



# Is It Elder Abuse?

by Kippy Wroten

## Facing Fear When Selecting A Long Term Care Facility



We've all heard the horror stories and seen the headlines. Sound bites declaring "Fatal Neglect"

and "Chamber of Horrors" raise our eyebrows and draw us into the frightening stories of elder abuse. Reports of elderly who are beaten, starved, swindled, and stolen from drive our efforts to initiate social reform. The cry goes out for government action. Laws are enacted and the system churns.

As of course it should. Neglectful and abusive caregivers that prey on this vulnerable population should be targeted. Public awareness should be ignited for how we choose to protect our elders today will set the stage for how each of us will live in the future. Time is relentless and unforgiving. We all face the reality of "getting old".

Although elder abuse can take on a number of forms the "legal" term is generally used when there has been an injury to an elderly adult at the hands of a person occupying a position of trust. "Abuse" has many faces including financial, emotional, and physical. Abuse can occur in the family home

or in an institutional setting such as a nursing home or residential care facility. Criminal and civil statutes have been enacted to specifically redress the abuser. If the abuse is domestic and occurs at the hands of a family member or friend it is likely prosecution will be turned over to a governmental agency. If a private institution is involved however, the call will likely be to a civil lawyer.

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Civil elder abuse laws provide for recovery by private citizens of enhanced monetary damages which include awards for punitive damages and recovery of attorneys fees. The "Elder Abuse and Dependant Adult Civil Protection Act" also allows litigation of elder abuse claims after that person's death. The availability of these enhanced damages was designed by the state legislature to catch the attention of lawyers who

had historically ignored pursuit of elder claims due to their lack of profitability. As a result, a new cottage industry of lawyers specializing in elder law has emerged. Whether this recent infusion of attorneys into the elder arena promotes any positive changes, however, is something that has yet to be seen.

Family members faced with making decisions for the care of a loved one should remember some simple rules. Selecting a residential facility is only a first step to ensuring good care and your own peace of mind. Remember to visit your loved one often so you can personally observe their surroundings. Visit at different times to see what type of activities are provided. Ask questions and participate in meetings where care plans are discussed. Be realistic about your expectations and the challenges faced by the care provider. Note the telephone number of your Ombudsman and call whenever you suspect a problem. Remember that the right to sue a poorly performing nursing home should never be a substitute for your personal attention and aggressive intervention.

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