

# Alzheimer's: Assault On Another Nursing Home Resident, Lapses Found In Standard Of Care.

A resident of the nursing home's Alzheimer's unit was ambulating through the dining room using her walker.

Suddenly and for no apparent reason a male resident of the same Alzheimer's unit grabbed her walker, turned it upside down and threw it on the floor.

The resident whose walker was taken fell, hit her head on the floor and later died from a subdural hematoma.

The deceased resident's family filed a civil lawsuit for wrongful death against the resident who assaulted her.

Later the family amended their lawsuit to include allegations against the nursing home itself for negligence for failing to evaluate the perpetrator prior to admitting him, failing to manage, restrain and evaluate him following his admission and for failing to protect the victim from the perpetrator.

The Court of Appeals of Texas looked carefully at the facts of the case and at the opinions of the expert witnesses who were prepared to testify on behalf of the family. The Court ruled that the family had grounds for their lawsuit against the nursing home.

## **Prior Aggressive Behavior Inadequate Assessment**

The perpetrator had already been diagnosed with early-onset Alzheimer's before he was admitted to an acute care hospital following a seizure at home.

At the hospital he required physical restraints and one-on-one supervision by a personal sitter due to his aggressive and combative behavior.

When he came from the hospital to the Alzheimer's unit he continued to act out aggressively. It was only his second day out of the hospital on the Alzheimer's unit when he attacked and killed the other resident by seizing her walker from her.

No nursing home staff were on duty at the time in the dining room monitoring or supervising the other residents or keeping an eye out in particular for the perpetrator, when the tragic incident occurred. **Christian Care Centers, Inc. v. Golenko**, \_\_\_ S.W. 3d \_\_\_, 2010 WL 4352731 (Tex. App., November 4, 2010).

***The standard of care requires a nursing facility to assess a potential resident fully and completely prior to admission to be certain that the facility will be able to meet the resident's needs.***

***If an adequate assessment of his condition had been done it would have been obvious that the facility could not meet the perpetrator's needs for one-on-one supervision, physical restraints and intensive psychiatric care.***

***Ideally a nurse should have been sent from the facility to the hospital to carefully assess the resident's suitability for placement in light of the facility's capabilities to meet its residents' safety needs, before the resident was accepted.***

***After he was admitted to the nursing home the nursing staff had the opportunity to review his medical records and observed his aggressive behavior.***

***The nurses could have seen to it that he got the one-on-one supervision that he required and then could have reported their concerns about his unsuitability for the unit to the director of nursing and the facility administrator.***

COURT OF APPEALS OF TEXAS  
November 4, 2010