Guide for Nursing Home Abuse and Neglect Victims

What You Need to Know to Protect Your Legal Rights and Get Every Dollar You Deserve.

We have a proven track record of success helping victims of negligence and abuse. We provide each client with aggressive and compassionate representation.

Hupy and Abraham s.c.
personal injury lawyers

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It is a difficult decision to place a family member into a nursing home. But when that difficult decision must be made, families trust nursing homes to provide necessary care, treatment and respect to loved ones, who often cannot act for themselves. That is why it is so shocking when family members learn their trust has been betrayed and a resident has been neglected or abused.

If you are reading this booklet, your loved one may have been a victim of nursing home neglect or abuse. If so, the most important steps are the ones you take immediately after discovering the neglect or abuse.

At Hupy and Abraham, S.C., we can help you during this troubling time so you can make the most informed decisions. Many victims and families feel overwhelmed by the flood of emotions and decisions affecting them. If that is the case, consult with an advisor who can evaluate your unique situation and provide advice about what to do next. For decades, the experienced attorneys at Hupy and Abraham, S.C. have done just that. We’ve protected our clients’ rights and made it our mission to work tirelessly to obtain compensation for their suffering.

Why Hire a Lawyer?
The imbalance of power after an incident of abuse or neglect in a nursing home is obvious. The victims and their families are vulnerable, while the nursing home industry and insurance companies have the upper hand.

Abuse and neglect cases require an understanding of nursing home care and the relevant law. At Hupy and Abraham, S.C., we’ve made it our business to represent you and families such as yours with compassion. We have an experienced legal and medical team who will investigate your unique case and provide you with much needed guidance. You can rest assured we will represent your best interests and work hard until you’re awarded a complete and fair settlement.

“They truly cared for me. They did not solely want my money. They wanted to make sure I was taken care of. I loved working with Hupy and Abraham, S.C. I enjoyed how they stayed completely professional while still taking care of me. Thank you all very much.”
– R. Miller

NOTE: What is referred to in this guide as “Nursing Home Abuse and Neglect” includes not just nursing homes but extends to all long-term care provider abuse and negligence claims. These include: assisted living facilities, adult family homes, group homes and in-home care providers.
UNDERSTANDING NURSING HOME ABUSE AND NEGLECT CASES

First, you must understand the difference between medical malpractice and nursing home abuse and negligence. Medical malpractice cases typically deal with separate acts of negligence, such as a failed surgery or a missed diagnosis. The sad reality of nursing home abuse and neglect incidents is that they do not tend to happen overnight. They typically represent a consistent pattern of poor supervision and inadequate care. For example, a wrongful death because of neglect resulting in fatal bedsores does not happen in one day.

Nursing home abuse occurs when a staff member intentionally causes pain or injury to a victim. Nursing home neglect occurs when a facility and/or its staff fails to provide the care necessary to prevent pain or injury.

Examples of Abuse:
- Physical abuse
- Emotional/psychological abuse
- Sexual abuse
- General rough handling

Examples of Neglect:
- Avoidable bedsores
- Falls
- Dehydration or malnutrition
- Medication errors
- Improper monitoring
- Lack of assistance or staff inattention

If you suspect your loved one is being abused or neglected, it needs to be investigated. Nursing home abuse and neglect can manifest itself in many forms and may or may not result in death.

- **The lack of an individualized care plan.** All residents should have a comprehensive care plan that is created with the client, family members, nursing home staff and doctors. If an individual plan for each resident is not developed and implemented, it could result in incorrect or inadequate care and lead to harm.

- **Unsafe food storage and preparation.** A facility’s staff should use sanitized utensils and protect food from contamination when transporting meals from the preparation area to dining areas. Failure to do so can expose residents to foodborne illness and infection.

- **Insufficient number of appropriately trained staff.** Since government funding is given at a flat rate to facilities, they receive money per resident. As a result, these facilities try to place as many residents as possible at a location. Then, because of the high ratio of residents to staff, the quality of care deteriorates.

FACT:

Almost one-third of nursing homes in the United States were cited for violating federal regulations that could have led to the actual harm of a resident during a two-year period.
Be Aware of Factors That Contribute to Abuse and Neglect

- **Understaffing.** If a facility fails to provide enough staff to reasonably care for its residents and their specific needs, it may be negligent.

- **Poorly trained staff.** Nursing home staff members do not have easy jobs. They often need to take care of people with complicated medical and nursing needs, and they need to be trained to provide appropriate care for all residents. If the facility does not ensure its staff is appropriately trained, and that lack of training leads to an injury, it may be negligent.

- **Negligent staff.** The correct number of staff may be on duty and they may be appropriately trained. However, they may not be providing residents with adequate care and residents may be harmed as a result. Both the staff and the facility could be legally responsible for any injuries a resident suffers because of a staff member’s negligence.

- **Abusive staff.** Sometimes staff is not negligent, but rather physically or psychologically abusive. If a resident has been hit, sexually assaulted, threatened or otherwise intentionally hurt by a staff member, both the staff member and the facility are liable for any significant injuries the resident has suffered.

If You Suspect Abuse or Neglect, Remember Residents Have Rights

Congress passed the Nursing Home Reform Act in 1987 requiring all nursing homes to “promote and protect the rights of each resident.” In order to participate in Medicare or Medicaid funding programs, facilities must meet federal residents’ rights requirements. A resident should never decline in health or well-being as a result of the way a nursing facility provides care. Facilities must “provide services and activities to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident.”

**THE 10 RESIDENT RIGHTS ARE:**

1. The right to freedom from abuse, mistreatment and neglect
2. The right to freedom from physical restraints
3. The right to privacy
4. The right to accommodation of medical, physical, psychological and social needs
5. The right to participate in resident and family groups
6. The right to be treated with dignity
7. The right to exercise self-determination
8. The right to communicate freely
9. The right to participate in the review of one’s care plan
10. The right to voice grievances without discrimination or reprisal
PROVING ABUSE OR NEGLECT

Remember, nursing home cases are complicated. In order to pursue a claim, we must be able to identify abuse or neglect. A quality facility should be competent in meeting residents’ individual needs, though sometimes injuries can be caused by unforeseen factors with no explanation.

That being said, there are many common injuries, characteristic to nursing homes, that are caused by negligence and typically can be prevented if a facility administers appropriate care.

PREVENTABLE INJURIES MAY INCLUDE:

• Falls causing broken bones or head injuries
• Bedsores or related infections, such as septic shock or gangrene
• Burns
• Strangulations
• Sexual/physical assault or abuse
• Severe malnutrition and/or dehydration
• Restraint injuries
• Transfer, gait assist or wheelchair-related injuries
• Elopement (unsupervised leaving) or wandering-related injuries
• Medication errors
WE’LL FIGHT FOR YOU

You can rely on Hupy and Abraham, S.C. to protect and serve your needs. This guide provides valuable information to help you make important choices and take the necessary precautions to protect your loved ones. By hiring Hupy and Abraham, S.C., you get representation with a solid reputation for getting results. We are top rated and have been selected year after year as the Best Personal Injury Lawyer in consumer polls.

Hupy and Abraham, S.C. has a large staff of attorneys, medical professionals and legal support personnel ready to help you when serious abuse or neglect occurs. They have decades of experience successfully handling these sensitive types of cases.

**Attorney Tom Kyle** represents victims of serious injury and death. He has been granted the coveted AV rating by Martindale-Hubbell (an AV rating indicates that fellow lawyers and judges have rated him at the highest level of skill and ethical standards). Attorney Kyle is also a member of the Multi-Million Dollar Advocates Forum, an honor bestowed upon the top trial lawyers in America who have successfully handled claims with significant value. His passion is honing his trial skills to enhance the value and juror appeal of his clients’ cases. He frequently travels throughout the country to present complex liability and damages cases and consult with nationally recognized trial consultants.

**Attorney Terese Halfmann** is a registered nurse and attorney who earned her law degree and Master of Science in Nursing from Marquette University. She joined the firm to focus specifically on nursing home abuse and neglect cases. Before becoming an attorney, she worked as the head nurse of an intensive care unit and as a clinical instructor at the Columbia School of Nursing and Marquette University, as well as Assistant Professor at the University of Wisconsin - Milwaukee. For more than 25 years, Attorney Halfmann has used her extensive nursing and legal knowledge to assist victims of nursing home negligence. With her background, she knows exactly how to help families who’ve been wronged by negligent care facilities.

**At Hupy and Abraham, S.C., Our Partners Are More Than Just Names on a Wall**

**Attorney Michael F. Hupy** is the senior partner at Hupy and Abraham, S.C., overseeing 11 offices in three states. Through Attorney Hupy’s leadership during the past three years, the firm has donated more than $500,000 to worthwhile organizations and causes. In December 2008, Wisconsin Governor Jim Doyle presented Attorney Hupy with a Certificate of Commendation for years of leadership making “the community a better place to live.”

**Attorney Jason F. Abraham** began his career with Hupy and Abraham, S.C. in 1993 and was promoted to shareholder in 1999. Attorney Abraham’s proficiency in handling personal injury matters attracts clientele from across the nation. He has settled or tried personal injury cases with a combined value of approximately $200 million and resolved many cases for over $1 million each. His expertise in personal injury matters has granted him lecturing opportunities in numerous states across the nation.

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Other Law Firms May Compare Themselves to Hupy and Abraham, S.C., but Our Community Tells the Real Story

“I truly appreciate the work, patience and care you gave me during my case. From the first call and meeting, during times of great duress, your firm made sure I was comfortable and in good hands. Thank you for your hard work and efforts.”
– Wendy

“Hupy and Abraham, S.C. is committed to philanthropy. In 2011 the firm donated over $150,000 to more than 100 community organizations.”

“Attorneys Hupy and Abraham testify against a law that would cost injury victims millions.”

“Your knowledge, dedication and professionalism have extended themselves in our conversations. Any questions I had were effortlessly answered. I knew immediately I could have the utmost confidence in your ability. I’m sure you are very busy, but that did not transcend in our conversations. I felt my case was the most important thing you were doing at that moment. I thank you for that; it’s reassuring.”
– J. Noel

“Thank you all so very much for handling my case with such professionalism and for making it go so smoothly for my family and me. We greatly appreciate everything you have done.”
– Paige Richard and Family

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IF YOU HAVE EXPERIENCED NURSING HOME ABUSE OR NEGLECT, READ THIS HANDBOOK...
THEN CONTACT US 24 HOURS A DAY:
800.800.5678
hupy.com  |  nursinghometeam@hupy.com

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Illinois: Bloomington | Gurnee | Rockford
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Voted best, rated best. Year, after year, after year.