

# Jonathan Rosenfeld's Nursing Homes Abuse Blog

## Nursing Home Patients Involved In Automobile Accidents: Who's To Blame?

*Posted at 5:55 AM on May 27, 2010 by Jonathan Rosenfeld*

If you were playing a word association game, I bet you'd be hard pressed to combine nursing home patients and car accidents! While the terms may mix like oil and water in many contexts, in my world as a nursing home lawyer I frequently see the two intermixed-- and the the results certainly don't favor the patients.

In my nursing home ligation practice, I see many cases where nursing home patients are horribly injured in car accidents either as pedestrians or as passengers. While most think about nursing home patients passing time in an idyllic setting, the truth is that there is a significant portion of the nursing home population that leaves the facility for their personal recreation, visit with doctors or tend to personal business.

Because auto accidents make up a significant number of accidents for nursing home patients, I plan on going into the three major categories of automobile injury cases affecting nursing home patients and the respective liability issues for both driver and nursing facility.

As I see it, nursing home patients are involved in injuries due to: other drivers (pedestrians), passengers in vehicles or in the case of dementia or Alzheimer's patient-- wandering from the facility.



## Elderly pedestrians involved in auto accidents

Many nursing homes are located in metropolitan areas where vehicle traffic is heavy. Though the centralized location may be convenient for family and visitors, busy city environments are particularly dangerous to elderly nursing home patients who walk or roll along the street in wheelchairs.

The constant traffic and rapidly changing traffic controls can be substantial obstacles for everyone, but particularly those with special needs such as elderly people with assisted walking devices or diminished hearing or eyesight.

Several years ago, my office represented an elderly man, who happened to be a nursing home patient, who was struck by a truck making a right-turn as he made his way to a convenience store literally located across the street from the nursing home. The man suffered severe orthopedic injuries to his legs-- bilateral femur fractures and de-gloving injuries when he was thrown from his electric wheelchair and run over by the rear wheels of the truck.

Though the man's family initially contacted us as a perspective negligence claim against the nursing home where he resided, we quickly learned that the truck-driver was really the one who was responsible for accident and the man's injuries. In the course of litigation, the truck driver acknowledged that he was unable to see the elderly man due to the height of his truck and the relatively low height of the electric wheelchair-- despite the fact that that the man was in the cross walk and obeying the traffic signal.

*Pedestrians have the right of way*

Most jurisdictions have traffic laws that give pedestrians-- even those with physical disabilities-- the right of way when sharing the road with automobiles. In this context, the driver of the vehicle is usually the one primarily responsible for resulting injuries especially if the pedestrian was obeying the traffic signals.

In some circumstances following a collision with a pedestrian, an assertion may be made by the offensive driver that the person was too old or had diminished senses. In my experience, such arguments typically backfire-- badly.

Not surprisingly, in most elderly-pedestrian vs. auto collisions, I see the real fault falling lying on the drivers who fail to keep a proper look out or who refuse to wait the literal seconds it takes for a person to get out of harms way.

#### *Liability of nursing home or driver?*

In situations where a pedestrian really has no business walking around unassisted, there may be a cause of action against the facility where he or she resided for the facilities failure to provide assistance.

However, if a nursing home patient is capable of appreciating the risks associated with walking around, they certainly should be entitled to do so.

Particularly with elderly pedestrians, the resulting injuries sustained in automobile accidents can be devastating. Unlike similar accidents occurring in a younger population, older people tend to heal-- far slower and require much more extensive care.

As lawyers who have championed the rights of the elderly for more than 30 years, we have developed a unique perspective on the overall effects of injuries on aged bodies. In many respects our appreciation for the severity of the injuries sustained by the older population has resulted in verdicts and settlements admired by our peers in the legal community.

If you or a elder was involved in an auto accident, I invite you to speak with our elder law attorneys to discuss your legal options. All consultations are free of charge and completely confidential. (888) 424-5757

Resource articles:

[Accidents involving older people: a review of the literature](#) JM Lilley, T Arie, CED Chilvers - Age and Ageing, 1995 - Br Geriatrics Soc

[Toleration of head injury by the elderly](#) LA Amacher, DE Bybee - Neurosurgery, 1987 - journals.lww.com

[Injuries in restrained motor vehicle accident victims](#) GW Hendey, SR Votey - Annals of emergency medicine, 1994 - Elsevier

[Injuries to the elderly in the traffic environment](#) H Sjögren, U Björnstig - Accident Analysis & Prevention, 1991 - Elsevier

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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](http://www.nursinghomesabuseblog.com)), Bed Sore FAQ ([www.bedsorefaq.com](http://www.bedsorefaq.com)) or call Jonathan directly at (888) 424-5757.