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Nursing Home Case Will Be Heard by SCOTUS Despite Activist, Lawmaker Pressure

By **Shelby Grebbin** | October 19, 2022

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A case that could determine whether state-owned nursing homes are shielded from federal lawsuits filed by residents will be heard by the nation’s top court in just a few weeks despite calls from activists and lawmakers to dismiss the case entirely.

While members of Health & Hospital Corp. of Marion County, the county’s public health agency, did not address the case at their meeting held this week, attendees shared their concerns over the case’s national implications during its public comment period, according to an Indianapolis Star [report](#).

The [case](#), *Health and Hospital Corporation of Marion County, et al., v. Gorgi Talevski, by his next friend, Ivanka Talevski*, involves the treatment and death of former nursing home resident Gorgi Talevski, whose family filed a lawsuit in Indiana federal court in 2019.

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The lawsuit alleged that the Indiana nursing home violated an array of resident “rights” under the Federal Nursing Home Reform Act, and the Civil Rights Act of 1871 providing a venue to enforce those rights.

The Health & Hospital Corporation of Marion County in Indiana, which owns long-term care facility Valparaiso Care and Rehabilitation, and operator American Senior Communities filed the petition earlier this year asking the Supreme Court to take a second look at the lower court’s decision.

There have been more than 20 amicus briefs [filed in support](#) of the Talevski family as of the end of September that argue Gorgi was “chemically restrained” and moved to another facility about 50 miles away after the lawsuit was filed.

Supporters of the Talevski family fear an HHC victory would make it harder for recipients of government programs to enforce their rights in court and the case could reach far beyond the skilled nursing sector to restrict lawsuits over other government aid programs if a new precedent is set, according to a Reuters [report](#).

Among those in support of Talevski are senior advocacy group AARP, the American Public Health Association and American College of Preventive Medicine.

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could “create an imbalance where only publicly operated nursing facilities would be subject to such claims,” and that the federal appeal’s court decision – if left intact – would hinder an industry still attempting to recover from the pandemic.

While the Supreme Court’s decision to hear the case [will not challenge](#) the legality of the supplemental funding mechanism, it may dissuade health systems like Health and Hospital Corporation of Marion County from owning nursing homes in the future.

“It will make those companies that have not been subject to any liability here, because they’re state-owned, not willing to own these facilities because of the exposure that they will have,” Alan Schabes, a partner at Benesch Friedlander Coplan & Aronoff LLP previously told Skilled Nursing News.

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Shelby Grebbin

Brooklyn-based journalist, covering the latest developments in the skilled nursing industry. Meanwhile, attempting to find the best surf spots on the East Coast.

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