

A Nursing Home is Taken to Task
By Denice A. Gierach – January 2010

With a growing population that is aging, many elders spend the last year or two of their life in a nursing home. Many of the elders have to do this as they have Alzheimer's or dementia and their family is not able to care for the elder nor can they afford to be a full time caretaker in the elder's home. There have been many stories about the care they elders receive in a nursing home. Consider the series that *The Chicago Tribune* recently ran about the quality of care, the people employed by the nursing homes and the physical abuse that sometimes is part of life in some of the nursing homes in the Chicago area.

Recently, a jury in New York has awarded \$19 million to the family of a 76 year old man who died after several months in a nursing home where he developed more than 20 bedsores that went untreated. The verdict included \$15 million in punitive damages against the nursing home, apparently for altering medical records and covering up its lack of care.



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In New York, there is a statute that gives a private right of action for nursing home residents and also allows for punitive damages and attorney's fees and was recently amended to allow damages for pain and suffering that causes death. Illinois has a similar statute that allows for a resident to bring a court action against the owner or operator of a nursing home for intentional or negligent act or omission of their agents or employees which injures the resident.

In the New York case, the staff wanted the decedent to be immobile so he wouldn't get up, so he was restrained in a wheelchair. After a while, he was unable to walk, although he was supposed to be walked every day. As a result, he was confined to bed. After about five months he developed several raging bedsores that multiplied until they numbered over 20 at one point, which were never treated. In fact, the record was changed to look like there were no bed sores.

This can happen in any nursing home where the operator is not on top of what is going on. It is important for family to be actively involved in the care of the elder so that the elder does not have to endure the pain of this lack of care. After all is said and done, the \$19 million verdict in this case will not bring back the elder, nor compensate him in any way for his pain and suffering.

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