

Personal Injury Law Podcast

by Rosenfeld Injury Lawyers

Drug and Alcohol Rehabilitation Abuse: Legal Claims for Sexual Abuse

Jonathan Rosenfeld:

Hello. Thank you for joining me today. I am Jonathan Rosenfeld and today on the Personal Injury Podcast, I am joined by my colleague, Marty Gould, and we are going to talk a little bit about an emerging area of litigation, which is abuse in a drug and alcohol rehabilitation facility. Marty, first off, thank you for joining me today.

Marty Gould:

Thanks for having me on, Jon.

Jonathan Rosenfeld:

Now, one of the areas that's really come out in the past few years in terms of medical treatment, is this whole concept of drug and alcohol rehabilitation facilities for people who may have had substance problems as children, as adults. And a lot of these facilities have opened up across the country. They promise everyone an opportunity, in a lot of situations, to get clean, get sober during a short term rehabilitation stay, where they live in a facility for maybe a 30 day, 60 day, 90 day period. And unfortunately, one of the things that we're seeing here, which is really no different than abuse in other closed environments, such as a boarding school, is we're seeing the instructors and some of the other supervisors involved, mistreat these people who may be in a particularly vulnerable situation and very difficult time in their life.

Jonathan Rosenfeld:

What have you seen in terms of your experience? What are you seeing in terms of abuse and mistreatment in these institutions?

Marty Gould:

Well, Jon, substance abuse has become a national epidemic. The national survey on drug use and health, estimates that 20.7 million people needed substance abuse treatment in 2017. So a lot of these people are going to facilities, whether it's a live-in facility or a day facility, to get treatment so they can get on the right path. And what I've seen in some of our cases is whether it's an unknown rehab center or a small one up in to the most prestigious ones throughout the country, is that you'll have a staff member or a counselor take advantage of these vulnerable people and engage in sexual relationships, which are prohibited or should be prohibited by every institution, because they know these people are vulnerable. And it derails them. They start using drugs again

because of it, or they're out doing things that they're not supposed to be doing, with the counselor.

Marty Gould:

And some of the cases that we have, the counselor or the staff member was engaging in a relationship with the patient, financially exploits them. Ask them for loans, "Can I borrow a thousand dollars?" That turns into 15,000. That turns into \$50,000 and they find ways to take advantage of these people. And if any anything like that happens, you have a potential legal claim against the individual and the entity. They have to make sure that there's policies and procedures in place to protect their patients and to make sure this type of thing doesn't happen. They're aware that it can happen and that the patients are uniquely vulnerable.

Jonathan Rosenfeld:

You know, I think one of the really sad things in these situations is the fact is, as you just stated, the emergence of these facilities out there, the growth of this industry, has really expanded way beyond the capacity of any state's legislatures to implement any laws or safeguards to protect patients at these facilities. And so what we're seeing right now is a lot of times, states are playing catch up in terms of trying to apply laws and regulations to these facilities that may have essentially gone unregulated for some time. But at the end of the day, as a victim of abuse, you still have the ability to pursue a civil claim against the institution, just as if you're the victim of abuse in a church set.

Jonathan Rosenfeld:

Can you talk a little bit about what's involved in terms of civil claims for victims of abuse in a drug or rehab facility?

Marty Gould:

Sure. Jon, as you mentioned, the federal government doesn't really have an official definition of what constitutes a drug treatment or rehabilitation center. So, the licensing can vary from state to state, and unlike in a doctor's office or a medical facility, drug rehab facilities are treated like businesses under the eye. They're not as closely regulated. But they still have duties that they owe their patients. There's still obligations, rules that they have to follow based off just the standards in the industry, and the violation of those standards, like permitting a staff member or counselor to engage in sexual relationships or financially exploit patients, serves the basis for liability, and we file claims of negligence. Failure to adequately screen or negligent hiring of a staff member, negligent supervision, failure to investigate. We even had a counselor at one of these facilities, disclose confidential information to a patient's spouse when the relationship went sour. That's a violation of countless roles. One is, you can't have a relationship with your patient and two is, you certainly can't disclose confidential information to any third party.

Jonathan Rosenfeld:

I think it's important to realize that in these situations, it's not just episodes of sexual abuse that give rise to civil claims. It can be other privacy violations. It can be other situations involving defamation of character. These cases typically go way beyond some of the more traditional sex abuse claims that you and I handle, correct?

Marty Gould:

That's correct. There's nine different types of negligence and abuse that can occur in a drug treatment center. And the key to the equation there is that these people are uniquely vulnerable. They're there to get help, and it's very important to make sure that the policies and procedures are in place to ensure that they do get that help, and that they're not exploited and abused.

Jonathan Rosenfeld:

Well, Marty, this is really an area of litigation that unfortunately, I don't think we're going to really be hearing the end of any time soon. But I really appreciate your time, and I'm going to look forward to talking with you about these situations, if it comes up in the future. Thank you.

Marty Gould:

Thanks for having me on, Jon.