

TO:  
Illinois Nursing Home Safety Task Force

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SUBJECT:  
Problems in reporting nursing home abuse

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A friend of mine died from nursing home abuse and neglect and the side-effects of the numerous psychotropic drugs he received at several Illinois care facilities. None of the agencies set up to prevent elder abuse in Illinois would do anything to help.

I have already spoken to several legislators regarding changes that need to be made in the laws. However, most of what was done to my friend is already illegal. The problem is that the laws have no teeth. There are no penalties for those who violate these laws, and the worst abusers (nursing homes, guardians, and doctors) are specifically exempted from prosecution. To make matters worse, none of the agencies set up to protect the elderly have any authority to take action to stop the abuse, and trying to report abuse or over-drugging is an exercise in futility.

When my friend was diagnosed as being in the very beginning stages of Alzheimer's, he was declared totally incompetent without due process by a judge who had never even seen the man. He was forcibly removed from his home by his guardian and locked up in a nursing home despite provisions of the Probate Act that prohibit this. Later he was involuntarily committed to a psychiatric facility without the legally required hearing and court order. He did not have a mental illness. They just wanted him in a facility with a lock on the door. He was given numerous life-threatening psychotropic drugs not FDA approved for Alzheimer's patients for the sole purpose of chemically restraining him so he would not try to escape. All the drugs he received violated the provisions of the Illinois Nursing Home Care Act, the Illinois Administrative Code, and the Federal Nursing Home Reform Act which prohibit unnecessary drugs.

Because the case file was in one county, the care facility in another county, and one of the doctors in a third county, none of the agencies in any county had jurisdiction to do

anything. My friend was totally outside the protection of the law. At one point I phoned a number of different agencies and officials for help. Each one referred me to someone else, until finally someone referred me to the first person I had called. Many of the agencies I phoned didn't seem to think that what I was reporting was a problem--just standard operating procedure. Some officials didn't even know what the law was. Here are some of the comments I received when trying to report illegal chemical restraints and life-threatening over-drugging with unapproved psychotropic drugs:

- If the doctor prescribes it, there's very little we can do.
- If the doctor prescribes it, it's not abuse.
- We can't second-guess the doctor. That would be practicing medicine without a license.
- Haldol is in common use in Illinois nursing homes. It has a calming effect.
- Some people are on psychotropic drugs for years. (This person was totally unaware of the 30-day and 90-day limits on this kind of drugging and the requirement for a court order before drugging a legally incompetent person.)
- One official told me that his agency could not help unless my friend requested the help himself, yet it was the fact that my friend was so over-drugged that he could not communicate that was the reason he needed the help.

And when I asked for assistance for my friend when he was being illegally involuntarily committed to a psychiatric facility without a court order, despite the fact that he did not even have a mental illness, I was told not to worry. That couldn't happen, because it was against the law. Well, it did happen, and my friend was locked up there for over a year, received insufficient food and water, rarely received a shower, and was occasionally attacked by other patients.

I was told by a number of the agencies that I phoned for help that only a judge had the authority to do anything to protect a legally incompetent person, but when I filed a petition in court, the judge threw out the case for lack of standing, despite the fact that Sections 11a-20 and 11a-21 of the Illinois Probate Act say that any person by any means including letter or phone call has standing to report the abuse of a ward and that whenever a judge learns of such abuse, he shall convene a hearing to investigate.

No hearing was ever held, and as a result, my friend was given so many psychotropic drugs that he choked on his food and couldn't even stand up without falling. He broke his hip, contracted pneumonia and MRSA, had two probably drug-related heart attacks, and died. And even now that this man has died from the abuse, I still can't get anyone to investigate or to prosecute the abusers.

Another problem I encountered after reporting the abuse in court was retaliation. The guardian prevented not only me, but all his ward's friends from visiting. Despite the fact that there are both State and Federal laws prohibiting guardians and nursing homes from separating a patient from his friends, it took the ombudsman weeks to make the simple phone call that would get me back in, and even then, the nursing home found numerous excuses to keep me out, such as not informing the nurse on duty that the ombudsman had called. As a result, my friend was deprived not only of the companionship of my daily

visits, but also of necessities such as clean socks and underwear, bifocals, haircuts, shampoos, manicures, and his only daily drink of water.

If you are really serious about ending abuse in nursing homes and psychiatric facilities in Illinois, those agencies and officials to whom we are told we should report abuse must be empowered to act. They cannot just be given fancy titles so that it looks like the government is doing something for the elderly. They need to be thoroughly informed regarding all the laws that are supposed to prevent nursing home abuse, and they have to be ready and willing to act when someone calls for help. They cannot continue to refer their callers to someone else like so many hot potatoes, just to get a difficult situation off their desks. And there need to be strong penalties for those who violate the law. Crimes that occur in nursing homes need to be treated as crimes and not just demerits on the annual Health Department Survey. What happened to my friend could happen to any one of us and probably will happen to most of us if nothing is done to prosecute abusers.

I have an enormous amount of information and evidence regarding this case as well as many other constructive ideas on what to do to improve the situation in nursing homes and psychiatric facilities, and I would be happy to spend as much time as is necessary working with the Task Force to find some solutions.