



## **CHEMICAL RESTRAINT: DRUGGING OF THE ELDERLY IS ON THE RISE**

As the population grows and ages, the number of residents in nursing homes is rising. Nursing homes are a growth industry, and more and more for profit nursing homes are opening. Although some of these facilities are very good, some of them put profits ahead of patient care. A recent study shows that the average for profit nursing home has 30% fewer nurses and 45% more problems than its nonprofit counterpart has.

One of the unfortunate side effects of this lower staffing level is an increase in the "chemical restraint" of elderly nursing home residents. Increasingly, nursing homes are using drugs on their residents. This is usually some kind of antipsychotic medication. These drugs are intended to be prescribed to people suffering from psychoses or other mental illnesses. They have multiple side effects for patients including; drowsy or docile behavior, inactivity or confusion. The net result is a larger number of residents can be watched by a smaller number of staff members.

The degree to which chemical restraints are being used is staggering. Research done in one state shows that more than 70% of new nursing home residents were put on some kind of psychoactive drug within three months of moving in. The research also demonstrated that many residents were placed on a cocktail of different drugs.

The overwhelming majority of these patients had not been diagnosed with a mental illness that required treatment before they moved into a nursing home. The suspicion is that the only reason they were given these drugs was to make them more manageable.

In many cases, these drugs are being given to nursing home residents without a doctor's prescription. Those who refuse to take the drugs were forced to take them. Beyond the fact that it is unethical to sedate the elderly with drugs that used to keep them quiet, the practice can also have serious effects on the physical health of the resident.

Patients who have been drugged are less active, can lose muscle mass and develop bedsores. The depressive effect these drugs have on patient behavior may cause other injuries, such as fainting or falls. They may also react with other drugs that the nursing home residents are legitimately taking, e.g. blood pressure medication. Finally, these drugs have been linked to an increased risk of death when administered to people suffering from dementia, a common problem among the elderly.

Reaction to the growth of this problem of chemical restraint has been slow in coming. Some laws have been passed that are intended to crack down on the improper use of antipsychotic drugs in nursing homes. Unfortunately, these laws are filled with

gray areas and loopholes. The net result is the use of these medications has actually increased since the laws were passed.

Additionally, nursing homes found in violation of these laws (and others) are usually given a chance to come into compliance within a certain period of time. If that happens they are not fined for their violations. This leads to sketchy nursing home operators “yo-yoing” in and out of compliance. They fix problems only when forced to by regulators, to the detriment of the residents.

The best defense against a loved one’s being mistreated in a nursing home is a family that is involved and not afraid to ask questions. Nursing homes are less likely to drug a resident if they know the family might drop in at any time. If you have any questions about whether a loved one in a nursing home is being chemically restrained, don’t be afraid to ask. Don’t be afraid to consult our firm if you don’t like the answers.

## **SIGNS OF ABUSE AND NEGLECT**

What are the signs of nursing home abuse or neglect to look for? Although a number of things might indicate that there are problems, common signs of possible trouble include:

- Bedsores.
- Soiled bed linen or the smell of feces or urine.
- Unexplained cuts or bruises.
- Use of physical or chemical restraints.
- Changes in mood or disorientation.
- Weight loss.
- Unexplained fear or anxiety.

Trust your feelings. People can often sense trouble before they can identify a specific problem. *Don’t ignore your instincts.*

## **PILL SPLITTING: A DANGEROUS PRACTICE**

With the cost of medications sky high, many people engage in a practice known as “pill splitting.” Pill splitting is exactly what it sounds like—splitting a large pill into smaller pieces that contain a smaller dose of the drug. Patients split pills because one large pill often costs less than two or three smaller pills, even if the dosage is identical.

In order to save money, many patients buy the less expensive larger pills and split them in half instead of buying the smaller prescribed pill with the correct dosage. Doctors and pharmacists who are sensitive to the cost of drugs have even been known to recommend pill splitting. It is so common that it is even possible to buy a mechanical pill splitter, a small cutter that makes pill splitting easier.

Unfortunately, a recent study has shown that pill splitting can be dangerous. The most obvious reason is that pill splitting may lead to patients receiving uneven doses. If the patient splits the pill inaccurately, he or she may receive a larger or smaller dose of medicine than intended. This depends on which half of the pill is consumed. Even if the patient is able to split the pill accurately, the amount of the drug in each half may vary from pill to pill. The study shows that these problems indicate that dosages in split pills can vary by as much as 25%. Obviously, this is a large amount if the drug requires very precise dosing to be effective.

Pill splitting also leads to other, less obvious problems. One is that people who buy a higher dosage pill with the intent of splitting it may forget to do so, ingesting far too much medicine. This is a particular problem for elderly patients, who may be forgetful. Another concern is that even carefully split pills could crumble. If some of the pill ends up as dust this reduces the amount of medicine consumed by the patient.

Finally, some pills are difficult to split, either because they are an unusual shape or because they are harder than average. All of these problems make pill splitting a risky endeavor.

The study suggests that drug companies should routinely make drugs available at all recommended prescription strengths, especially for those drugs where correct dosages are more critical. Another possibility is for drug companies to charge the same price per milligram of drug without concern about the size of the pill. This would reduce the economic incentive to split pills. Until then, caution suggests that a patient should not engage in pill splitting unless it is absolutely necessary.

## **CHALK ONE UP FOR THE LITTLE GUY**

Nate Thoma is not a lawyer. He is a small investor in Washington Mutual, the large bank that was seized by the Office of Thrift Supervision in 2008 and ended up in bankruptcy. Like so many other investors Nate's stake in the bank was wiped out.

Nate became something of a folk hero during that tumultuous period. Big banking institutions were failing and the little guy always seemed to get the short end of the stick during the clean-up.

Nate's big moment came when the federal bankruptcy judge let him have his say, and at some length. This occurred during a hearing that culminated in an investigation of trading by some very large hedge funds and the rejection of a bankruptcy plan for the bank.

The issues made for a real legal thicket, especially for a novice to sort out. Essentially, Nate's complaint, on behalf of the many small investors in the bank, was that the hedge funds were buying up the bank's trust preferred securities. Those securities went to the front of the line for any money distributed from the bank's estate.

The hedge funds also owned the bank's bonds, so their dominant ownership of both classes of securities would help them control the course of the bankruptcy. This would be to their benefit and correspondingly would be to the detriment of the little guy. Nate presented an oral argument and 33 pages of supporting documents. There is no doubt that played a role in an eventual favorable settlement between small investors like Nate and the hedge funds.

## **AUTOMOBILE AIRBAGS: KNOW THE RISKS**

There is no question that airbags have saved thousands of lives. However, the government also estimates that hundreds of people have been killed by their airbags. Therefore it is important to know the risks.

A car's airbags fully deploy in 1/25th of a second, or approximately 200 miles per hour. Any object moving this fast can be dangerous. Several simple tips can help ensure that the airbag does its job properly and does not create more injuries than it prevents.

- Children are the most vulnerable to airbag related injuries and should always ride in the back seat of a car. Young children and infants should be buckled up in an age and size appropriate child safety seat.
- Drivers and front seat passengers should always wear both their lap belts and shoulder belts. This keeps them from being thrown into the airbag while it is being deployed.
- Drivers should make sure that their seats are far enough away from the airbag to avoid the impact from the airbag opening and to give it time to deploy. Although this advice may be difficult for some drivers, especially shorter ones, it will help prevent possible serious injury and even death.

## **WHAT TO DO?**

If you have been injured in an accident and have hired an attorney to assist you in making a claim, try to keep the following in mind:

### **Help Your Attorney Help You**

Your attorney is on your side, fighting for your rights. Help your attorney as much as you can. Keep copies of all of the information about your accident. This includes; police reports, medical bills, records about lost wages, and information sent to you by insurance companies. If you need to see your attorney, make an appointment. Make sure you keep the appointments that you make. If you move, be sure to give your attorney your new address and telephone number.

### **Insurance Adjusters Are Not on Your Side**

Remember that the adjuster working for the insurance company of the person who caused the accident is *not* your friend. The adjuster may make it sound like he or she is trying to help you, but the adjuster's job is to make sure that you receive as little compensation as possible, or even nothing. Once you have hired an attorney, inform the adjuster that you have done so, and give the adjuster your attorney's name and telephone number. After you have given this information to the adjuster, let your attorney handle all discussions with the adjuster.

### **Health Care**

Be sure to keep all appointments with your doctors and/or physical therapists. Do everything they tell you to do including; taking medicine, doing your exercises, or getting some rest. If they ask, tell your doctors or therapists that you have an attorney, but do not feel as though you have to volunteer information about your case or claim. Their focus is your health, and the question of how your legal case is going should not be their concern.

### **Consider the Source of Advice**

Family and friends often want to help you out if you have been hurt. This is great, but they are not your attorney. If they are giving you advice concerning your case, ignore it. Generally, taking inexpert advice is never a good idea. Always consult your attorney first.

## **WE LOVE REFERRALS!**

Despite this modern age of marketing and advertising, the best source of our new business is word of mouth. We are grateful that many of our clients and friends feel confident in recommending our firm.

Unfortunately, many people who need a good lawyer do not know where to turn. If you or someone you know has been injured and needs legal help, call us.