



Jonathan Rosenfeld's Nursing Homes Abuse Blog

Chicago Nursing Home Patient Sexually Assaulted By CNA

By **Jonathan Rosenfeld** on July 28, 2011

Despite a steady stream of disturbing news headlines, sex crimes in nursing homes remain a rare-- but certainly troubling-- problem at facilities across the country. Most upsetting when these crimes are perpetrated upon disabled patients, they rarely get the attention that they deserve from both the facility as well as law enforcement as there is a sickening assumption that the act has no impact on the individual.

Just days ago, another sexual assault was seemingly perpetrated by a CNA at a Chicagoland nursing home. The Chicago Tribune **reported** that Robert J. Phelan, Jr., a CNA at **Lexington Health Care** of Orland Park has been charged with Aggravated Criminal Sexual Assault after a coworker reported him engaging in inappropriate contact with a dementia patient at the facility.

In conjunction with the witness statement and evidence collected from a sexual assault examination at nearby South Suburban Hospital, bail was set at \$350,000.

Civil Liability For Sexual Assaults

In order to successfully, pursue a **claim for sexual assault** against a nursing home or other type of medical facility, victims must generally establish that the facility had actual or constructive knowledge regarding the perpetrators tendencies. In other words, if the

perpetrator (employee or other patient) had never acted in such a manner before nor had verbally expressed their intention, a case against the facility may be difficult to pursue.

Given the obvious difficulty in obtaining such materials regarding prior acts, it is especially important that victims of sexual assault contact law enforcement officials so a full investigation can be completed as soon as feasible. Additionally, a timely investigation ensures that the statements from witnesses get preserved before staff relocate or other patients memory of the event begins to fade.