

# Nursing Home Patients

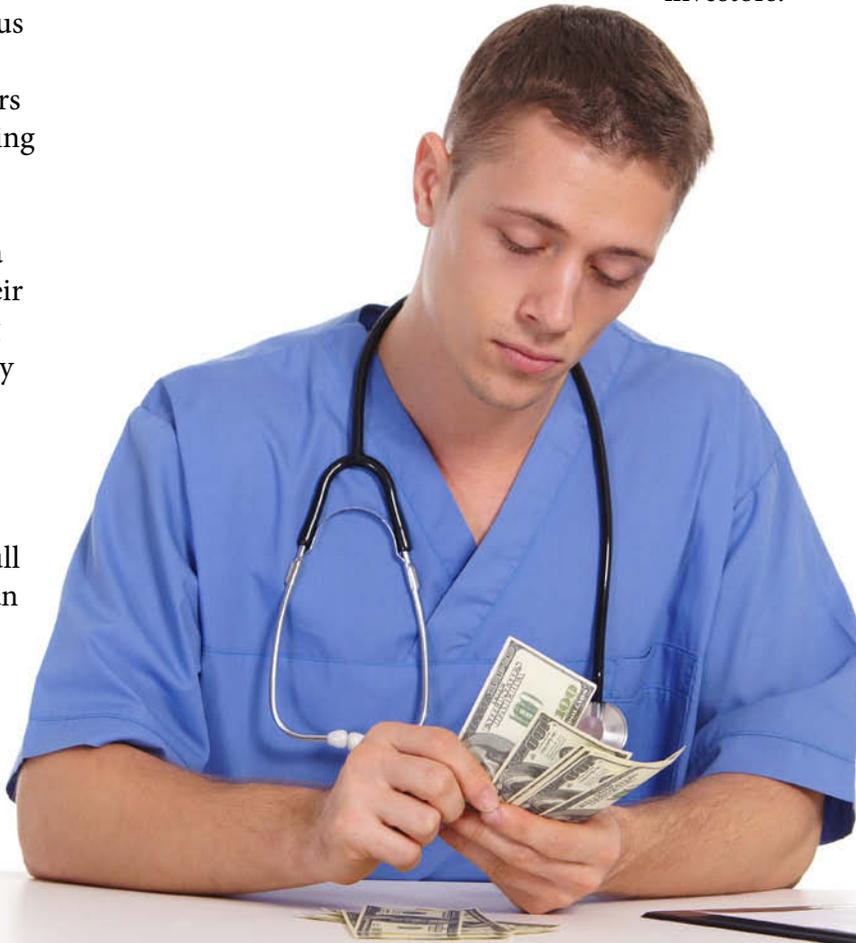
## Legal Protection to Assure Their Rights Are Not Violated

by Jonathan Rosenfeld



The past decade has brought major changes to the nursing home industry in terms of the entities that actually own and operate the facility. Today, local nursing home operators are a scarce commodity as an influx of corporate owners have besieged the industry in an attempt to capitalize on an expanding elderly population in the United States. Presently, more than 60% of nursing homes are owned by 'for-profit' corporations that may have no knowledge of skilled nursing care-- except that the industry is subsidized by various government reimbursements that create a recession-proof business model for themselves and their investors.

As corporations focus on turning a profit and keeping investors satisfied, some nursing homes place a great emphasis on two factors which have a direct impact on their bottom line: staffing levels and occupancy rates. When these criteria are kept at opposite ends of the spectrum—low staffing levels and full occupancy—they can transform a skilled nursing facility into a cash-generating machine.



The deliberate decision to create an environment where the least amount of care is provided to the greatest number of patients creates an environment that is ripe for patient injury and neglect. Unrealistic responsibilities (and a heavy patient load) put upon staff at a nursing home results in basic patient needs getting delayed or completely ignored. On a cumulative basis, ignored patient needs may result in readily preventable complications such as: dehydration, malnutrition, falls or the development of bed sores.



Twenty-five years ago, a nursing home bill of rights (Omnibus Budget Reconciliation Act of 1987) was created by the federal government to ensure that each of the one million-plus people receiving nursing home care could “attain and maintain her highest practicable physical, mental and psycho-social well-being.” The OBRA



legislation theoretically provides great ammunition for patients who have been mistreated by clearly enumerating the legal obligations of the facility. However, from perspective of day-to-day operations, legislation fails to provide the guidance necessary for facilities to implement the care that is compliant with the spirit of the Act. Put simply: the Act does little to prevent dangerous situations from occurring in the first place.

Long after the OBRA legislation has had an opportunity to take hold, a recent federal survey on nursing home safety paints a uniformly dismal picture of the type of care provided in nursing homes. In 2008, more than 94% of nursing homes had been cited for some type of health and safety violation that threatened the welfare of patients living at the facility!



Given the prevalence of safety issues, nursing home patients can wait no longer for legislatures to come to their defense. It is important for families with loved ones at facilities to keep a keen watch over their loved ones. Here are several considerations to keep in mind both in the process of selecting a facility and in situations where the care has become suspect:

- Request a meeting with the administrator to voice initial concerns
- Take a look at the *Medicare Nursing Home Compare* website which has information-- on safety inspection and staffing levels for more than 16,000 facilities
- Be an informed consumer, ask the facility about concerns you may have head-on
- Report injuries or mistreatment to the Department of Health within your state-- the report will trigger an investigation and violations will become part of the facilities record
- Ask to review your family member's medical chart. Provided you are given authorization from your family member, you are entitled to see this document
- Trust your instincts, if you feel that the facility may not be a proper fit, don't assume that things will change. Seek out a different facility.



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