

PATIENT ABUSE & RAPE

Daycare - Skilled Nursing - Long Term Care Facilities

**By Michael Panish
Door & Security Expert Witness**

Rape and patient abuse are more prevalent and common place in daycare and long term skilled nursing facilities than anyone would think possible.

Across the country, patients in long term care and skilled nursing facilities are frequently subjected to one of the most heinous acts imaginable. Victims of these horrible crimes have been elderly men and woman, debilitated young people suffering from diseases such as multiple sclerosis, ALS or the latter stages of AIDS. Mentally handicapped patients participating in adult day care activities and out-patient transportation services have been victimized as well.

After being involved as door and security expert in over two dozen cases, it seems that crimes of this nature have no pattern or consistency, with one exception. It does not seem to matter about the age, sex, race, religious affiliation, or physical condition of the victim. The cost of care at a facility doesn't seem to be a factor either. The one consistent factor that has been common in all of the cases I have been involved with is the lack of appropriate supervision and management of the care facilities, staff, or organizations where these violent crimes took place.

Attorneys have asked why I have been involved in so many rape and abuse cases. As a building contractor, I have a substantial background building and renovating long term and skilled nursing facilities of many kinds. I own and maintain a door, lock, and security hardware business that provides services for periodic inspections of doors and hardware, ADA compliance issues, and life safety. My door and hardware company has provided many facilities with proprietary master key systems that control access to areas by tiered status. As an electrical contractor, I have designed and installed card key access and video surveillance systems that attempt to limit and control access through supervised oversight. I have been responsible for helping to develop policies and procedures, and provide and install access equipment that dictate the way that everyone gains entry to secure facilities such as jails, courts, government facilities, laboratories, hospitals and hotels.

Typically, I will receive a call from an attorney that has learned either from verdict searches or other attorneys that I have been involved in a previous elder abuse or rape case. In prior abuse cases, my expert services have been broad and comprehensive. I have been retained as the security expert able to offer opinions about the overall access controls found in a facility. I have opined about the type or lack of surveillance systems that are in place. From a general contracting perspective, I have made observations about the construction, prior renovation work and design of the facilities involved. As a door and hardware service provider, I have offered opinions about elopement issues with patients suffering from dementia or Alzheimer's. I have commented upon the observed conditions of the door access and key systems in use.

Abuse and rape cases have always seemed to have a common thread found during discovery and case investigation. In almost every case poor management practices and the lack of personnel screening prior to hiring an employee have created the opportunity to expose the patients to harm.

I always suggest that a site visit be made to the facility where the incident took place. In many cases, while visiting these facilities, I have been able to wander into the buildings, roam the grounds unchallenged, and actually enter patient rooms through unsecured doorways. In several cases, the patient room exterior doors were left open even though they were adjacent to a busy street.

Discovered in other cases, known sex offenders were living in proximity to a long term care facility. The facilities management still had no policies or provisions to observe or monitor the surrounding property or access into the patient care areas. In one such case, a known offender was caught raping an elderly woman at one of these properties. This person actually left the property and returned multiple times to assault the plaintiff prior to being apprehended by local police for another crime.

SKILLED NURSING & LONG TERM CARE FACILITIES

There are many aspects to running skilled nursing and long term care facilities. Government regulations attempt to provide guidelines for appropriate management and patient care. But the government does not offer permanent supervision or observation of how a facility is operated once their investigations are completed. Often, the facilities are owned by a remotely run corporation. Many of those corporations operate their facilities using incentives for their local managers. In essence, if the overall cost to run the facility is kept at a certain level, the manager will receive a bonus at the end of the year. If significant costs can be reduced, other rewards will be given to the local managers. Through discovery in the cases where I provided expert services, managers often conceived devious and unprofessional means to reach these goals. No matter what the monthly cost to the resident or quality of care promised, unscrupulous managers and patient supervisors were often found involved in some sort of efforts to lower the overall operating costs of a facility.

SOME COST CUTTING METHODS

- Laying off in-house maintenance staff – Can result in deferred conditions of doors systems, locks, and surveillance equipment.
- Choosing to NOT hire outside professional service providers to maintain proprietary security equipment – Often leading to the partial coverage of facility areas.
- Hiring fewer numbers of, or eliminating guards completely- resulting in a limited or complete lack of presence of a security force to insure patient safety throughout the facility.
- Hiring undocumented, or false documented workers that cannot pass background checks due to their past criminal records in other countries.
- Opting to NOT require access badges to restrict patient/staff and workforce interactions.
- Failing to maintain a reception counter continually staffed to monitor the people entering and leaving the facility.
- Deciding to not enforce single access points where all visitors must enter and leave through restricted doors.

The above list of cost cutting choices are often a small part of a larger suspicious picture. You choose a specific facility with the belief that your loved one is safe, secure and professionally taken care of. But, in many aspects financial issues that are dictating the behavior of the management behind the scenes are leading to potential catastrophic risk. Previous cases have shown that the workers, floor nurses, kitchen staff and janitors were never checked for prior criminal records or deviant acts before being hired to work in these facilities. In several cases, undocumented and illegal workers were hired with false papers that were so obviously incorrect that it was apparent that the managers were not concerned with the quality of employees that they would hire. The management chose to hire these workers to cut operational payroll costs.

In many cases relatives of the victims thought that they had researched the operation and services of the facility thoroughly prior to moving patients into their care. They routinely visited their parents, and were completely unaware of the abuses that were occurring all around them. Most relatives of residents that are made aware of an assault cannot believe that it would happen. “The facility seemed so nice, clean and friendly!”

Every case is different. There are obviously many professionally run long term and day care facilities across the country. Unfortunately, it is the facilities that are not properly managed and maintained that compromise the care and safety of their residents and patrons.

Michael Panish has participated as the door and security expert witness and consultant in dozens of rape, assault and elder and patient abuse cases throughout the United States. He has been the retained expert on several cases that have set the legal standards for adult long term care facilities. Mr. Panish is a licensed General, Door, Hardware, Lock and Security, and Electrical Contractor in the state of California. He is a General Contractor with many years of experience building and renovating medical buildings, hospitals and long term skilled nursing and day care facilities. He maintains offices in New England and Southern California. He is available for immediate consultation and has the experience you need to assist you with your abuse case.