

NURSING HOME NEGLECT AND ABUSE

Nursing homes are a place where we place our loved ones in order for them to receive the care they need in order to live longer healthier lives. These individuals are often someone's mother, father, grandparent, or spouse. We entrust our family members to the care of nursing home, and the nursing home should be held to the highest standard of care. Unfortunately nursing home abuse is one of the fastest growing areas of personal injury due to the increase in number of nursing homes and large corporations caring more about the bottom line than the patient. This problem is not occurring just in run down facilities but rather is a national issue. According to study performed by National Institute of Health it was estimated that, "between 1 and 2 million Americans age 65 or older have been injured, exploited, or mistreated by someone whom they depended on for care." This area of law is a mix of: premise liability, product liability, nursing home liability, and medical negligence.

Why does it occur?

- Failure to conduct appropriate background checks for employees
- Inadequate staffing
- Inadequate training
- Violations of basic healthcare procedures

Abuse may include:

- Assault or battery by staff/patients
- Rough handling or treatment
- Verbal abuse
- Excessive force
- Improper medication
- Not enough food or water consumption

Neglect may include:

- Medical attention
- Sexual assault
- Weight loss
- Broken bones
- Bed sores
- Personal hygiene
- Slipping/falling

Law:

In Massachusetts the governing authority for the rights of nursing home residents is the Abuse of Elderly Person Act. (M.G.L. c.19A, §§14-26) Abuse has been broadly defined by the legislature as any knowing, intentional, or negligent act by a caregiver that causes harm to a nursing home resident. Negligent has been defined as when an injury or death results from a nursing home failure to use the level of care that another nursing home would have used in a similar circumstance. Nursing home residents in Massachusetts have a right to sanitary and safe living conditions. Under federal law a nursing home must provide the necessary care to maintain the highest practicable well-being for each resident.

Statute of Limitations → 3 years with Discovery Rule

Types of negligence: (prove a breach of duty by using expert and other witness testimony and detailed medical evidence)

- A) **Bed sores** – Bed sores are also known as ‘decubitus ulcers’ and occurs when someone is confined to a bed or wheelchair for an extended period of time. Usually occurs on the elbow, back, shoulder hip, buttocks, heel, and back of head. The patient is usually disabled and does not have the strength or mental awareness to move so the weight creates long term pressure.
- B) **Malnutrition and dehydration** – the nursing home will argue that pre-existing conditions caused the illness rather than malnutrition. Attorneys will have to conduct discovery to obtain the documentation of your family members medical history and staffing care records.
- C) **Understaffing** – Nursing home doesn’t have the appropriate number of personnel to tend to its residents and increases the likelihood of neglect and abuse.
- D) **Overmedication-** Does not need to be intentional in order to prove negligence. There needs to be proof that the person’s actions did not reflect the skill and capability expected of a reasonable professional in similar circumstances.
- E) **Physical/chemical restraints** – Nursing homes have been caught giving antipsychotic drugs intended for patients with specific mental conditions to a wide range of residents who did not need the medication in attempt to sedate them.
- F) **Sexual abuse-** Employers may be held directly liable if they did not exercise the appropriate care in hiring the employee who was ultimately responsible for the abuse or the carelessness that allowed the abuse to happen.



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G) Weight loss - Unexpected weight loss can lead to other complications, such as weakness, fatigue, and confusion. It may also exacerbate pre-existing conditions, such as diabetes and heart disease.