

State nursing home oversight lacking (11/15/06 KCRA Sacramento)

SACRAMENTO, Calif. -- Thousands have loved ones living in nursing homes throughout California, but a KCRA 3 investigation has exposed the state ignoring its own regulations, failing to properly investigate dozens of deaths, and bargaining over fines when nursing homes are caught breaking the law.

After living at the Applewood Nursing Home for more than a year, 85-year-old Earlie Woods fell down a flight of stairs.

Carole Herman, an advocate for nursing home reform, filed a complaint on behalf of the family. Herman said Woods was strapped into a wheelchair when she fell down the stairs and died as a result of her injuries.

Herman's complaint was filed with the state Department of Health Services, the agency responsible for overseeing, licensing and inspecting nursing homes throughout the state.

"The state found them to be in violation, and they were issued a Class AA citation," Herman said. It's the most serious violation and carries the maximum fine allowed by law -- \$100,000.

But here's the catch. The Department of Health Services reduced the fine by more than \$30,000. Even if a nursing home is responsible for the death of a patient, fines can be reduced by 35 percent if the nursing home agrees not to go to court.

"There should not be any type of bargaining situation here at all. These are human beings. These are our parents," Herman said.

KCRA 3's investigation uncovered that out of 21 Class AA citations issued in the last two years, not a single nursing home has yet to pay the maximum fine. In some cases, the fines were reduced by as much as \$35,000.

"Well, it tells the family that their loved one wasn't that important," Herman said.

KCRA 3's investigation also uncovered a backlog of cases -- more than 1,000 complaints of abuse and neglect that have not been investigated at all.

It's a state agency that's not doing its job, and a system that attorneys, advocates and a judge are describing as seriously flawed and in desperate need of repair.

Pat McGinnis is the executive director of Advocates For Nursing Home Reform.

"The system is absolutely broken. Our enforcement system in California is so broken it's going to take years to fix," McGinnis said. "The Department of Health Services over the last few years doesn't seem to care much about what the law says that they have to do."

McGinnis' group recently sued the Department of Health Services for failing to do its job.

"They have completely ignored the laws in many, many, many areas," McGinnis said.

For example, state law requires the Department of Health Services to investigate complaints within 10 days. But the agency is way behind, with complaints of neglect and alleged abuse often going unchecked for months at a time.

"In some cases, by the time the department would get out there to investigate the complaint the person was dead, and this is completely unconscionable and unacceptable," McGinnis said.

At least one Superior Court judge agrees.

In September, Judge Peter Busch placed the Department of Health Services under court order mandating the agency reduce its backlog by more than 40 percent. The department was given eight months to comply with the order.

The agency issued the following statement to KCRA 3:

"The California Department of Health Services intends to fully comply with the court's order. Gov. Schwarzenegger has committed more than \$20 million to establish 141 new positions in his budget to help strengthen the oversight of nursing homes and other healthcare facilities."

State law requires the Department of Health Services to have a section on its Web site where consumers can check out a nursing home's history, but once again, the agency has failed to make that happen.