

Chapter One: Nursing Home Injury and Abuse

While there can be early warning signs of abuse or neglect, often times there is none until it is too late. The ill-effects of abuse or neglect can lead to injury, hospitalization, and even death of the elderly family member. If an elderly individual is harmed, the facility may be sued.

Laws Regarding Nursing Home Abuse

If your elderly loved one was abused or assaulted at a nursing home, you have the right to bring a claim against the nursing home. Legally, you will have to show the nursing home was negligent in some way. You can help your case by proving, with the assistance of the Jackman Law Firm, that the abuse to your elderly loved one happened because the nursing home or assisted living facility failed to do one or more of the following:

- Properly train, hire, and supervise staff members who might have committed the abuse.
- Failed to properly supervise other tenants in the facility who might have assaulted your elderly loved one.
- Failed to monitor a visitor who might have committed the abuse.

In most cases, it is not hard to show that a duty existed. When you entrust your elderly loved one to a facility, you expect that they are going to be cared for, and rightly so, because the nursing home has a duty to watch over them and protect them. If one of the members of the staff or a fellow resident harmed your elderly loved one, then that is the breach the law speaks about. Finally, you must be able to prove that your elderly loved one's injuries are directly related to the abuse suffered by the nursing home or a fellow resident, as opposed to their injuries just naturally occurring.

Because of a legal principal called "respondent superior" or vicarious liability, as it is also known, the actions of the nursing home's staff also make the nursing home itself responsible for any abuse or assault your loved one may suffer. That is why, on the lawsuit, you should not just name the person or persons who caused your elderly loved one's injuries, you should also name the nursing home or assisted living facility itself.

Most Common Forms of Nursing Home Abuse and Neglect

While nursing home abuse and neglect can take on a variety of forms, the most common are:

- Bed sores or ulcers, including decubitus ulcers
- Broken bones
- Choking
- Dehydration and malnutrition,
- Infections, including urinary tract infections (UTI)
- Sexual and physical abuse
- Medication errors, and
- Patients wandering off the premises

By far the most common reason abuse occurs at a nursing home is understaffing by the nursing home. Ideally, a nursing home should never have one staff member assigned to 10 or

more elderly people. Even 10 may be too high of a number. The lower the staff-to-patient ratio, the better the nursing home usually, and the safer and the less likely there will be injuries to the elderly residents. However, this kind of low staff-to-elderly ratio is not always the case. Many nursing homes have seen explosions in the number of people admitted to their facilities in recent years as the American population continues to age.

Chapter Two: Nursing Home Bedsores

Entrusting a parent to a nursing home is a big decision to make. It is not an easy one, either. Many times it can be difficult to entrust a nursing home with a parent or relative. Many of these nursing homes are perfectly fine and do not have any problems with them. However, some do, and they can leave terrible consequences on the elderly.

A bed sore can go by a couple of different names. They are also known as pressure sores. They are caused because of pressure that has been on the skin for too long. Typically, you'll see this in situations where someone has been in a bed or wheelchair for a long time without moving. When someone is confined to the same position for a prolonged period of time, blood stops coursing through the body, including to the skin, depriving the skin of oxygen, which in turn causes terrible sores.

Holding the Nursing Home Accountable for Bedsores

After discovering a loved one has terrible bedsores, you are understandably upset and want to hold the nursing home accountable. Part of this process involves making sure you are properly bringing a claim against the nursing home. The primary reason, or cause of action, is to allege that the nursing home was negligent in making sure your parent or the elderly person in terms of how they were treated.

To win on a negligence ground, you have to show that the nursing home had a duty to the elderly person, that this duty was breached, and that injuries resulted from this breach. In a case where an elderly person has bedsores, you have to show that the nursing home had a duty to keep the elderly person free of bedsores.

This should not be challenging. However, the nursing home may argue that the elderly person was somehow predisposed to bedsores and they were not at fault. Then you must show that the duty was breached, meaning you have to come up with evidence to show that the bedsores were directly related to the nursing home failing to properly care for the elderly person, which normally means they failed to properly turn over the elderly person or take them out of the wheelchair.

And finally, you have to show that the elderly person's bedsores came directly from the negligence of the nursing home, as opposed to some other reason. Typically, you will bring a claim of negligent supervision as well, since the nursing home had a duty ensure they properly supervised the elderly person.

You may also want to bring a claim of negligent hiring if it appears that the nursing home was under-staffed, or staffed with employees who simply had not been trained and were not experienced enough to care for the elderly person. The Jackman Law Firm can help you and bring the appropriate lawsuit against the nursing home.

Chapter Three: Nursing Home Physical Abuse and Assault

Putting a loved one into a nursing home or assisted living facility should leave you feeling happy and confident that your loved one will be cared for as they would be if they lived in your home. However, this does not always happen. While the majority of nursing homes and assisted living facilities are safe and run without incident, there are of course cases where an elderly person is not treated properly. In fact, they may even suffer terrible abuse at the hands of the nursing home or assisted living facility staff.

Signs of Nursing Home Abuse

When it comes to the kind of abuse an elderly person may suffer, there could be emotional, physical or even sexual abuse. Sometimes, especially if the abuse is emotional, the outward signs might be harder to detect and will be evidenced by being withdrawn and not acting like one's normal self. However, there may be very obvious signs of abuse and assault, including:

- Losing too much weight
- Malnutrition
- Bedsores
- Bruises or marks on the skin
- Broken bones
- Cuts or lacerations from being restrained

If you spot any of these things on an elderly person's body, then there is likely abuse going on. The abuse may be coming from either a staff member of the nursing home or it could be from one of the nursing home's fellow residents.

Sadly, there may be instances when the nursing home may be occupied by individuals who are suffering from such a degree of dementia that they may not be aware of their actions, and these actions could be violent in nature. If this is the case, the nursing home is not excused from liability for this.

They have a duty to make sure that these elderly people, assuming they are suffering from terrible dementia, are being kept safely away from the rest of the non-violent elderly. In addition to reporting signs of abuse to the nursing home management, it is also a good idea to notify the better business bureau, the police, the department of health and human services, and the Jackman Law Firm so we can bring a case on your behalf against the nursing home to bring justice to you and your elderly loved one.

Nursing Home Malnutrition

Given the aging population in America, there are many elderly people who now live in nursing homes and assisted living facilities. The children of the elderly sometimes do not make it to see their relatives or parents as often as they would like, and when they do, they are very surprised to see their relative suffering from malnutrition, looking gaunt and underfed and unhealthy. When this is the case, the nursing home or assisted living facility should be held accountable for the damages to the elderly.

Reasons for Malnutrition in Nursing Homes

Malnutrition happens for a couple of different reasons. The most obvious and common reason that someone is suffering from malnutrition is that they simply aren't being cared for or looked-after enough by the nursing home staff and personnel.

The other reason is that the nursing home and staff is not giving the elderly person the right kinds of food and beverages to keep them healthy, which is a key distinction that needs to be understood: malnutrition is not just being underfed. It is also a case when someone is not being fed the right kinds of foods and beverages that can lead to malnutrition.

Nursing homes may put out the appearance of being caring and loving facilities that are intended to help care for people, the reality is that nursing homes are big businesses too and they are designed to make a profit, at least the for-profit nursing homes and assisted living facilities. Given this profit motive, many nursing homes become incredibly profitable by keeping their staffs as low as possible.

By minimizing staff and having as few people as possible to run their businesses, they ensure that they make profits greater than they would if they had the requisite number of people it takes to run the nursing home effectively. Or, another way a nursing home may cut corners and maximize their profits, is by failing to properly train or hire the right people for the job. And last, there are instances when the nursing home staff intentionally withholds foods and beverages from the elderly as a form of cruel abuse or as a way to exert control over the elderly person.

Signs of Malnutrition in a Nursing Home

All of us need good, healthy foods to sustain us. That includes enough protein, carbs, and healthy fats. The elderly are no different, but they may also need specialized foods and beverages as well that is uniquely tailored for them. Common and obvious signs of malnutrition are:

- Excessive weight loss
- Dizziness
- Loss of strength
- Mental impairment
- Fatigue or tiring easily
- Hair loss
- Depression
- Low blood pressure

The consequences of suffering from malnutrition over a prolonged period can be very damaging to the wellbeing and health of anyone, but especially the elderly. Obviously, if the elderly person suffers from malnutrition for a long enough period of time they could eventually and ultimately die. But even when there is not this level of extreme malnutrition, there can be really serious side effects including, but not limited to, kidney and liver failure or problems, problems with the pancreas, heart problems, muscle problems, depression, and complete organ failure. Obviously, given the stakes involved, going through malnutrition can be a devastating and life-altering ordeal.

Nursing Home Dehydration

When you place your elderly parent or loved one into a nursing home, it probably never crosses your mind that your parent or loved one could face abuse or mistreatment. You trust, however blindly, the nursing home or assisted living facility to properly care for the elderly. However, this is not always the case.

Sometimes these trusted facilities and nursing homes end up harming your loved one. In Texas, there are nursing homes and assisted living facilities that simply do not care enough for the elderly patients they have been tasked with caring for. This is a sad but true reality faced by many elderly who are confined to nursing homes and assisted living facilities. Dehydration of an elderly person can be especially devastating given that over 60% of our body is comprised of water. Our most vital organs, our heart and our brain, are more than 70% water.

Without water, the brain and body will die. The elderly can become dehydrated at a faster rate than younger people and thus, there need to be hydrated is even greater. Since the elderly who are in nursing homes or assisted living facilities may not be terribly mobile, possibly even confined to a bed or wheelchair, they are normally more dependent on the staff to administer the proper amount of fluids they need to remain healthy.

Signs of Dehydration at Nursing Home

There are some warning signs that you need to pay attention to in order to determine if your loved one or elderly parent is suffering dehydration. The main ways someone can become dangerously dehydrated are:

- Not receiving enough fluid
- Exercising
- Vomiting
- Diarrhea

In addition, if an elderly person is suffering from a serious medical condition, such as diabetes, they are also capable of becoming very dehydrated. How do you know if your loved one or elderly parent is suffering from dehydration?

Some common signs are if they complain of being very thirsty when you visit them, complain of a dry or cotton mouth, urine that is a very dark yellow or not going to the bathroom at all. Headaches and cramping are also strong indicators of dehydration. If the elderly becomes too dehydrated, then it can potentially kill the elderly. Kidney failure is often one of the consequences of not getting enough fluids, along with brain damage. Dehydration can be all the more devastating to an elderly person who is already in a fragile state of health with a host of problems and pre-existing conditions that often go along with old age.

Nursing Home Restraint

While many of nursing home facilities are perfectly fine and go years without incidents, on occasion there are issues at these facilities that lead to elderly loved ones being hurt.

One way that nursing homes and assisted living facilities injure their elderly residents is by restraining them unnecessarily. While restraining an elderly person may seem unthinkable to some, unfortunately it happens all too often. If an elderly resident is restrained, the nursing home has to have a compelling and legal reason to do so. If they don't, they can be held liable for the injuries the elderly resident might suffer at the nursing home or assisted living facility.

Types of Restraints in Nursing Homes: Chemical vs. Physical

While there are times when restraining an elderly person is necessary in a nursing home or assisted living facility, it is very rare. In 1987, a federal law was passed that made it illegal to restrain someone unless there was an exceptional medical emergency. Restraints, it should be noted, does not just include being strapped to the bed, as in a physical way, but it can also mean being restrained by unnecessary drugs or sedatives. It is unquestionably and legally considered abuse if there is no medical reason to restrain someone and that elderly nursing home resident is restrained anyway.

It is important to understand that there are two kinds of restrains: physical and chemical. A chemical restraint would be a sedative or medication that would put someone under. Unless the elderly resident's attending physician orders the person to be prescribed medication, then the nursing home or assisted living facility should not be administering any drugs.

Period. However, in reality, there have been cases where the nursing home has administered very serious and heavy chemical drugs to sedate elderly residents because it is easier to sedate a person than have to tend to their needs and care for them.

This is particularly true in nursing home and assisted living facilities where they are severely understaffed. A common form of chemical restraint could be, for example, valium or morphine if it is administered in a sufficiently high enough quantity that it simply knocks someone out and renders them unconscious.

A physical restraint could be any kind of physical impediment such as a chain, a rope, a strap, a vest, basically anything that forcibly confines someone to a bed or wheelchair against the will. Regardless whether the restraint is physical or chemical, in Texas, the elderly have the right to be advised of whether restraint is right for them and be free of such restraints if it is not.

Signs of Unlawful Nursing Home Restraint

Elderly nursing home residents are of course more vulnerable and more susceptible to being restrained than people who are not in such facilities. If you visit a loved one, parent, or relative at a nursing home or assisted living facility and notice one or more of the following, you will know there has been an improper use of a restraint:

- Cuts
- Bruises
- Lacerations
- Broken bones
- Fractured bones
- Welts or red marks on the skin

If you notice these on your elderly loved one, you need to immediately inform the management of the nursing home, inform the department of health and human services, the better business bureau, and the Jackman Law Firm so we can help you during your time of need. Those are the signs for an elderly person who has been physically restrained. If your loved one has suffered mental or psychological restraints, some of the signs or symptoms of this are an unfocused gaze, confusion, grogginess, a lack of memory, or any indication of mental impairment that is not part of the elderly person's normal character.

Any and all of these signs can be indicators of restrains that are improper.

Chapter Four: Nursing Home Falls

Nursing home falls can be very serious and happen to virtually any elderly person given their frail condition. Sometimes it is simply an accident that cannot be avoided, but in many other cases someone falls because of negligence or an oversight at the nursing facility where they are living. Falls at nursing homes can be very devastating to the elderly because of their frail, fragile, and vulnerable physical condition.

Nursing Home Fall Statistics

Of all the reasons the elderly are taken to the ER, nearly 40% of the time it is because of falls at a nursing home. In Texas, the average nursing home has about 100 beds and each nursing home will have as many as 200 falls in a given year. Various hazards in the nursing home make up about 25% of all the falls.

The most typical kind of hazard that leads to a fall that is within the control of the nursing home are slippery floors and not having enough staff members to properly monitor the elderly guests who are attempting to navigate the nursing home or assisted living facility. Other hazards include bad lighting, bad floors, and other items that are left on the floor and lead to people tripping or slipping and hurting themselves.

Common Injuries After a Fall at a Nursing Home

If a loved one has fallen at a nursing home and injured himself or herself, the injuries can be extensive and possibly life-threatening. The most common injuries an elderly person will suffer at a nursing home are:

- Broken bones
- Fractures
- Tailbone injuries
- Hip injuries that may necessitate a hip replacement
- Knee injuries
- Head trauma, including a traumatic brain injury
- Neck injuries
- Death
- Paralysis

These injuries will rarely just go away or heal on their own, especially when it is an elderly man or woman who might not have been in great health prior to the fall.

Nursing Home Choking Injuries

Putting your loved one into a nursing home can be a difficult decision. When you are forced to do this, you obviously hope that your elderly loved one will be placed in good hands and taken care of in a way that you would treat them if they were living in your home.

Choking injuries, unfortunately, may not cross your mind, but they do happen at nursing homes from time to time. Choking injuries can be very serious and even lead to death in some instances if the elderly person cannot stop choking. Many times these choking injuries are preventable. How does choking occur? It happens when food, of whatever kind, rather than going into the esophagus goes into the windpipe.

Staff members of nursing homes should all be well trained in basic CPR and other life-saving forms of first aid, including giving mouth to mouth and the Heimlich maneuver, but unfortunately not every staff member has received this kind of training. One of the main reasons for this is understaffing at the nursing home or a nursing home that has not properly trained their staff on how to properly address the needs of each individual resident. Choking injuries are very serious and can lead to death or brain damage if oxygen is cut off long enough to the brain.

Reasons for Choking at Nursing Homes

There are a number of reasons that an elderly person may end up choking at a nursing home. Some of them may be natural and some may be the result of a failure of the nursing home to properly watch over the elderly.

Another primary reason for choking with elderly people has to do with the fact that they do not produce as much saliva as younger people. Without the proper amount of saliva, the elderly are more prone to choke. Another reason for choking in the elderly has to do with the fact that many nursing home staff members are not as aware of the dietary restrictions of health needs of the elderly resident as they should be, which contributes to the elderly person's choking.

In addition to understanding this, it is equally important to understand exactly how your elderly loved one choked in the first place. Again, some choking incidents are simply unavoidable because of the condition of the elderly person, but many times there are ways to save the elderly person. Knowing the following can be important factors in understanding how the choking took place:

- Whether the choking incident occurred in the elderly person's own room or whether it took place in a kitchen or main dining area
- If the choking took place in a private room, was the elderly person alone or being fed?
- Was the food the elderly person choked on a food that the nursing home or assisted living facility's dietician or doctor recommend they eat or was it a food that was not approved?
- Did the nursing home or assisted living facility's staff call 911 and perform CPR or a Heimlich maneuver in a reasonably fast way or did they take their time, and did this delay lead to the choking person's injuries or death?

The nursing home or assisted living facility may or may not be especially forthcoming with this information. But obtaining this information is vital to understanding how your loved one was injured.

Chapter Five: Nursing Home Sexual Abuse

The elderly in nursing homes are often unable to protect themselves and are very vulnerable to others. Recently, there was a story that made national news about a woman who was in a coma, in a long-term care facility, who had become impregnated by a staff member of the assisted living facility where she was a resident.

This kind of shocking sexual abuse unfortunately does happen at nursing homes and assisted living facilities. It is not always easy to tell when an elderly loved one has been sexually abused if the elderly man or woman has dementia, Alzheimer's, or some other kind of age-related disorder.

Signs of Sexual Assault at a Nursing Home

If an elderly loved one has the ability to communicate to you about their treatment at the facility, then they can and should relate to you the mistreatment they have suffered, whether that is sexual or physical. However, sometimes they cannot do this, or they may be too shy, humiliated, or embarrassed to do so. Oftentimes, with sexual abuse there is a great deal of shame, humiliation, and even intimidation that can discourage people from speaking about their abuse. Signs to be alert for if your loved one has suffered sexual abuse are:

- Bruising in the inner thighs that have no obvious explanation, such as from a fall.
- Vaginal bleeding
- Behavior that is inconsistent with their normal attitude
- Emotions they do not normally display, such as crying
- An unusual desire to be clean, such as wanting to shower or bathe an inordinate amount.

If you have been able to confirm that your loved one has been sexually abused, the best thing to do is immediately call the police, assuming immediate medical care is not needed at the time, notify the nursing home management, contact health and human services for Texas, and notify the Jackman Law Firm so we can begin our investigation. While the police may not be overly eager to investigate, the Jackman Law Firm has the resources to help you when you need help most.

Sexual Assault Nursing Home Laws

If your loved one has been sexually assaulted inside a nursing home, then you need to understand how negligence laws operate in this state. In order to prevail in a negligence action, you must establish some key elements. First, you have to show the nursing home had a duty not to sexually abuse or assault your elderly loved one. Second, you have to show, with enough evidence, that a member of the staff of the nursing home or a fellow resident

did in fact sexually assault your loved, and finally you have to show that your loved one suffered damages, physical or emotional, from this breach of the nursing home's duty.

There is no question the nursing home or assisted living facility has a duty not to sexually abuse your elderly loved one. If this happens, and again you can produce evidence of this, your case will not be difficult to prove in terms of liability. All you will have to prove is the extent of your elderly loved one's damages. One way to do this, in addition to presenting physical evidence, is to show that your loved one suffered emotional trauma as well, perhaps by sending your loved one to a counselor or therapist.

However, if your loved one was sexually assaulted by a fellow resident of the nursing home, then you will have to prove that the nursing home either did know or reasonably should have known about the behavior of the fellow resident. This may or may not be easy to prove, depending on the particular circumstances of your case.

There may be video evidence of this assault or there may be key witnesses who can prove there is no way the nursing home could not have known about the assault, and worse, they did nothing to stop it. In some cases, the nursing home may have even attempted to conceal the sexual abuse. In any case, once you have established the resident assaulted your loved one sexually and you can show that the nursing home either knew or should have known, then you again have to prove the extent of your loved one's damages.