National Association of Women Judges
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Protecting Our Elders: Problems and Solutions – Defense Perspective

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United Nations

June 15th World Elder Abuse Awareness Day

• U.N. Resolution 66/127

“It represents the one day in the year when the whole world voices its opposition to the abuse and suffering inflicted to some of our older generations.”
<table>
<thead>
<tr>
<th>State</th>
<th>Act Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>Adult Protective Services ACT A.R.S. 46-455 and 456</td>
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<tr>
<td>California</td>
<td>Elder Abuse and Dependent Adult Civil Protective Act W&amp;I Code 15657</td>
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<tr>
<td>Connecticut</td>
<td>Protective Services for the Elderly C.G.S. 17a-412 and 17b-450</td>
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<tr>
<td>Florida</td>
<td>Nursing Home Act – Fla.Stat.Chapter 400 and, Adult Protective Services Act</td>
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<tr>
<td>Illinois</td>
<td>Nursing Home Care Act 210 I.L.C.S. 45/I</td>
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## Sample “Elder Abuse” Acts

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<tr>
<td>Nevada</td>
<td>Elder Abuse, Neglect, Exploitation &amp; Isolation Laws</td>
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<tr>
<td>New Jersey</td>
<td>Nursing Home Responsibilities and Rights of Residents Act</td>
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<tr>
<td>No. Carolina</td>
<td>Protection of the Abused, Neglected or Exploited Disabled Adult Act</td>
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<tr>
<td>Oregon</td>
<td>Elderly Persons with Disabilities Abuse Prevention Act</td>
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<tr>
<td>Washington</td>
<td>Vulnerable Adult Act</td>
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- Nevada: N.R.S. 41.1395
- New Jersey: N.J.S.A. 30:13-1 to 30:13-17
- No. Carolina: G.S. 108A – Article 6
- Oregon: O.R.S. 124.005-124.040
- Washington: R.C.W. 74.34
Long Term Care Litigation Issues

A. Clinical Issues
B. Documentation Issues
C. Policy & Procedure Issues
D. Regulatory Issues
E. Corporate Malfeasance Issues
Regulatory Issues

• Annual Survey
  – Substantial Compliance
  – Scope and Severity
    • A thru D not substandard care
    • G or higher is substandard care
  – Pattern Issues
  – Regulatory Violations may Support **Negligence Per Se**
  – California Health & Safety Code §1430(b)
Corporate Malfeasance Issues

• Staffing levels
• Production Per Patient
• “Profits over Patient Care/Safety”
  – Reptile Lawyer Theme
Long Term Care Industry Solutions

1) Improved – Communication with patients and families at intake and throughout admission
2) Improved – Communications with staff and physicians with electronic medical records
3) Improved – Training
4) Improved – Medication, equipment and treatment options
5) Improved – Staffing levels/staffing retention
Defense Counsel Responsibilities:

1) Distinguish – Medical Negligence from Elder Abuse
2) Distinguish – Regulatory Related issues from care related issues
3) Distinguish – Documentation issues from care related issues
4) Distinguish – Revenue and cost related issues from care related issues
5) Distinguish – Natural progression of aging/disease process from injury