

Rafael Vergara Weighs In On New Jersey Assisted Living Decision

McKnight's Senior Living
7.2.21

Partner Rafael Vergara spoke to *McKnight's Senior Living* to provide some background on New Jersey's recent court ruling that nursing home residents can sue for a breach of the facility's statutory bill of rights, but assisted living facility residents do not have that right.

On June 15, a New Jersey court overturned a lower court's finding that allowed the estate of a resident to sue a Care One assisted living community.

"The majority of the decision is based on analyzing other cases" dating back to 1953, said Vergara in an interview. Because the clause is not explicitly stated in the state's assisted living bill of rights, it cannot be implied either, he said.

The reason, according to Vergara, is that the nursing home bill of rights specifically allows residents to pursue a private cause of action for violating a resident's rights, but the assisted living bill of rights is mum about that capability. "The legislature declared bills of rights for residents and expressly authorized private causes of action for a violation of those rights," Vergara wrote in a publication, co-authored by Monica Doss.

Read more on *McKnight's Senior Living*.

KEY ATTORNEYS

Rafael Vergara

PRACTICE AREAS

Insurance Coverage and Bad Faith
Life, Health, Disability and ERISA

INDUSTRIES

Healthcare