

WHY WE NEED THE CIVIL JUSTICE SYSTEM: NURSING HOMES

Chemical Restraints

The use of chemical restraints – drugs used to subdue or restrain patients – has increased drastically in nursing homes over the last several years, although the vast majority of these patients have no psychiatric diagnosis. Trial attorneys have not only helped get patients off stifling antipsychotics, but also taken on the huge pharmaceutical giants that illegally market these medications to control senior populations.

Bed Rail Deaths

Over the last quarter-century, bed rails have been known to cause nearly 500 deaths, and experts believe that may just be the tip of the iceberg. Bed rails are often poorly designed and leave seniors vulnerable to asphyxiation. The dangers are well-known to nursing homes, but federal minimum standards are voluntary. Lawsuits over poorly designed beds and inappropriate use of rails have improved their design and greatly reduced their use.

Insurance Denials

Thousands of seniors who faithfully paid their long-term care insurance premiums have found their benefits cut just when they needed them most. Insurers calculate that few of their terminated policyholders will ever complain, and those who do will eventually die if they delay payment long enough. Trial attorneys have uncovered insurers' actions and spurred Congressional investigations into the industry.

Abuse

As many as 1.5 million seniors are abused every year, yet experts believe that for every case that does get reported, five more go unreported. Many nursing home residents are afraid of the repercussions of reporting abuse to largely ineffectual regulatory authorities. Trial attorneys have proven to be the most effective representatives of abused seniors.

Scams

Seniors have long been a target for unscrupulous insurance executives and fraudsters. While regulators are often powerless to act, trial attorneys have taken on everything from fraudulent agents to huge life insurers, recouping money for seniors, rolling back premiums, and ensuring future unscrupulous behavior is banned.

Neglect

A 2004 investigation found that 14,000 nursing home patients died nationwide of malnutrition and dehydration over a four-year period. In addition, nearly 160,000 residents had at least one pressure ulcer, yet only 35 percent of those with the most severe ulcers received special care for their wounds. Trial attorneys acting on behalf of injured and neglected residents have obtained agreements from nursing home corporations to greatly improve patient monitoring and care procedures.

Forced Arbitration

Under a little known practice called forced arbitration, many families unknowingly sign away their rights in order to get care for their loved ones. These clauses prevent families from going to court even if a family member is severely injured or killed in the care of a nursing facility. Trial attorneys have challenged forced arbitration clauses to hold nursing homes accountable for the pain and suffering they inflicted.

Medical Errors

Preventable medical errors kill 98,000 people a year and seriously injure tens of thousands more. While representing just 13 percent of the population, seniors account for 34 percent of all adverse drug events, most of which are preventable. The civil justice system not only allows patients to seek justice for their injuries, but also encourages medical providers to institute patient safety systems that prevent negligence before it occurs.