



TORKLAW

The Ultimate Guide to
Elder Abuse &
Nursing Home Injuries

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The U.S. population is aging. According to the [Census Bureau](#)'s latest figures, 52 million Americans are over age 65 – almost 15 percent of all the people in the country. As of 2017, more than a million of these seniors require nursing home care.

Placing a loved one in a nursing home is a tough choice. When families are unable to provide the level of care their elderly family member needs, they trust nursing homes to treat their loved one with care, compassion, and quality. Sadly, too many provide substandard care, and even neglect and abuse our senior citizens.

This guide will help you learn about the most common forms of elder abuse and nursing home injuries, how you can prevent them, and what you can do if an elder loved one has been abused.

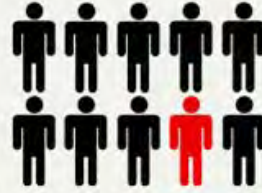
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Elder Abuse Statistics



1 IN 24 CASES OF ELDER ABUSE ARE REPORTED TO AUTHORITIES

85% of nursing facilities reported at least one instance of possible abuse or neglect



1 OUT OF 10 ADULTS OVER THE AGE OF 65 SUFFERS FROM AT LEAST ONE TYPE OF ABUSE EACH YEAR



64% OF NURSING HOME STAFF MEMBERS ADMITTED TO ABUSING RESIDENTS

24.3% of nursing home residents reported physical abuse by a staff member



20% OF EMERGENCY ROOM VISITS BY NURSING HOME RESIDENTS WAS CAUSED BY ABUSE OR NEGLECT

20% of emergency room visits by nursing home residents was caused by abuse or neglect

47% OF PARTICIPANTS WITH DEMENTIA HAD BEEN MISTREATED BY THEIR CAREGIVERS.

Of these participants:

88.5% 
EXPERIENCED PSYCHOLOGICAL ABUSE

29.5% 
EXPERIENCED NEGLECT



19.7%
EXPERIENCED PHYSICAL ABUSE

Seniors who were physically abused have a 300% greater risk of premature death

Who Is At Risk

Those who are at risk of elder abuse are those who are the most vulnerable, and include those who

- Have memory problems (such as dementia) or other cognitive difficulties
- Have physical disabilities
- Suffer from mental illness, such as schizophrenia or bipolar disorder, panic disorder, depression or anxiety
- Are currently or have a history of abusing alcohol, drugs or other substances
- Take prescribed medications that impair judgment
- Are socially isolated
- Have little to no income

Elderly women are more likely to suffer from abuse than men, according to the National Institutes of Health.

Types of Elder Abuse

[According to the U.S. Department of Justice](#), these are the most commonly reported forms of abuse against people 65 and older.



#1 Most Common Type of Elder Abuse: Financial Abuse or Fraud

Financial abuse involves theft or economic exploitation of elders, and has many forms:

Theft of money or goods

This can include:

- Unauthorized use of bank accounts or credit for an unscrupulous caregiver's personal benefit
- The theft of cash, jewelry or household goods
- Forging an elder person's signature on income checks and keeping the cash

Identity Theft

An identity thief uses the senior citizen's social security number to open and charge up credit accounts, leaving the elder person with the bill.

Conservatorship Fraud

A conservatorship is a situation in which a judge appoints a guardian or power of attorney to manage the financial affairs and/or daily life of another due to physical or mental limitations, or old age. A conservator can help the elderly person pay their bills, buy groceries, attend medical appointments, etc.

Unfortunately, too often, unscrupulous conservators target elderly people to access their money and deplete their estates. They may change the person's will and life insurance policies, making themselves the sole beneficiary. They may change the names on an older person's bank account or title to property without permission from the person, or the knowledge of his or her family.

This often happens because the conservatee has some form of dementia, memory loss, or physical/mental impairment and cannot object to establishing a conservatorship.

Scams

Seniors are often targets of people who obtain financial information from them over phone, via email, or online. Scams that typically target elder people include:

- Announcement of a "prize" that the person must pay money to claim
- Fake charities
- Phony investment "opportunities"

Unscrupulous insurance agents often target seniors in "churning" scams. This involves convincing an annuity owner to trade one annuity policy for another one from the same company, so the agent can collect a commission. But the clients may end up paying additional premiums or losing value on the policy.

Health Care Fraud

Doctors, hospital staff, and other healthcare workers can defraud both elders and their benefit payers by taking advantage of their position as providers of an elder person's care.

This may include:

- Overcharging for services
- Billing twice for the same service
- Falsifying insurance, Medicaid or Medicare claim
- Billing for services they didn't provide
- Receiving "kickbacks" for fraudulent referrals to other providers
- Kickbacks for prescribing unnecessary drugs
- Overmedicating (for kickbacks)
- Undermedicating (and selling the rest)

A 2019 Elder Fraud Sweep by the DOJ identified more than two million elderly fraud victims and over \$750 million in loss. And that may be just the tip of the iceberg: only one in 44 cases of financial abuse is reported.

Signs of financial abuse include:

- Money missing from accounts
- Unusual credit card charges
- Unpaid bills or collection letters
- Lack of groceries
- Missing items from the home
- Sudden anxiety, perhaps about finances or how to pay for things



#2 Most Common Form of Elder Abuse: Neglect

Neglect occurs when a dependent elderly person is deprived of their basic needs, including food, water, proper hygiene, and physical comfort; prescribed medication, treatment for illness or injury, or rehabilitative

therapy; and emotional needs for companionship, love, and positive attention. Social or emotional isolation can also be a form of neglect.

Neglect can be intentional or unintentional, based on factors such as ignorance or denial that an elderly charge needs as much care as they do. However - intention doesn't matter if a reasonable person would call the behavior neglectful, and if it resulted in physical or psychological harm. The neglectful party may still be liable for the harm.

In 2019 the Life Care Center in Kirkland, Washington was cited for lapses in their infection control protocol. By February 2020, they had 120 elderly residents and 180 staff members. [As of March 21, 2020](#), 129 people there — including 81 residents — had tested positive for coronavirus disease COVID-19, and 35 people had died.

A Kaiser Health News analysis found that since 2017, federal regulators issued citations to 61 percent of all nursing homes for infection-control issues.

If an elder is being neglected, you may notice signs of neglect such as:

- Bedsores
- Untreated infections
- Unexplained medical conditions or sudden worsening of existing medical conditions
- Weight loss or malnutrition
- Dehydration
- Body odor
- Being dirty or unbathed
- Unsuitable clothing for the weather
- Unwashed clothing or bedding
- Dirty or messy room
- Unsanitary conditions
- Unsafe living conditions (no heat or running water; faulty wiring or other fire hazards)
- Abandonment or desertion of the elder, often in a public place

Untreated Self-neglect

A common form of elder abuse is untreated self-neglect. Older adults who suffer from physical or mental impairments may be unable to perform essential self-care, placing themselves in danger or at risk of illness or infection. They may be unable to pay bills or properly manage their medications.

Self-neglect may also be a sign of depression or grief. The older person may refuse assistance because they are in denial, ashamed of their diminished abilities, or worried about losing independence.

Caretakers should be alert for signs of self-neglect and prepared to deal with it if it. If they aren't, or ignore the signs, this is a form of abuse.



#3 Most Common Type of Elder Abuse: Psychological Abuse

Psychological or emotional abuse involves deliberately inflicting pain on an elder through psychological means. Although it is non-physical, emotional abuse can be just as damaging as any other form.

Psychological abuse includes:

- Intimidation through yelling or threatening physical violence
- Humiliation and ridicule or mocking
- Blaming, scapegoating or berating a senior for things s/he cannot control
- Ignoring the elderly person or giving the silent treatment
- Isolating an elder from friends or activities
- Terrorizing or menacing the elderly person

Signs of psychological abuse include:

- Sudden changes in mood or behavior
- Withdrawal
- Depression
- Anger
- Fear of one particular caregiver
- A caregiver who seems controlling or threatening and seems to belittle the elderly patient



#4 Most Common Type of Elder Abuse: Physical Abuse

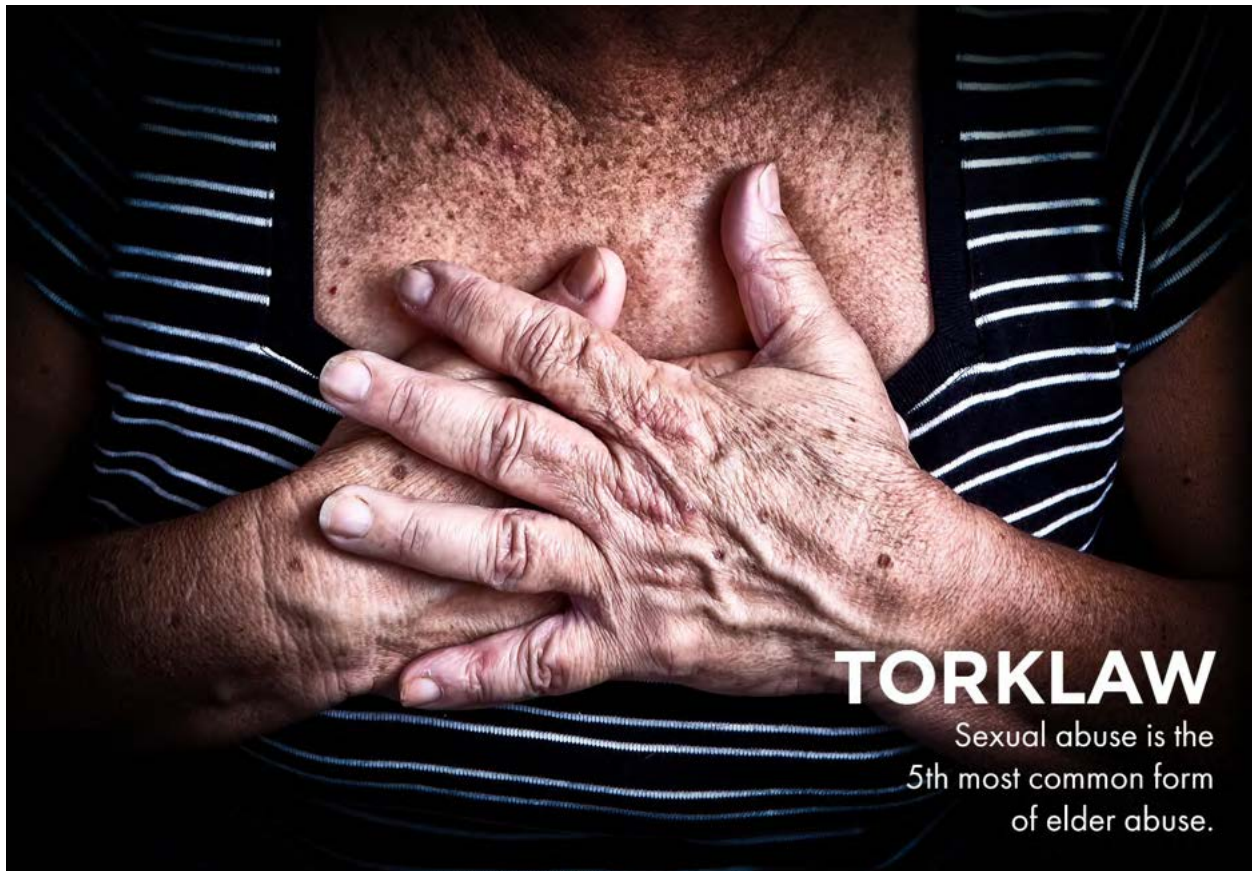
Physical abuse is the most straightforward type of elder abuse. It involves any non-accidental action that causes physical pain, injury or impairment. This includes:

- Slapping
- Punching
- Kicking
- Pushing
- Shoving
- Force-feeding
- Improperly restraining
- Confining the person unnecessarily

One Michigan woman's 91-year-old, wheelchair-bound grandmother was a resident at the Advantage Living Center in Warren. She regularly visited her grandmother, and during one visit, noticed a bandage on the elderly woman's forehead. Later, she was horrified to find out the cause when she saw a video of an employee slamming her grandmother's head onto a counter.

Signs of physical abuse include:

- Unexplained signs of injury: contusions, scars, etc.
- Bruises that appear symmetrically on two sides of the body, indicating the person was held violently
- Bruises that indicate restraint such as around the wrists or ankles
- Bone fractures, dislocations, or sprains
- Drug overdose
- A prescription has more remaining than it should
- Broken eyeglasses
- The caregiver refuses to leave you alone with the elder person



#5 Most Common Type of Elder Abuse: Sexual Abuse

Sexual abuse involves any form of nonconsensual sexual contact with an elder, including rape, unwanted sexual touching, forcing an elderly person to view pornography or sex acts, or forcing the person to undress.

A licensed nurse at Modern Senior Living in Dallas, Texas, is alleged to have snuck into the room of one of the elderly residents and attempted to force himself on her. The accusation was corroborated by surveillance footage, which shows him entering the room and staying for several minutes, before fleeing when he heard a noise in the hallway. He was reported to the police, fired from his job, and now faces criminal charges.

Signs of sexual abuse include:

- Diagnosis of a sexually transmitted disease
- Bruises around breasts, genitals or buttocks
- Unexplained injuries or bleeding in vaginal or anal areas
- Torn, stained, or bloody underclothing

If you suspect sexual abuse of an elder loved one in a nursing home, call the police, and preserve the evidence. Don't bathe the person or change his or her clothing or sheets.



NURSING HOME PATIENTS' RIGHTS

- To not be abused or neglected
- To not be physical restrained
- Privacy
- To have appropriate and reasonable accommodations



- to meet their medical, emotional, and social needs
- To participate in resident and family groups
- To exercise self-determination



- To communicate freely
- To participate in the review of their own care plan
- To be fully informed in advance about changes in care, treatment, or status in the facility
- To be able to voice grievances without discrimination or reprisal



- **To be treated with dignity and respect**



Nursing Home Liability

Under federal law, nursing homes have a [legal duty](#) to:

- Have enough nursing staff on hand at all times.
- Thoroughly assess each patient and ensure there is a complete care plan for each resident's unique needs.
- Ensure the resident is bathed and groomed often, dressed appropriately, eats nutritionally, toilets hygienically, and is able to move through the facility and communicate, with others as appropriate, with whatever help is needed.
- Ensure residents have treatment and devices to maintain the ability to see and hear as well as possible.
- Prevent bedsores or provide necessary treatment to heal and prevent infection of existing sores.
- Provide appropriate treatment, supervision and services to incontinent residents to function as well as possible, and prevent accidents.
- Ensure proper hydration.
- Prevent medication errors.
- Promote quality of life for all residents.
- Treat all residents with dignity and respect.
- Provide appropriate pharmaceutical services for each resident's specific needs.
- Administer its resources effectively and efficiently, and maintain accurate, complete, and accessible records on each resident.
- Uphold the resident's rights.

Nursing Home Patients' Rights

Under the [1987 Nursing Home Reform Act](#), all nursing home patients have specific rights, seen on the previous page.

Nursing homes that are found to violate these rights, or not live up to their legal duties, may lose federal Medicare and Medicaid funding. They are also liable for lawsuits seeking compensation for damages against injured patients or wrongful death.

America's Worst Nursing Homes

In June 2019, U.S. senators Bob Casey (D-PA) and Pat Toomey (R-PA) published a report called, "Families' And Residents' Right To Know: Uncovering Poor Care In America's Nursing Homes." This report listed nursing homes classified as "special focus facilities" (SFF) in a federal program to document cases of abuse and neglect, and track facilities that persistently underperformed in state inspections:

California

- Alexandria Care Center, Los Angeles
- Willows Center, Willows
- Kingston Healthcare Center, Bakersfield
- Riverside Heights Healthcare Center, Riverside
- San Fernando Post Acute Hospital, Sylmar
- La Mariposa Care And Rehabilitation Center, Fairfield

Arizona

- Villa Campana Rehabilitation Hospital, Tucson

Georgia

- Pinehill Nursing Center, Byromville

Illinois

- Aperion Care, Bloomington
- Aperion Care Capitol, Springfield
- Aperion Care, Cairo
- Franklin Grove Living and Rehab

Michigan

- Medilodge of Livingston, Howell

Nevada

- The Heights of Summerlin, Las Vegas

Texas

- Legend Oaks Healthcare and Rehabilitation - North Austin
- The Westbury Place, Houston
- Benbrook Nursing & Rehabilitation Center, Benbrook
- Pecan Valley Healthcare Residence, San Saba
- Trisun Care Center - Westwood, Corpus Christi

Washington

- Paramount Rehabilitation and Nursing, Seattle

Many other facilities were listed for other states; also, many other homes were classified as "SFF candidates" in the above states. [Please see the full report for more information.](#)

Preventing Elder Abuse

If an elderly friend or family member is in a nursing home, here are some ways to prevent abuse.



Visit Often

We understand - many elder care facilities can be depressing. But go as often as you can, and take steps to make those visits more cheerful:

- Get to know the staff by name. Ask about them, their families, and their interests. This effort will go a long way to ensuring your loved one is well cared for.
- Bring treats with you, both for your loved one and the staff, such as home-baked goods if it's allowed, or store-bought treats. Bring flowers for fruit from your garden. Bring paperback books, magazines, or newspapers you've finished to share.
- If it's possible, take your loved one out of the facility for a long car ride, a home visit, or to the movies, a shopping center, or anywhere that gives them a change of scenery.
- If the patient can't leave the facility, bring a DVD to watch with them. Read to them. Bring a board game or deck of cards. Take them for a walk around the facility.

When you visit, talk to them. Ask about their experience; if they're being treated well, or if they have any concerns. Listen to what they say, and just as importantly, what they don't say. Pay attention to their demeanor, and whether they seem anxious, depressed or fearful.

Talk to their caregivers and ask questions of them as well. What do they notice about your loved one? If caregivers know that you are attentive, know their names, and visit frequently, they will be more apt to give your loved one better care.

Monitor their Physical and Financial Health

Monitor or ask about your elder loved one's medicine intake. Do the dates on their prescription bottles and the amount left in the container seem right? If something doesn't make sense, ask questions until it does.

Watch for financial abuse by asking the elder if you can check their bank accounts and credit card statements for unauthorized transactions.

Watch for Warning Signs

Learn about the types of abuse and the warning signs listed above. If you see clear warning signs that indicate abuse or neglect, read the section below.

What to Do If You Suspect Nursing Home Abuse

If an elderly loved one is in immediate danger, you should call 911 to ensure their safety. Remove the elder from the dangerous situation immediately, taking them out of the nursing home entirely, if necessary.

If the situation is less urgent, but it is still a potential criminal matter, such as rape, battery, or fraud, call the non-emergency number for the police to report the crime. You have a responsibility to do this both for the sake of your elderly loved one and for that of any potential future victims of the same abuser.

If you suspect physical or emotional abuse or neglect at your loved one's nursing home, but you're just not sure, speak to the staff about your concerns. If you are not satisfied with their response, go to the supervisor or director.

A nursing home that is certified by Medicare and/or Medicaid is required to have a procedure to hear and respond to complaints, and post information about the state groups that oversee their facility. If your problem isn't resolved by the facility's management, contact the appropriate state agency. You can also report it to your [state ombudsman](#).

The state government is empowered to investigate cases of elder abuse in nursing homes, and punish facilities which are found responsible. In practice, not all nursing home complaints receive the attention that they deserve, but more jurisdictions are taking steps to protect the elderly.

Once you have taken steps to protect your elderly loved one and notify the proper authorities, you should file a lawsuit to recover damages that were caused by the elder abuse.



Nursing Home Lawsuits

If your loved one was injured at a nursing home, and you suspect abuse, neglect or negligence, you may be able to file a lawsuit to hold the facility accountable for their actions. You can recover both economic and noneconomic damages for fraud, medical bills, lost wages, pain and suffering, and more. In some cases, you may also be able to recover punitive damages. If an elderly loved one was killed by the abuse, you may be able to file a wrongful death lawsuit.

Whether or not you have a valid lawsuit may depend on the following:

- Do you have evidence or witnesses the facility clearly breached their duty to the resident? (See the above section on Nursing Home Abuse for a list of their legal duties.)
- Was the resident harmed?
- Did the breach of duty directly result in this harm?

Nursing home elder abuse lawsuits can involve actions that were either intentional - such as physical abuse, sexual abuse, or fraud - or unintentional, such as negligence or neglect.

Of course, an injury or death of a nursing home resident may simply be an unfortunate accident, or a natural result of the resident's medical conditions. But if the nursing home did contribute to an injury or death, whether through inadequate care, or failure to vet its employees, it can and should be held responsible.

If an elder has been abused in a nursing home, TorkLaw can help with the investigation, dealing with the facility, and filing a lawsuit if necessary. Contact us for a free consultation today: 888.845.9696.