



FATE

Newsletter of Foundation Aiding The Elderly

President's Message

HOW TO RECOGNIZE ELDER ABUSE

by Carole Herman

Elder abuse takes many forms, occurs in varying degrees of frequency and intensity and can range from outright violence to subtle psychological harassment.

Statistics uncover a frightening picture of elder abuse in this country. According to the U. S. House Select Com-

mittee on Aging, one of every 20 elderly people will be a victim of some type of elder abuse. As the elderly population multiples, so will the incidences of this horrific problem.

Unfortunately, the appropriate authorities empowered to protect the elderly in too many cases do not respond to elder issues. Therefore, the best way to

protect oneself and others is to be educated on what constitutes elder abuse and to be willing to take the necessary actions to protect the elder suspected of being abused.

There are four categories of abuse:



CAROLE HERMAN

Physical abuse... including physical and sexual assault, inappropriate restraints (both physical and chemical) and deprivation of food and water;

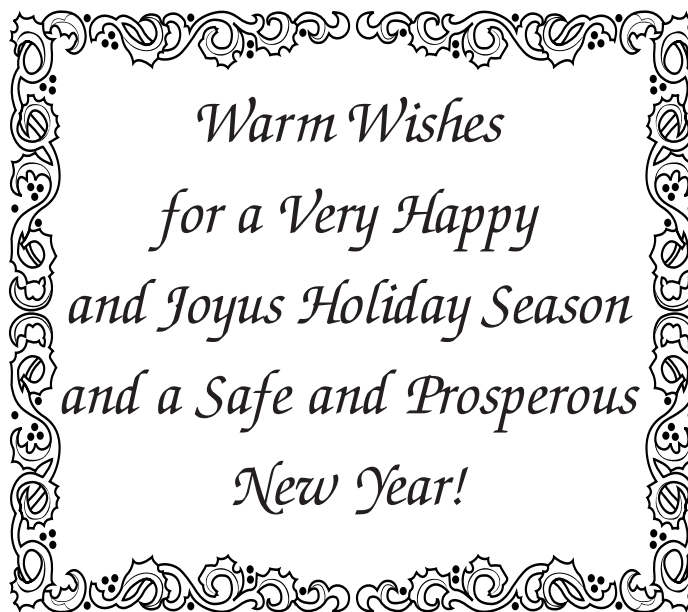
Psychological abuse... including verbal threats and harassment, emotional distress, withholding of emotional support and confinement;

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FATES MISSION IS:

"Assuring our elders are treated with care dignity and the utmost respect during their final years when they can no longer take care of themselves."

SERVICES FATE PROVIDES

- Direct & On Site Advocacy
 - Patient & Family Rights Advice
 - Elderly Service Referrals
 - Long Term Care Facility Evaluation
-

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UPDATE ON FATE'S PUBLIC INTEREST LAW SUIT CASES

In the last FATE newsletter, it was reported that FATE was in the process of filing public interest law suits on behalf of all patients in certain California nursing homes because the operators of those homes have failed to staff their facilities in compliance with the minimum staffing level required under California Health & Safety Code Section 1276.5. This law mandates a minimum of 3.2 hours of skilled nursing staff time per nursing home resident per 24-hour day. These suits seek injunctions which will force the nursing home operators through the courts to comply with the law. Failure to provide sufficient staffing in nursing homes has serious consequences and is the underlying cause of most of the preventable health problems experienced by nursing home patients, such as malnutrition, dehydration, pressure sores, abuse and neglect.

In the Consent Agreements, FATE is mandating quarterly audits by an independent auditor of all payroll records to insure adequate staffing. If, at any time, the auditor determines that the facility was or is out of compliance with the staffing requirements, the auditor will report violations to FATE. FATE may then bring a motion of contempt of court to enforce the provisions of the Consent Judgment.

FATE's purpose of bringing these public interest law suits is to force delinquent nursing homes throughout the state to comply with the legal minimum requirements for nursing staff in order to bring about better care for all nursing home patients.

How to Recognize Elder Abuse

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Financial abuse...including theft, embezzlement, fraud, extortion and coercion.

Neglect...including withholding of basic daily living necessities and medical care, failure to protect one from health and safety hazards and abandonment.

In nursing homes, acute hospitals, psychiatric facilities, residential care facilities and assisted living facilities, the appropriate place to file a complaint is with the state agency that licenses and monitors the quality of care in these facilities. Each state agency has a different name; thus, it is best to contact your state office on aging or your state legislative representative to obtain the name of the appropriate agency.

As well, a call to the local adult protection agency or police department will get some attention as long as you follow up to make sure the complaint is investigated and adjudicated and the necessary action is taken by the agency to insure the protection of the abused elder. As a complainant, you are entitled to receive the outcome investigative report and what action has been taken by the appropriate state agency.

If you are unable to get this information from the agency, call FATE and we will assist you.

"A man never stood so tall as when he stooped down to help a child or an elder person"...source unknown.

MEDICAL JOURNAL CALLS FOR A NEW DRUG WATCHDOG

The editors of the Journal of the American Medical Association have recommended that the nation consider establishing an "independent drug safety board" to track the safety of drugs and medical devices after FDA approval and widespread use. This recommendation followed in the footsteps of the recent withdrawal of the popular arthritic drug and painkiller Vioxx after it was linked to heart attacks. The pharmaceutical industry and the FDA reacted by challenging the need for a new safety board. However, the editors of the Journal argued that it was "unreasonable" to expect the same agency that approves drugs to "also be committed to actively seeking evidence to prove itself wrong". Consumers should be their own drug safety board and take control of their healthcare, which medication is a key factor. Consultation with a pharmacist about the adverse side effects of your prescribed medications is the best way to make an educated decision whether you take the medication or not. FATE recommends the drug reference book "Worst Pills/Best Pills", A Consumer's Guide to Avoiding Drug-Induced Death or Illness, written by Sidney M. Wolfe, M.D. and published by the Public Citizen's Health Research Group in Washington, DC. This reference book gives detailed information on medications and is written for the non-medical reader.

WHAT IS ADVOCACY

"Advocacy; the function of an advocate; pleading in support of advocate; Latin advocatus ; a person who pleads, intercedes or speaks for another: see avokey "to call a cause to a higher tribunal"

Advocator; " a patron saint; a person who advocates something."

HOW TO OBTAIN MEDICAL RECORDS

Over the years, FATE has received calls asking how one might get copies of medical records. Sometimes these calls come directly from the person who wants to get copies of their own records. Sometimes the call comes from the holder of the durable power of attorney for someone who is incapable of obtaining the records.

Code of Federal Regulations, 42 CFR Sec. 483.10(b)(ii), allows you or the holder of your durable power of attorney to obtain copies of all of your medical records. This regulation states that you are entitled to receive these records within two (2) business days of your written request.

VISITATION RIGHTS

Many nursing homes post visiting hours. Sometimes, family members assume or the facility states, that those visiting hours apply to all visitors to the facility. However, immediate family or other relatives of the resident are not subject to visiting hour limitations or other restrictions not imposed by the resident, federal regulations 42 CFR Sec. 483.10(j)(1)(viii). A facility must permit immediate access to a resident by a family member at any hour of the day or night, without regard to any visiting hours established by the facility. In fact, it may be a good idea for family members to make some visits during off hours to monitor the care given to their loved one. Very few reasons exist for a facility to completely stop visitation. The facility may only ban visitors if there is a court order barring the visits.

DENTAL PLAQUE LINKED TO PNEUMONIA IN NURSING HOME PATIENTS

A recent study by a University of Buffalo doctor has revealed that better oral hygiene, including good regular tooth brushing, may lessen nursing home residents' chances of developing pneumonia. The study traced germs from dental plaque to the lungs of patients with the potentially fatal illness and concluded that dental plaque is a reservoir of respiratory pathogens that can be inhaled into the lungs and lead to pneumonia.

The study, funded by a grant from the American Lung Association, followed 49 nursing home patients admitted to the intensive care unit of a Buffalo hospital. The patients' plaque was tested upon admission and the patients were watched for signs of pneumonia. Fourteen of the patients developed pneumonia while in the hospital. Genetic testing found that the bacteria in the lung fluid of those patients matched the bacteria found in their dental plaque when they were admitted.

Dr. Mark Rosen, chief of Pulmonary and Critical Care Medicine at New York's Beth Israel Medical Center, and president-designated of the American College of Chest Physicians, stated that "this really made the case that

the bacteria in the mouth precede those that you see when the pneumonia sets in making the case this is how people get pneumonia."

The problem will only get worse as the population ages and more people end up in nursing homes. It has been a published fact that dental care is lacking, if not missing, in nursing homes. Brushing, flossing and regular dental visits, the same oral hygiene formula recommended for the general population, should continue in nursing homes. One of the problems with the lack of dental care is that the nursing homes are insufficiently staffed and the Certified Nursing Assistants (CNA), who provide the majority of the hands-on-care of the patients, do not have enough time to care for the patients' needs in order to give each patient proper care.

People forget about the teeth and the importance of dental hygiene. For those of you who currently have loved ones and friends in nursing homes and other types of long term care facilities, be sure to check the teeth and inside of the mouth to insure oral care is being provided.

NURSING HOME COMPLAINTS

One of FATE's services is filing complaints with the state regulatory agencies on behalf of nursing home, residential care and acute care hospital patients and residents. Some of these complaints result in the Department of Health Services citing these facilities for violations of Federal and State nursing home regulations. The following are the results of some of those complaints.

Arden Rehab & Health Center, Sacramento, CA...Class A Citation, \$18,000 penalty. Failure to provide adequate nutrition and hydration causing patient to be hospitalized for treatment of renal failure and acidosis; failure to identify care needs; failure to notify physician and family of inadequate nutrition and hydration; failure to implement policies and procedures regarding physician notification of change in condition. Deficiency... failure to provide sufficient nursing and related services to prevent avoidable declines of standards of care; failure to provide sufficient staff to provide meal service.

Arden Rehab & Health Center, Sacramento, CA..Class A Citation, \$18,000 penalty. Failure to follow physician's orders regarding fluid and nutrition. As a result, patient became dehydrated and required admission to the acute hospital for treatment. Violation presented either an imminent danger that death or serious harm would result or a substantial probability that death or serious physical harm would result.

Arden Rehab & Health Center, Sacramento, CA...Deficiency...Harm level..failure to prevent bed sores, weight loss, dehydration and insufficient staffing.

Auburn Gardens Care Center, Auburn, CA...Class A Citation, \$20,000 penalty. Failure to ensure patient received adequate supervision to prevent accidents by pushing patient in her wheelchair in an unsafe manner. The violation presented either imminent danger that death or serious harm would result or a substantial probability that death or serious physical harm would result.

Briarwood Health Care, Sacramento, CA ...Class B Citation, \$1,000 penalty. Failure to develop a care plan; failure to administer treatments to pressure sores; failure to implement physician orders; failure to notify physician of change of condition.

Churchill Estates Assisted Living, Eugene, OR...Deficiency. Failure to ensure residents were not verbally abused by staff.

Claiborne Healthcare, Shreveport, LA...Deficiency. Failure to ensure radiology services by failing to ensure xray services were obtained for a broken arm.

Fair Oaks Estates, Fair Oaks, CA...Deficiency. Failure to follow physician's orders on administration of medications.

Heritage Convalescent, Sacramento, CA...Deficiency. Failure to follow policy regarding pain assessment; failure to meet California Code of Regulations pertaining to written care policies and procedures to ensure patient care goals are achieved.

Las Villas Del Norte, San Diego, CA..Deficiency. Failure to provide sufficient staffing and failure to implement necessary procedures to prevent scabies.

Lincoln Care Center, Lincoln, CA...Deficiency. Failure to provide medical records according to federal regulations. Failure to maintain outside walkways in good repair, which resulted in patient tipping over in wheel chair causing injury to patient's head.

Manor Care, Citrus Heights, CA...Deficiency. Failure to develop a patient care plan to prevent dehydration; failure to document patient's fluid intake and output per physician orders; failure to document patient's meal intake; failure to correctly document patient medications and failure to answer patient call bells in a timely manner.

Manor Care, Citrus Heights, CA...Deficiency. Failure to return monies owed patient within time period under California Health & Safety Code.

Mercy San Juan Hospital, Sacramento, CA...Deficiency. Failure to follow a care plan and failure to implement its policy and procedures regarding management of patients in restraints...no doctor's orders for physical restraints.

Newport Bay Hospital Psyche Unit, Newport Beach, CA. Deficiency. Failure to obtain consent for administration of psychotropic medications.

Sierra Hills Care Center, Sacramento, CA. Deficiency. Failure to comply with transfer procedures and failure to submit a proposed relocation plan to the State of California 45 days prior to transfer of patients.

St. Edna's Rehab and Health Center, Santa Ana, CA...Class B Citation, \$1,000 penalty. Failure to prevent dehydration. Deficiency. Failure to identify patient's care needs after developing side effects from medications.

St. Rose Hospital, Hayward, CA...Deficiency. Failure to implement written policies and procedures on physical restraints.

St. Rose Hospital Skilled Nursing Facility, Hayward, CA. Deficiencies. Failure to implement its written procedure to notify a patient of non-coverage of services and right to request a review by the designated peer review organization. Failure to maintain its environment from vermin, such as ants, through an effective pest control program.

SunBridge Brittany Healthcare, Carmichael, CA...Deficiencies. Failure to prevent scabies and failure to notify physician of a change in condition.

SunBridge Care & Rehab for Carmichael, CA...Deficiency. Failure to employ sufficient nursing staff to provide a minimum daily average of 3.2 nursing hours per patient.

Woodside Healthcare, Sacramento, CA...Deficiencies. Failure to implement care needs of patient; failure to assess new patient within seven (7) days of admittance; failure to administer medications as prescribed; failure to follow physician orders; failure to inform patient of health status; failure to allow person of patient's choice access to facility; failure to provide appropriate bed to prevent a hazard to patient; failure to properly staff facility.

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FATE is a 501 (c) (3) nonprofit so your donation is fully tax deductible.

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Sincerely,

