

PADWA LAW

Civil Justice Attorney

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Experienced in Representing Persons
Abused, Neglected & Mistreated in Nursing Homes

NURSING HOME LITIGATION NEWSLETTER

FALL 2003

NURSING HOME ABUSE

There are approximately 17,000 nursing homes in the United States today with 1.8 million beds. Rhode Island has 103 nursing homes with approximately 10,000 residents.

Incidence of Elder Abuse

While the American Medical Association estimates that about 1 in 4 older persons experiences some form of abuse, other sources place the number of abused older persons at between 700,000 and 2,000,000 each year.*

The vast majority of elder abuse cases go unreported. A Massachusetts study concluded that only 1 case in 14 comes to the attention of state authorities.* The elder abuse that is reported is only the tip of the iceberg.

Cause of Nursing Home Abuse

Most abuse, neglect and negligence in nursing homes residences are traced to understaffing as well as poorly qualified, untrained and overworked personnel. It is common practice for nursing homes to cut costs in order to increase profits. These cuts result in decreased quality and quantity of care.

It is estimated that staff salaries comprise 70% (or more) of the cost of running a nursing home facility. Since nursing home staffing ratios are not closely regulated, personnel are cut to increase profitability.*

Report of U.S. Congress, Committee on Government Reform**

Over 30% of nursing homes in the United States were cited for abuse violations during the two-year period between 1999 and 2001.

More than 2,500 of the abuse violations during this two-year period were serious enough to cause actual harm to residents or to place residents in immediate jeopardy of death or serious injury.

The percentage of nursing homes cited for abuse violations in annual inspections doubled during the period from 1996 through 2000.

*D. Keene, ATLA's *Litigating Nursing Home Cases* (Oct. 2001).

** Minority Staff Report of the House Committee on Government Reform, *Abuse of Residents is a Major Problem in U.S. Nursing Homes* (July 30, 2001).

COMMON NEGLIGENCE, ABUSE & NEGLECT IN NURSING HOMES

- Understaffing of Nursing Homes.
- Failure to adequately supervise residents according to proper Care Plans.
- Failure to take adequate precautions to prevent falls.
- Failure to provide proper nutrition and hydration.
- Over-medication or under-medication.
- Failure to prevent pressure sores.
- Use of unwarranted restraints.
- Assault, physical and verbal abuse, and rape.
- Retaliation for making a complaint or filing a grievance.

INJURIES THAT LEAD TO DEATH

Falls and Fractures - Falls result in fractures and head injuries.

Restraint Injuries - Elderly strangulate on restrains.

Decubitus Ulcers - Pressure sores are preventable.

Severe Dehydration and Malnutrition - Many elderly cannot eat or drink without assistance.

Medication Errors - Medication errors result in adverse effects.

Exposure to the Elements – Unsupervised residents wander away and suffer exposure to the elements.

Physical Abuse and Assault – Federal and state regulations require background checks on employees.

RECENT CASES FROM AROUND THE COUNTRY

SETTLEMENT: \$350,000 **North Carolina**

Injuries: Decubitus ulcer, infection, death

Nursing home was negligent in caring for a 78-year-old woman with pressure sores, which became infected. The patient's family called an ambulance after nursing home staff failed to respond to their requests for help. The patient died at another nursing home following her discharge from the hospital.

SETTLEMENT: \$240,000 **New York**

Injuries: Re-fractured hip, reconstructive surgery

A 69-year-old woman went into nursing home following surgery to repair fractured hip. Plaintiff was a high risk for falling and suffered from dementia. Nursing home failed to take adequate fall precautions and plaintiff re-fracturing her hip attempting to get out of wheelchair.

FREQUENTLY ASKED QUESTIONS

Q: What steps should be taken to investigate a nursing home claim?

A: The first step is to listen to your client's story. If there is any reason to suspect that there may have been abuse, neglect or negligent care, you should consult with an attorney experienced in nursing home litigation as soon as possible.

A thorough pre-suit investigation includes at least the following steps: obtaining and reviewing nursing home and medical records; photographing and videotaping evidence, interviewing witnesses, researching the facility, its ownership, corporate structure, and licenses; examining investigations and surveys conducted by state and federal agencies; researching prior disciplinary actions and previous lawsuits as well as consulting with experts in the fields of medicine, nursing and administration. Careful evaluations may take months and can be very expensive, depending on the nature of the allegations.

NEWS

Jeffrey Padwa is an active member of ATLA's Nursing Home Litigation Group.

Jeffrey Padwa testified before the Rhode Island Board of Health on October 28th regarding the *proposed Rules and Regulations for Licensing of Assisted Living Residences*.

Jeffrey Padwa attended recently the 28th Annual Meeting of the National Citizens Coalition for Nursing Home Reform, where he consulted with federal and state regulators, ombudsman and attorneys from across the country.

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