that an agency need not show probable cause but only must demonstrate that its purpose is legitimate under statute, that the inquiry is relevant to that purpose, and that the required administrative steps have been duly followed. Id. at 119-20. The Doe court thus provided that a subpoena duces tecum is reasonable even without probable cause if it meets the aforementioned three-part test. Id. at 120. Therefore, Plaintiff need not present probable cause of the alleged discharges or threatened discharges in order for this Court to enforce the Subpoena.

Additionally, the Court finds it reasonable to believe that a discharge of a resident from an assisted living facility simply because he is a recipient of Medicaid benefits would affect the health and rights of the resident. An action which effectively takes away the home of an elderly person with little in terms of income certainly could potentially adversely affect the health and overall welfare of such an individual. As Plaintiff states, it has initiated this investigation to determine just that.

Plaintiff here has received a number of complaints from residents and relatives of residents as to the alleged discharges or threatened discharges

from assisted living facilities. At least fifteen of these complaints were made to Plaintiff within a week of the return date of this order to show cause. Plaintiff would be doing a great disservice to the public and would be turning its back on the Legislature by electing not to conduct any investigations here. Therefore, the Court finds that Plaintiff is conducting a valid investigation in this matter.

Finally, the Court must determine whether the Subpoena as presently constituted satisfies the three-part test as enunciated in Greer, supra. The Court first finds that the Subpoena is sufficiently limited in scope. Plaintiff is requesting information only from August 1, 2006, the date upon which Defendant's policy to reduce the number of Medicaid-recipient residents began to run. The Subpoena only seeks information from the eight assisted living facilities that would be covered by the alleged corporate policy under investigation. Furthermore, the information Plaintiff seeks is of a summary type: simply the "face sheet" for each resident, the name and address of any resident who applied or is currently applying for Medicaid benefits, and certain basic information about each resident who was discharged, including the date of discharge, reason for discharge, and address to where the resident was discharged. Thus, the Court finds that the Subpoena's scope is narrowly tailored to only relevant information to the investigation.

The Court next finds that the information Plaintiff seeks by way of the Subpoena is relevant in purpose. The information Plaintiff has requested pertains to whether the residents are eligible for Medicaid or whether they have applied for such benefits while they were residents. Most importantly, the information will demonstrate the reasoning behind each discharge from an assisted living facility and thus will reveal if any residents were involuntarily discharged because of their status as Medicaid eligible. This in turn will enable Plaintiff to further its investigation and determine whether Defendant has adversely affected the health and welfare of any of its residents by involuntarily discharging them simply because they became Medicaid eligible.

Finally, the Court finds that the Subpoena is specific in directive to the point that it will not be burdensome for Defendant to comply with it. The Subpoena seeks particular documents or summary information regarding a limited number of residents. This information should be readily accessible and should not require Defendant a substantial amount of time to gather and submit to Plaintiff. Therefore, the Court finds that the Subpoena satisfies the Greer test, and thereby orders Defendant to comply with the Subpoena.

For the above stated reasons, Plaintiff's request for an order to show cause seeking to enforce the Subpoena is **GRANTED**. Order entered this date.

Note: The Public Advocate's supplemental submission and ASL's response regarding the Consumer Fraud Statute's application to this case were not considered and are not part of the Court's decision because the issue need not be addressed for the purposes of this Order to Show Cause.

PREPARED BY THE COURT

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MERCER COUNTY

DOCKET NO. C 73-08

CLERK OF SUPERIOR COURT
SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY
FILED & AMENDED

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DEPARTMENT OF THE PUBLIC ADVOCATE

Plaintiff

ORDER

Dee Regan

DEE REGAN
CLERK OF SUPERIOR COURT

v.

ASSISTED LIVING CONCEPTS, INC.

Defendant

This matter comes before the Court by way of an Order to Show Cause filed by the Plaintiff, State of New Jersey, Office of the Public Advocate to Enforce an Administrative Subpoena, and opposition having been filed on behalf of the Defendant by Buchanan, Ingersoll & Rooney, and the Court having reviewed all the documents filed and after hearing oral argument in this matter and for good cause shown:

IT IS ON THIS 12TH DAY OF JUNE, 2008

ORDERED that Plaintiff's request for an Order to Show Cause seeking to Enforce the Subpoena is hereby **GRANTED**.

FURTHER ORDERED that a copy of this order be served upon all parties within 5 days of the date received.

Maria M. Sypek

Maria M. Sypek, P.J. Ch.