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### Family files suit against nursing home

Resident suffered fractures in fall from wheelchair

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The family of a former resident of Warren Manor has filed a lawsuit against the facility that alleges neglect resulting in serious injury to the resident.

The 10 surviving children of Betty L. Gerarde are listed as those entitled by law to recover damages through the lawsuit.

According to legal papers filed with Warren County Court of Common Pleas Civil Division, Gerarde suffered serious bodily injury as a result of "negligence" which the lawsuit alleges occurred a year after her admission on March 22, 2005, and peaked with a serious fall from her wheelchair on Tuesday, Sept. 18, 2007.

Gerarde died on April 7, 2008, at the age of 87.

The plaintiffs are asking for an amount of damages within the limits of arbitration, together with attorneys' fees. "The amount of damages to the court seems just and proper," according to Judge TeWinkle of Erie. According to TeWinkle, the limit of arbitration in Warren County is \$50,000.

The suit cites gaps in observation, supervision; a lack of a proper continence, hygiene, and/or toileting regimen; a lack of a proper repositioning regimen; failure to take steps to prevent her falling down, falling out of bed and falling out of her wheelchair; insufficient modification and following of her care plan as her status changed over time; not following proper policies and protocols with respect to nursing services; a failure to give proper and timely notification to her physician of changes in her condition; failure to meet acceptable nutritional status, weight, and fluid intake parameters and status; and failure to meet state and federal regulations.

"The fact that she was at high risk for accidents and falls was all communicated to the agents, servants, employees and staff members... or should have been known to them as health care professionals," the lawsuit reads.

According to the suit, from March 7, 2006, to Sept. 18, 2007, Gerarde fell multiple times, became anemic and required a blood transfusion, had pressure ulcers (bedsores) four times, and had a serious fall resulting in "multiple fractures of the cervical spine and arm, severe bruising, hematoma of the forehead, and concussion."

"On Sept. 18, 2007, Mrs. Gerarde, while being transported in a wheelchair without foot rests by employees of Warren Manor, fell out of the wheelchair and landed on her face," according to the suit. "At the time of her fall, no one at Warren Manor sought medical treatment for Mrs. Gerarde, even though she was complaining of pain and her face had severe bruising."

Documents from the Pennsylvania Department of Health and Human Services show that nursing notes confirm that Gerarde fell face forward from the wheelchair and struck the floor while she was being wheeled from the dining room.

Gerarde's family was not notified of the fall, according to the suit, and there was "no protocol in place for training employees at Warren Manor on how to safely and properly transport resident patients in a wheelchair."

Wheelchair transport is listed in the suit as "one of the greatest risks of residents at a long term care facility, and one of the greatest risks for this resident in particular."

Family members visited Gerarde on the day of the fall, according to the lawsuit, and they witnessed "severe bruising on her face and her complaints of pain."

A nurse's report from 2 a.m. Sept. 19, 2007, contained in the information from the Department of Health and Human Services, described "swelling of the resident's left hand, wrist, and face."

Gerarde's arm and wrist were x-rayed on Sept. 20, according to the document filed by the plaintiffs. That procedure revealed a fracture of her forearm. It is not clear through either Department of Health records nor the lawsuit where those x-rays were taken, but the lawsuit indicates they were not taken at the emergency room.

"As a result of the insistence of her family on Sept. 21, 2007, Mrs. Gerarde was taken to the emergency room, and she was found to have suffered" three fractures in her upper vertebrae, a concussion, and other injuries in addition to the broken wrist bone, according to the suit. "On Sept. 21, 2007, Mrs. Gerarde became unresponsive and was transferred to Hamot Health Center" in Erie.

An assessment of Gerarde's care needs performed on Aug. 9, 2007, said she "had no problems with chewing or swallowing, was alert and oriented with some short term memory loss, was generally able to independently make decisions..." according to information from the Department of Health and Human Services.

Gerarde

Nurses' notes from Sept. 27, 2007, indicate Gerarde "did not respond to verbal instructions and questions, had limited movement of the arms and legs and required suctioning (mechanical removal of saliva from mouth and throat)," the Department of Health and Human Services report shows.

According to the lawsuit, a caretaker who is guilty of neglect of a care-dependent person resulting in serious bodily injury has committed a felony of the first degree.

Asked to comment on the matter, Warren Manor Administrator John McCracken sent the following email response:

"Warren Manor has been providing quality care to residents of the Warren community and greater Warren County for over 27 years. While we understand the interest that the community may have in the resident whom you have inquired about, we consider it our ethical, as well as our legal duty, to keep all personal and health information concerning our residents and their families strictly confidential."

He said the facility had not received authorization from the family to release any information as of Thursday afternoon.

"Warren Manor's first commitment - always - is to provide quality care to residents in a safe and secure environment," he wrote. "Delivering the highest quality of care and customer satisfaction is a top priority for all of us at Warren Manor."

"We cannot share any more detail about this resident out of respect for the privacy of our resident and his/her family, and we ask that all media sources that report on this incident in the future respect their privacy as well," McCracken wrote.

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