



**GREENBERG ELDER LAW
SERVICES, LLC.**
**BENJAMIN H. GREENBERG,
ATTORNEY AT LAW**
**ELDER LAW SERVICES IN DELRAY
BEACH & SOUTHEAST FLORIDA**



HOME PAGE:

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Florida Attorney Benjamin Greenberg specializes in Elder Care Law: Life Care Planning, Medicaid Planning, Veteran's Benefits, Estate Planning, Special Needs Planning, and Probate.

Greenberg Elder Law Services, LLC. in Florida.
Your Key to Legal Choices & Long-Term Peace of
Mind. Contact Attorney Benjamin Greenberg
to answer your legal questions.



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COVID SAFETY PROTOCOLS: At Greenberg Elder Law Services, your safety is our top priority. Our law office is taking all sanitizing and safety precautions due to COVID 19. In-person consultations are still preferred, however, consultations are also available via Zoom video call or by phone. In-person consultations will adhere to strict safety protocols in accordance with official CDC guidelines.

**NATIONAL ACADEMY OF ELDER
LAW ATTORNEYS—MEMBER**

Non-profit association for Elder Law
and Special Needs Law Attorneys

www.naela.org

**ACCREDITED BY THE BETTER BUSINESS
BUREAU OF SOUTHEAST FLORIDA—A+ RATING**

BBB helps people find and
recommend businesses they can trust.

www.bbb.org/south-east-florida

ELDER CARE MATTERS ALLIANCE-MEMBER

America's National Directory of
Elder Care/Senior Care Resources

www.eldercarematters.com



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**AFELA—THE ACADEMY OF FLORIDA
ELDER LAW ATTORNEYS—MEMBER**

The Preeminent Organization of
Florida Elder Law Attorneys.

www.afela.org

ABOUT PAGE:

**About Florida Elder Law Attorney,
Benjamin Greenberg**

Benjamin H. Greenberg, Esquire.

Benjamin H. Greenberg is the managing member of Greenberg Elder Law Services, LLC, located in Delray Beach. He is a 1990 graduate of the University of Pittsburgh School of Law and is a member of both the Florida and Pennsylvania bars. After practicing for over eleven years in Pittsburgh, Pennsylvania, Benjamin is a recognized advocate for older adults and people with disabilities. In Pennsylvania, he diligently represented clients in workers' compensation, social security disability cases and bad faith litigation against insurance companies. Benjamin served as a board member for the Pennsylvania Brain Injury Association where he lobbied for stronger laws to protect people with disabilities.



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While practicing family law, Benjamin received extensive training in mediation and served as a mediator in civil and family court. His experience in Pennsylvania also extended to guardianship and adoption litigation.

Benjamin is active in many volunteer legal programs. One of these programs, called "The Elder Law Project" in Pittsburgh, Pennsylvania, provided free legal counseling to the elderly and disabled. Benjamin's involvement in this program helped to spark a desire to specialize in elder law. He believes that strong advocacy is necessary for the protection of older adults and people with disabilities.

After moving to Florida in 2001, Benjamin worked for the West Palm Beach office of the Florida Attorney Generals, Bob Butterworth and Charlie Crist. He then practiced for five years in the elder law firm of Solkoff Legal before opening Greenberg Elder Law Services in 2009. Benjamin is a member of the National Academy of Elder Law Attorneys and the Elder Law Section of the Florida Bar. He is a past Chairman of the Palm Beach County Bar Association's Elder Affairs Committee, and is currently a board member of the South Florida American Parkinson's Disease Association.



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**About Life Care Counselor,
Bonnie L. Greenberg**

Bonnie L. Greenberg, LCSW. Mrs. Bonnie Greenberg earned her specialization Certificate in Gerontology from the University of Pittsburgh where she graduated Dean's Scholar with her Master's in Social Work in 1995. She holds a Bachelor's degree from the University of Michigan. She is licensed in the state of Florida and has been practicing in the settings of medical social work, mental health counseling, and domestic abuse prevention and intervention for over 15 years. She is available to meet with all new clients for an initial consultation and will be providing ongoing services to existing and new Life Care Planning clients.

Bonnie can guide clients through our tangled and often confusing health care system to help individuals maintain their maximum level of independence and safety while enhancing their emotional well-being during periods of multiple challenges to health and functioning.

She also can facilitate much needed communication where complicated family dynamics are involved.



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In addition, Bonnie provides outreach to individuals and organizations about the importance of elder law services in improving the quality of life for families throughout the generations.

SERVICES PAGE:

Greenberg Elder Law Services, LLC
**Services: Life Care Planning, Estate Planning,
Veteran's Benefits and Medicaid Planning**

What is Life Care Planning?

A Life Care Plan creates a legal road map for current and future needs designed to positively impact financial and healthcare issues. At Greenberg Elder Law Services, we pride ourselves in serving our clients as trusted guides in today's complex world of law and health care. In addition to a myriad of estate planning and other legal services, we can help individuals and families to assess options for long term care, either at home or outside of the home; and, to identify the potential sources for payment of such care. Incidentally, if long term care insurance is already in place, then Life Care Planning can include solid advocacy by an attorney to help ensure that eligible claims are paid.



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Protecting family assets against the costs of long term care is one aspect of Life Care Planning. Greenberg Elder Law Services can assist clients in attaining eligibility for Medicaid, Veteran's benefits or other public benefit programs for which clients may be entitled. The firm also assists and prepares all materials required for the implementation of public benefits including any legal representation necessary through eligibility determination. Protection against estate recovery after the death of a public benefit recipient is also provided.

Life Care Planning at Greenberg Elder Law Services involves educating individuals and family members and providing connections to valuable community resources. This support alleviates stress, can enhance a sense of well-being and, ultimately, improve choices impacting clients' care. The Firm employs a licensed clinical social worker who serves as the client's "Life Care Counselor." The Counselor guides clients through our tangled and often confusing health care system to help individuals maintain their maximum level of independence and safety while enhancing their emotional well being during periods of challenges to health and functioning.



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Attorney Benjamin H. Greenberg prepares all legal documents and estate planning necessary to achieve the specified goals of the life care planning. These documents may include, but are not limited to: wills, trusts, powers of attorney, living will and other advance health care directives as specified by the client. A crucial element of the Life Care Plan enables caregiver(s) to protect an individual's legal, financial and care related needs and interests if he or she is no longer competent. Advanced estate planning can avoid legal costs and time delays in the distribution of assets following the death of a loved one.

Choosing to engage in Life Care Planning affords the client to reimburse legal services in an individualized and agreed upon flat rate fee as opposed to paying "billable hours." This is aligned with our philosophy to provide a continuum of care with legal services and advice regarding various options to meet health care needs as changes arise during a client's lifetime.

At Greenberg Elder Law Services, we understand the importance of creating an individualized Plan that meets the unique needs of people and their families. Our goal is to empower you to take action now that will protect your life-long health care needs without jeopardizing your financial health.



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**Services: Life Care Counselor,
Bonnie L.Greenberg, LCSW**
Greenberg Elder Law Services, LLC
is pleased to include a Life Care Counselor
as a valuable benefit to our clients.

Mrs. Greenberg earned her specialization Certificate in Gerontology from the University of Pittsburgh where she graduated Dean's Scholar with her Masters in Social Work in 1995. She holds a Bachelor's degree from the University of Michigan. She is licensed in the state of Florida and has been practicing in the settings of medical social work, mental health counseling, and domestic abuse prevention and intervention for 24 years. She is available to meet with all new clients for an initial consultation and will be providing ongoing services to existing and new Life Care Planning clients.

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In addition, Mrs. Greenberg will be providing outreach to individuals and organizations about the importance of elder law services in improving the quality of life for families throughout the generations.

FAQS PAGE:

Frequently Asked Questions
Topic: Medicaid Eligibility

*Note the information below is given to provide general information only. Do not rely on this information as legal advice in making an application for Medicaid. Medicaid laws are constantly changing, every individual circumstance is different and the information below specifically concerns Florida Medicaid. Consult with a qualified elder law attorney.

Q. Will I be forced to sell my home to pay for my care or the care of a loved one and spend the proceeds of the sale, before long-term care Medicaid eligibility.



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A. No. No one can force you to sell your home to pay for care. Your residence in Florida is protected by the Florida Homestead law so that certain creditors, including health care providers and the government, cannot make a claim against your residence. If your home is sold, however, then the proceeds become a countable asset in determining Medicaid eligibility. If you own a home out of state, then it may be considered a countable asset. The government will also count any equity over \$603,000.00 as a Medicaid eligibility factor.

Q. Do I make too much money for Medicaid?

A. For long-term Medicaid that helps pay for assisted living facilities (“ALF”) and nursing home care, the monthly income cap in Florida is \$2,382 for the year 2021. Even if your income is over this amount, qualification can remain by placing your income in a Qualified Income Trust or “Miller trust”.



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Q. Do I place my other assets in this Miller trust in order to establish Medicaid eligibility?

A. No. A Miller trust is for income only.

Q. Does Medicare pay for long-term care?

A. Medicare pays for a limited amount (maximum 100 days if there is a Medicare supplemental policy) of rehabilitation or therapy if there was at least a three-day hospitalization. This usually leaves either paying privately, a long-term care insurance policy or Medicaid, for payment of long-term care costs.

Q. Do the accounts that I own jointly with someone else count toward my any Medicaid eligibility?

A. It is assumed that the account belongs to the applicant unless it can be proven otherwise.



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Q. Can I transfer or give away my assets to obtain Medicaid?

A. A transfer of assets can result in a penalty causing ineligibility for long-term care Medicaid. (There are some exceptions to this rule, primarily transfers to disabled children.) As a result of the Deficit Reduction Act of 2005 (“DRA”), the rules regarding transfers for less than fair market value have changed for transfers that occur on or after February 8, 2006. (Florida enacted this rule November 1, 2007.) Under the pre-DRA rules (the rules prior to 11/1/09 in Florida) there is a three year look-back period on transfers for no value, such as gifts, and a five year look back period on transfers to most irrevocable or revocable trusts to someone other than the grantor.

Under the pre-DRA rules, the transfer penalty applied at the time the transfer was made. Currently in Florida, there is a one month period of Medicaid ineligibility for every \$9,703 transferred for no value. For example, under the rules before the DRA, a gift of \$9,703 made to a grandchild by a long-term care Medicaid applicant would create a one month period of ineligibility from the time of transfer.



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Thus gifts could be made for a calculated amount during the month that is was certain Medicaid was not necessary.

Presently, under the post-DRA rules, the penalty for ineligibility does not begin to run until after a Medicaid application is made.

In addition, the 'look back' period for transfers is now 5 years (60 months) under the DRA. (Although Florida is still behind in implementing this 5 year look back period through implementation of state rules, we must still keep in mind the five year period due to the federal rule. For determining any possible Medicaid eligibility penalty for a gift made in the past, it is best to consult with a qualified elder law attorney.) In other words, a \$9,703 gift made after 11/01/17 may still affect eligibility for a long-term care Medicaid, even if a Medicaid application is not made for several years! Penalties are computed in multiples of \$9,703, so that a \$19,406 gift would create a two month period of ineligibility, a \$29,109 gift would create a three month penalty and so on.



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Under the DRA, the presumption is that any uncompensated transfer (even a gift to a charitable organization) within the 5 year look-back period was done for the purpose of obtaining Medicaid benefits. Notwithstanding the DRA, there are still planning strategies presently available for asset preservation.

Q. Can't I always transfer \$15,000 to my children?

A. See above. The annual gift tax exclusion (which remains at \$15,000 in 2021) is still subject to Medicaid rules. So the transfer could result in a transfer penalty, depending on when the uncompensated transfer was made and if there was an existing transfer penalty or if it met one of the exceptions to the rule. So, one can give away \$15,000 annually and not report reported to the IRS for tax purposes, but that such a person would be subject to the Medicaid transfer penalty rules.

Q. My attorney prepared a living trust that I was told protected my assets from long-term care costs. Does a living trust protect assets against long-term care costs?



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A. No, if you have a living or revocable trust in you or your family's name, then you are considered a beneficiary of the trust and the trust is usually considered an available asset for Medicaid eligibility. If your Florida residence is in trust (and is your primary residence) then it is not considered an asset for Medicaid eligibility.

Q. Under the circumstances, I have no choice but to place my spouse in a nursing home (the “institutionalized spouse”). May I, as the spouse that lives at home (the “community spouse”), be allowed to keep several hundred thousand dollars and still get eligibility for my institutionalized spouse?

A. Depending upon the title of the assets and other factors, the answer is probably yes. Proper planning with a qualified elder law attorney can help you protect assets and establish Medicaid eligibility.

Q. My spouse/parent/loved one is already in a nursing home; can I still apply and qualify for Medicaid?



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A. Yes. Medicaid is need-based. This means that you have to need the help in order to begin the process of qualifying for it. If you are privately paying for long-term care, you definitely need to speak with a qualified elder law attorney, before it is too late.

Q. I already have a long-term care policy, will I still need Medicaid?

A. Possibly. Everyone should purchase a long-term care policy by the time they reach age 55. Most people, however, either do not have a policy or can no longer qualify for it due to health concerns. Even if you can qualify for a policy, you may not be able to afford the premium because of age or health. Often, if you already have a policy, the premiums may no longer be affordable due to age and health. Due to this, you may have bought a “stripped-down” version. These limited plans may not pay for the majority of costs at a long-term care facility.

Q. My friends and family have told me that I have too much money for Medicaid. Can an elder law attorney truly help me?



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A. That depends. This is a true “lawyer answer” because every person’s situation is unique. Remember that unless your family, friends, investment counselor and even your attorney work in the field of Medicaid qualifying on a daily basis, they probably are not good sources for “expert” advice. Non-attorneys are unable to give legal advice, as that would be the unauthorized practice of law, unless they are supervised by an attorney. Seek accurate information from a qualified elder law attorney.

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Benjamin H. Greenberg is a member of the Florida and Pennsylvania Bars, The National Academy of Elder Law Attorneys and the Elder Law Section of the Florida Bar.



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LINKS PAGE:

Recommended Links

Florida Department of Elder Affairs
www.elderaffairs.org

This is the Florida state agency responsible for services directed toward Florida's elderly population. Whether you are a senior, a caregiver, professional or volunteer, this site is full of useful information.

Especially valuable is the **9th Edition of the Consumer Resource Guide**—available by [CLICKING HERE](#), or download the entire guide as a PDF by [CLICKING HERE](#).

The Guide contains information on: disease prevention, medical care, caregiver and consumer support, transportation, housing and property rights, health insurance, elder rights, wellness, safety and emergency services.



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Area Agency On Aging

www.aaapbtc.org

The Area Agency on Aging, provides information to Florida seniors aging issues, advocacy and services to help seniors maintain their independence and dignity. There are links to valuable services across Florida.

National Academy of Elder Law Attorneys, Inc.

www.naela.org

Benjamin H. Greenberg is a member of this national organization composed of attorneys, judges and law professors who deal with issues affecting seniors and people with disabilities. The National Academy of Elder Law Attorneys (“NAELA”) is dedicated to improving the quality of legal services to seniors and people with special needs. The website is a valuable resource not only for lawyers but for the public at large as it provides valuable legal information for seniors and people with special needs.



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Elder Care Matters

www.eldercarematters.com

To help you confidently navigate elder care planning, ElderCare Matters offers America's foremost national directory for elder care and senior care-related services. Our goal is to ensure that families have reliable access to credible elder care/senior care information. Through our elder care services directory, we proudly help people locate and learn about senior care professionals in their area, bridging the gap between families and senior care businesses.

American Parkinson Disease Association

www.apdaparkinson.org

The Academy of Florida Elder Law Attorneys

www.afela.org

The Academy of Florida Elder Law Attorneys (AFELA) is the preeminent organization of Florida elder law attorneys providing advocacy, education and action on behalf of seniors and people with disabilities. The Academy of Florida Elder Attorneys was founded in 1993 as a professional association of attorneys who are dedicated to improving the quality of legal services provided to the elderly.



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AARP

American Association of Retired Persons

www.aarp.org

Alzheimer's Association

www.alz.org

Elder Fraud

(Concerns and questions about Elder Fraud)

www.fraud.org

Aging Life Care Association

www.aginglifecare.org

A Geriatric Care Manager is a professional who helps families care for older relatives. One must be cautious when hiring a Geriatric Care Manager as they are not regulated by a state agency. Despite this fact, Greenberg Elder Law Services can provide a list of reputable, caring Geriatric Care Managers in south Florida. Geriatric Care Managers are trained and experienced in fields relating to care management, including, but not limited to social work, nursing, genealogy or psychology, with a focus on elder care. NAPGCM members abide by a code of ethics and standards of practice, but one must consider many issues when hiring a Geriatric Care Manager. Life Care Planning with Greenberg Legal Services explores these issues.



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Care On Demand, LLC
www.careondemand.net

A private agency that can serve as a valuable resource to compile vital information and to serve as an advocate for a senior in the event of an emergency. Greenberg Elder Law Services, LLC, serves as an Alliance Network Partner with this agency.

Suddenly Senior
www.suddenlysenior.com

“Age is a case of mind over matter. If you don’t mind, it doesn’t matter.” Jack Benny.

You don’t stop laughing when you grow old; you grow old when stop laughing.

Laugh with this senior website.

Long Term Care Nursing Resources
www.pulseuniform.com/nursing-resources.asp

Long-term care refers to services that help the elderly meet their personal or health needs. These services include in-home care, adult day care, residential care for Alzheimer’s or dementia patients, skilled nursing care, and nursing home care.



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Senior Home-Finder Service

www.seniorhomes.com

Find assisted living, independent living, memory/Alzheimer's care, retirement communities and more. Detailed info on over 80,000 senior living communities (Without the sales pitch). Their mission is to help seniors and their families find housing and care for themselves and their loved ones by providing objective information on their website and via their free Care Advisor service.

- Detailed pricing. No obligations.
- Photos, property info, services, amenities and more
- Real ratings and reviews from family members and local experts



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Deena's Friends for a Cure
www.deenasfriends4acure.org

Deena Alansky, web designer for Greenberg Elder Law Services, LLC., is a volunteer and fundraiser for the Leukemia & Lymphoma Society (LLS), and also volunteers at Bone Marrow Registration Drives. Deena lost her brother to leukemia in 2004, so this is a cause that is very near and dear to her heart. If you'd like to help in the fight against blood cancer, please consider donating to the [Leukemia & Lymphoma Society](#) or [Delete Blood Cancer](#) (Bone Marrow Registry), or visit the donation page on Deena's website for details. Thank you for your support.

DKMS--Delete Blood Cancer
Join the Bone Marrow Registry For Free!
www.dkms.org

It's never been easier to join the National Bone Marrow Registry. [Register for FREE ONLINE](#) at the DKMS website. Anyone in general good health between the ages of 18–55 is eligible to join.



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Simply fill out the online registration form, and you'll receive the cheek swab testing kit in the mail at no cost. When you join the National Bone Marrow Registry, you become part of a world-wide network of volunteers with the potential to save a life if you're ever found to be someone's miracle match! 6,000 people are searching for a matching donor every day, but only 30% will find one. You might be the only matching donor in the world for a patient in need.

Gift of Life Bone Marrow Registry

www.giftoflife.org

Headquartered in Boca Raton, Florida, Gift of Life is one of the nation's public bone marrow, blood stem cell and umbilical cord blood registries. Through its life-saving work, Gift of Life is a world leader facilitating transplants for children and adults suffering from many life-threatening diseases, among them leukemia and lymphoma. Register online by [CLICKING HERE](#).



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Deenavision Designs
www.deenavision.com

Deena Alansky at Deenavision Designs is a freelance web and graphic designer based in Pittsburgh, PA. Deenavision Designs provides design services to clients nationwide and is the web designer for Greenberg Elder Law Services, LLC. Contact Deena Alansky to design your next website, print ad, business card, brochure, etc.

NURSING HOME ABUSE PAGE:

Nursing Home Abuse How Do I Recognize Nursing Home Abuse in a Non-Verbal Patient?

By [Michael Brevda](#), Managing Attorney
at [Senior Justice Law Firm](#)

If your parent is in a nursing home and unable to communicate, you must monitor their wellbeing and underlying health conditions. When a resident cannot communicate their needs, it is impossible to know if they are being neglected or abused.



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Unfortunately, nursing home staff will not always accurately convey your parent's condition. This is true especially if your parent suffered a neglect-related injury.

For these reasons, it is crucial that you remain vigilant in looking for signs of abuse and neglect.

Below are some of the more frequent neglect-related injuries we see in skilled nursing facilities.

Bed Sores

Bed sores are also called pressure ulcers. These are preventable wounds on the skin that form due to unrelieved pressure.

Bed sores are the most common nursing home neglect injury that we litigate. Sadly, sometimes an elderly bedbound patient is left sitting in bed or a chair for hours at a time without being repositioned.

Bed sores are staged from 1 to 4, with a stage 4 bed sore being the most severe pressure injury.



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Falls

Fall injuries are the second most frequent injury that we encounter as nursing home negligence attorneys. The most common result of a nursing home fall is broken bones.

While it is true that not all nursing home falls are preventable, it is the legal duty of the facility to implement a fall prevention plan. All too often we find that the nursing home's fall preventative measures were woefully deficient. This is how repeated falls occur in a long term care facility.

Unexplained Fractures

The most common cause of "mystery fractures" in nursing home residents is unreported falls. In many immobile residents, an unexplained fracture is secondary to the resident being dropped during a transfer. In the most extreme circumstances, our attorneys have uncovered cases where phantom fractures were caused by physical assaults, either perpetrated by staff or other residents.

Regardless of the cause, unexplained broken bones must always be investigated.



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Rapid Weight Loss

Nursing homes employ nutrition specialists and are legally required to ensure a resident is getting enough calories. If a resident has compromised swallowing, a special soft diet can be ordered.

It is highly suspicious when a resident suffers rapid weight loss of more than 10% of their BMI (body mass index). Rapid weight loss suggests nursing home neglect. In vulnerable immunocompromised residents, losing a lot of weight quickly is often fatal.

Failure to Timely Treat Infection

Infections are quite common in the nursing home setting. Therefore, it is not necessarily negligent to allow a resident to develop an infection.

Most nursing home infection wrongful death cases stem from a failure to timely treat a symptomatic resident. In other words, if a patient is visibly ill and the nursing home fails to react in a timely manner, then the resident passes away of sepsis or some other infection, this may be grounds for a wrongful death claim.



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Conclusion

Most nursing homes do the right thing. However, a healthy degree of skepticism is beneficial.

Always try to visit the nursing home at random times so the staff does not learn your schedule. Further, when you do visit, make sure to inspect your loved one's skin for ulcers, wounds or bruises.

If your parent suffered a suspicious injury, you should investigate what happened. Contact a nursing home abuse attorney who can provide you a free case consultation.



SENIOR JUSTICE
LAW FIRM

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