Death by Nursing Home

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DEATH BY NURSING HOME – THE REALITY IN LONG TERM CARE

One in Three nursing home residents will be harmed through medication error, preventable infections, lack of or substandard care and abuse. One in three...

In 2013, over 8 million people receive support from the 5 main long-term care service; home health agencies, nursing homes, hospices, residential care communities and adult day service centers. This number is expected to increase exponentially as our aging population matures.

In a report released by the Office of the Inspector General, reviewing physicians found 59% of the errors and injuries were preventable. Additionally reviewing physicians found much of the preventable harm was attributed to substandard treatment, inadequate resident monitoring and failure or delay of care. More than half of those harmed had to be admitted or readmitted for hospitalization. The cost for this? A whopping 208 million dollars in Medicare funds for the single month used in the study or 2.8 billion dollars spent for this preventable harm in 2011 alone.

Financial cost aside, the cost in human suffering is immeasurable. A new study indicates that there is a significant mortality rate that occurs within the first six months of admission. While there is a debate as to whether this is due to social selection (high mortality is expected because the population being admitted is already dying), or due to the lack of psychosocial and substandard care, it is factual that a resident is far more likely to die in the first six months in a for profit facility than in a non-profit facility.

There rarely exists any state or federal requirement for long-term care facilities to report adverse effects beyond falls, neglect and abuse. States attempt to use these three categories for all adverse effect issues with poor result. Most states require facilities to have some form of internal investigative procedure; however, unless there is a complaint, there is no safeguard that the facility is following its own procedures. State investigators

have neither the time nor the inclination to do the serious in-depth analysis that can be required to find the facts in an adverse effect case unless there is a death or obvious severe harm has occurred. The insidious abuse, neglect, substandard care generally goes without any notice.

This failure to document poor or substandard care leaves not only the general public, but also medical investigators blind to the actual causation of injuries, illness and death. In order to determine if there was actual harm, the medical investigator must look very closely at the entire clinical file presented by the nursing home and outside providers. The investigator also must know what is missing, what should be in the record and is not.

While state investigators may not find the nursing home at fault, a careful review of the complete clinical record can be revealing. In one case, state investigators found no failure in care for a resident undergoing short-term physical therapy recovery that had a serious fall resulting in a severe and fatal head injury, while independent medical investigators found that the nursing home had not given ordered diabetic medications since admission six weeks earlier. In another case, the nursing home failed to obtain and administer anticoagulants to a resident admitted for short-term recovery from pulmonary embolism. Both of these errors led to the eventual death of the respective patient. In both of these cases, the elder involved had been living an independent life until admission to a nursing home.

Resident abuse is even more undetected than the obvious medication errors. As many nursing home residents have some form of cognitive dysfunction, the ability to communicate abuse by staff and other residents can be very limiting. Additionally, many have no immediate family who will question the care their loved one is receiving or if they do have family, the family believes what the facility tells them. After all, they are medical providers; they wouldn't lie, would they?

In a case in Texas, a resident died after allegedly falling from a wheel chair three months after admission. The trauma nurse at the local hospital documented every bruise, scrape,

bite mark, and fingernail mark on the resident. The fall was dutifully reported with no investigation by the state. State surveyors “accidentally” found this abuse six months later during a yearly review. Sadly, other than a stiff penalty from the state (which was negotiated down to practically nothing), there was no other action taken, as the resident had no surviving family. No nurse or staff had a license referral to the state board and no criminal action was taken. In fact no action was taken against staff whatsoever.

In several cases in Oregon, facility documentation never mentions any injuries in the clinical record nor do they document any internal incident reports. However, hospital records show a clear pattern of abuse. The abuse in each case went completely undetected until after the resident died and the surviving family members began to question the facility's story.

In each of these cases it fell to independent nurse investigators/ legal nurse consultants to find the facts. Sometimes those facts are found more by what the nursing facility omits as much as what is documented and it requires a trained medical investigator/legal nurse to uncover the adverse action of the nursing facility. In these cases the medical investigator/legal nurse becomes an invaluable tool for the litigating attorney.

These situations require the surviving family members to retain an attorney in hopes of finding out what actually occurred. Without an expert litigator and a medical investigator the surviving family members are left without any recourse but to accept what they were told by the nursing facility and bury their loved one in silence.

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We bring expertise and experience in nursing home cases, uncovering all the potential issues and deviations from the standards of care.

Bibliography

Center for Disease Control and Prevention (2013) Long- Term Care Services.
http://www.cdc.gov/nchs/data/nsltcp/long_term_care_services_2013.pdf

Department of Health and Human Services, Office of Inspector General (2014)
http://oig.hhs.gov/oei/reports/oei-06-11-00370.pdf

Hospitalization and Mortality Rates in Long-Term Care Facilities: Does For-Profit Status Matter?
Tanuseputro, Peter et al.
Journal of the American Medical Directors Association, Volume 16, Issue 10, 874 - 883