

Jonathan Rosenfeld's Nursing Homes Abuse Blog

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Thankfully, We Now Have Many Laws To Protect The Elderly From Abuse In A Variety Of Settings. However, Laws Are Worthless, If The People For Whom They Are Intended To Help Are Unaware Of Them

Over the last 20 years, federal and state legislatures have drafted many laws with the intention of protecting the most vulnerable members of our society-- they elderly. As the laws accumulate, it is important to know what laws apply to particular situations of abuse or mistreatment and how to properly apply them to particular situations.

What is elder abuse?



Elder abuse is the abuse, neglect, and financial exploitation of elderly persons. Older adults are particularly vulnerable to this type of abuse because of their isolation, illness, or fear. In the United States, an estimated 1 to 2 million Americans age 65 and older have suffered from abuse.

In Illinois, an estimated 76,000 persons over age 60 suffer from elder abuse, but only 10,000 elderly victims report this abuse to the Elder Abuse and Neglect Program each year. The 2008 Illinois Elder Abuse and Neglect Program Annual Report, Demographics reveals that of reported cases of abuse in Illinois in 2008: almost one in four victims are age 86 or older, the most common report received involved financial exploitation followed closely by emotional abuse, 77% of abusers were either the spouse, child, or other relative, and 70% of victims were female.

What is the Elder Abuse and Neglect Act?

The Elder Abuse and Neglect Act (320 ILCS 20/1 et

seq.) is an Illinois law established to “design and manage a program of response and services for persons 60 years of age and older who have been, or are alleged to be, victims of abuse, neglect, financial exploitation, or self-neglect.” This program is administered by the Illinois Department on Aging and is coordinated locally through 45 provider agencies. The Program provides investigation, intervention, and follow-up services to victims of elder abuse.

The Elder Abuse and Neglect Program responds to the following types of abuse (320 ILCS 20/2(a)):

Physical abuse – inflicting physical pain or injury upon an older adult

Sexual abuse – touching, fondling, intercourse, or any other sexual activity with an older adult who is unable to understand, unwilling to consent, threatened, or physically forced

Emotional abuse – verbal assaults, treats of abuse, harassment, or intimidation

Confinement – restraining or isolating an older adult, other than for medical reasons

Passive neglect – caregiver’s failure to provide an older adult with life’s necessities (food, clothing, shelter, medical care)

Willful deprivation – willfully denying an older adult medication, medical care, shelter, food, therapeutic device, or other physical assistance which exposes that person to the risk of physical, mental, or emotional harm

Financial exploitation – misuse or withholding of an older adult’s resources by another, to the disadvantage of the elderly person, or the profit or advance of someone else

In order to encourage people to report elder abuse (call Elder Abuse Hotline at 1-866-800-1409), the Act provides that a person who reports suspected elder abuse in good faith or cooperates with an investigation will be granted immunity from criminal or civil liability or professional disciplinary action and their identity will not be disclosed without written permission or a court order. The Department on Aging, Office of Elder Rights started a campaign called Break the Silence (brochure) to increase public awareness of elder abuse.

Illinois law requires that persons delivering professional services to older adults (social services, adult care, law enforcement, education, medicine, state service to seniors, and social workers) report suspected abuse of older persons who are unable to report for themselves. This mandatory reporting requirement only applies if the reporter believes that the older person is not capable of reporting the abuse themselves. Any physician who willfully fails to report as required by the Act is referred to the Illinois State Medical Disciplinary Board. Any other mandated reporter required by the Act who willfully fails to report is guilty of a Class A misdemeanor.

The Department also encourages people to report suspected elder abuse even when not required. If the older person is a nursing home resident, reports are made to the Illinois Department of

Public Health's Nursing Home Hotline (1-800-252-4343).

Applicability of Elder Abuse & Neglect Laws to Nursing Homes and Group Homes

Nursing homes and group homes are intended to provide a safe and secure home for your family members when they are unable to live on their own or need special care and services. These facilities promise to take care of our loved ones with the care, respect, and safety that they deserve. However, many cases of elder abuse and neglect occur in these very facilities.

Illinois nursing homes are subject to federal and state laws including the Illinois Nursing Home Care Act (210 ILCS 45), which establishes minimum standards for the facility. The Illinois Department of Public Health (IDPH) is responsible for licensing nursing homes in order to ensure that they provide adequate and proper care for their residents. In addition, Illinois nursing home residents are guaranteed certain privileges according to the rights and protections afforded under State and Federal law (Resident's Rights brochure).

When you enter a long-term care facility, you maintain the right to safety and good care, privacy, manage your own money, participate in your care, safety of your personal belongings, and keep living in your facility. It is important to remember that you do not lose your rights just because you enter a nursing home facility.

One of the most important rights you have is freedom from abuse, neglect, financial exploitation, and self-neglect. If a nursing home employee, medical worker, social services worker or other mandated reporter who is engaged in carrying out their professional duties suspects that a nursing home resident is being abused or neglected, they have the responsibility to report their suspicions to IDPH under the Elder Abuse and Neglect Act. Additionally, any person who suspects abuse or neglect may also voluntarily report their suspicions to IDPH.

IDPH is responsible for investigating allegations of abuse or neglect in long-term care facilities, including nursing home facilities. When a mandated reporter or any other person who suspects elder abuse reports an allegation to IDPH, an investigator responds to the complaint to ensure that the elderly person is not living in an abusive situation. An investigator will usually visit the facility in question and perform a face-to-face assessment with respect to a complaint report along with any casework and follow-up as required by Department protocols.

If you suspect that an older adult, age 60 or older, is being subjected to abuse, neglect, or exploitation, it is important to report your suspicions to the Illinois Department on Aging or the Illinois Department of Public Health if the person is a nursing home resident. Older adults, especially those with mental disabilities or illness, are particularly vulnerable to abuse and neglect. It is important to be vocal proponents of the safety and well-being of older adults to ensure that they receive adequate care and services while maintaining their rights.

Resources:

ILGA: [Elder Abuse and Neglect Act](#)

State of Illinois: [Elder Abuse and Neglect Act and Related Laws](#)

Jonathan Rosenfeld represents victims of nursing home abuse and neglect throughout the country. For more information please visit Nursing Homes Abuse Blog (www.nursinghomesabuseblog.com), Bed Sore FAQ (www.bedsorefaq.com) or call Jonathan directly at (888) 424-5757.

Illinois Department on Aging: [Resident's Rights Brochure](#)
Senior Services Inc: [Elder Abuse Intervention](#)

Related Nursing Homes Abuse Blog Entries:

[A Legal Victory For Nursing Home Residents. State Laws Can Supersede Federal Arbitration Act](#)

[Elder Abuse: Why Bruises Can Be Tell-Tale Signs Of Poor Care](#)

[Bone Fractures In The Elderly Require Special Attention To Improve Recovery & Prevent Complications](#)