



Jonathan Rosenfeld's Nursing Homes Abuse Blog

Nursing Homes Must Protect Patients From Violence Perpetrated By Other Patients

By **Jonathan Rosenfeld** on August 10, 2011

Yet another episode of nursing home violence was **reported** at a facility in Southwest Florida when a resident attacked his roommate over a disagreement as to the positioning of the window curtains. Even though there was a nurse nearby, the victim of the abuse suffered severe **facial bruising** and **fractures** that required medical attention at a hospital.

An unknown risk

Probably the last thing patients and families consider when selecting a facility is the possibility of violence--- perpetrated by another patient at the facility! Leaving families further in the dark is the fact that poor decision making on the part of the facility significantly increases the risk of violence to their loved one.

As a **nursing home lawyer** who has seen the ramifications of poor decision making on the part of nursing homes, I've seen too many occurrences of patient-on-patient abuse go deliberately ignored by the facility out of embarrassment or fear of a poor public image.

Any type of violence involving nursing home patients should be considered a crime and

deserves to be fully investigated by law enforcement officials as opposed to people working for the nursing home. What makes situations involving violence committed by nursing home patients unique-- and frequently difficult to prosecute-- is that it takes place behind closed door in the privacy of a nursing home.

Of course, it is unreasonable to suggest that nursing homes should be strictly responsible for the acts of all their patients. However, things change when facilities begin to have information regarding patient's aggressive or violent tendencies. Once a facility learns of a patient's behavior, they inherently have a duty to take necessary steps to protect other patients and staff.

A legal duty to protect

This isn't just the patient advocate in me talking, Federal Regulations both prohibit abuse (F-tag 223) and require nursing homes to permit law enforcement to investigate situations involving injuries (F-tag 226). With respect to f-tag 223, the regulation requires that a resident of a nursing facility has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.

It is simply not acceptable for nursing homes to shrug their shoulders, when it comes to a situation where a patients is beaten. The language from f-tag 226, requires nursing homes to report patients injuries (abuse) to regulatory agencies so an investigation can be done to determine how the patient was injured.

Basic precautions

As common sense would indicate, keeping patients with aggressive tendencies and psychological disorders away from other frail patients would be an important first step towards minimizing the risk of injury. However, in situations when patients have ongoing problems, it is incumbent that facilities provide ongoing monitoring of the patients and seek to have the patient removed from the facility to ensure the well being of all.

While certainly a consistently disturbing picture, injuries resulting from the violence of

other patients may indeed open the door to liability against the facility. While pursuing a claim against a facility may be a distant afterthought following a violent episode following an injury, reporting the incident to police authorities, both provides the best opportunity to conduct a complete examination for purposes of both civil liability as well as ensuring other patients remain safe from similar behaviors.