

Patient Assault In Long Term Care: Facility Held Liable.

A seventy year-old female Alzheimer's patient was sexually assaulted by an eighty-three year-old male Alzheimer's patient. Both resided in the same long-term care facility. The victim died of unrelated medical causes before the family's case went before a civil jury in the Circuit Court, Duval County, Florida.

Foreseeability is the Key

In this type of legal case, liability for negligence hinges on proof the facility had reason to expect violent or assaultive behavior, and, having grounds to anticipate a problem, failed to take appropriate measures to prevent harm to other residents.

This perpetrator had struck nurses, pinched their buttocks and threatened to stab them. According to the expert testimony heard by the jury, once the perpetrator showed such dangerous behavior he should have been discharged from the nursing home and placed in a secure psychiatric setting.

The perpetrator, in fact, had an extensive criminal history which included two convictions for sex-related offenses. His criminal background, however, was completely excluded from the jury's hearing by the judge on the grounds it would be overly prejudicial. Nevertheless, the jury returned a verdict of \$750,000 for the family against the nursing home. **Estate of Thurston v. Southwood Nursing Center, 2007 WL 866450 (Fla. Cir. Ct., February 22, 2007).**