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Litigation Threatening Future of Nursing Home Industry

written by Kippy Wroten & co-authored by John Moser

Lawsuits alleging elder abuse are on the rise. This disturbing trend has created concern among health professionals and nursing facility administrators statewide as they struggle to maintain public confidence while addressing challenges presented by charges of inadequate government funding and industry-wide staffing shortages. Recent legislation and court decisions have both targeted nursing facilities as an effort to protect our elderly continues to gain heightened public attention.

Record-setting verdicts

A side effect of this increased public scrutiny has been felt in several record-setting verdicts over the past year. In 2001, an Arkansas facility suffered a \$78 million dollar verdict that was touted as the states largest ever against a nursing home. In December a Texas jury dealt a \$26 million dollar blow against a facility. Last year a California jury awarded nearly \$5 million to a plaintiff's family in Fresno. Florida facilities have endured the worst of this growing epidemic with multiple verdicts climbing to as much as \$20 million in recent years. In California the nursing home industry had already seen a dramatic increase in the average litigation award that rose from \$238,000 to nearly \$52500 in only a seven-year period of time through the mid-1990's. The overall negative effect of this tumultuous business landscape has been evidenced in the recent trend of bankruptcies filed by nursing home providers. As of December 2000, six of the nation's largest nursing home chains had fallen in Chapter 11 bankruptcy in just the previous fifteen months. In California alone, a striking 11 percent of nursing homes had filed for bankruptcy as of August 2000.

Of national and local concern

The continued availability of quality nursing home care for our elderly is both a national and a local concern as we all enjoy the benefit of an increased life expectancy. Government statistics verify that since 1900 the percentage of Americans living past the age of 65 has more than tripled from 4.1% in 1900 to 12.4% in 2000, now totaling more than 35 million. For example, a child born in 2000 is expected to live 29 years longer than a child born in 1900 and has an anticipated life expectancy of 76.9 years. More people are seeing their 100th birthday than ever before as a nationwide census counted 50,545 persons aged 100 or more in 2000, a 35% increase in only 10 years. More than half of those over 75 years of age report chronic health conditions that limit their activity with nearly 35% of the over 80 group requiring daily assistance from a care provider. In the absence of in-home family support, most will turn to a residential care facility.

Foundation for success

As new laws and financing issues are addressed to meet the need of future generations, today's elder care provider must actively engage steps that enhance resident services and otherwise protect facilities from devastating litigation. Up-to-date staff in-service sessions covering regulatory compliance issues and daily documentation of internal efforts taken to remedy problems are not only critical to resident care but will create the foundation necessary for ongoing business success.

For further information regarding this article, please contact Ms. Wroten at 949.788.1790 or e-mail her at: kwroten@wrotenlaw.com



Wroten & Associates, Inc.
Attorneys at Law