



Sandoval's Soliloquy

A Periodic Update for Health Care Professionals Working With the Elderly and the Disabled

February 2008

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A PROFESSIONAL LAW
CORPORATION

*Providing Peace of Mind to
Seniors, the Disabled and
their Family Members*

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California Bar Board of
Legal Specialization as well
as a Certified Elder Law
Attorney by the National
Elder Law Foundation*

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www.cal-elder-lawyer.com

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Elder Financial Abuse is Widespread

In the past year, our law office has seen a dramatic increase in the number of elder financial abuse cases coming our way.

Three recent cases are typical of the type of cases we are seeing. The first involves a next door neighbor. The neighbor befriended an elderly woman who lived alone. The neighbor would provide some caregiver services, taking the elderly woman to the doctor, doing some grocery shopping and light housekeeping for her and helping with meal preparation. Before long, the neighbor had managed to get her name on all the woman's bank accounts and arranged for a paralegal to prepare a power of attorney, will and trust putting the neighbor in charge of her finances and giving everything to her at the death of the woman. Her children were grateful for the assistance the neighbor offered but were shocked when they discovered after their mother died that the neighbor had control of all the finances, and they couldn't even access money to bury their mother. They have hired my law firm to recover the assets that were taken.

The second case involved another elderly woman with dementia and mental disease. Her nephew got her to execute a power of attorney, which he promptly used to "borrow" money. The nephew failed to notify any family members of the woman's death until more than a month after her death. In the meantime, he used the power-of-attorney to fraudulently clean out the woman's bank accounts and to sell her real estate and abscond with the proceeds. The fact that a power-of-attorney is not valid after the death of its principal did not deter the nephew from entering into these transactions. Again, our firm was hired to recover the money that was taken.

The last case is probably the most egregious of all. A man that is financially destitute and about fifteen years younger than a relatively wealthy woman with declining mental faculties manages to gain her good graces. A short while later the man moves in with her and he begins to isolate her from her children and grandchildren. Over time the man gets the woman to sell real estate, place the sale proceeds in a joint account with him, change title to other properties and establish credits lines for him on other properties. Just a few months before her

death and only a few weeks before she was diagnosed with Prion Disease, he took her to the car dealer to execute a sales agreement to buy him a new Cadillac Escalade. My office was hired to establish a conservatorship for her, but unfortunately she passed away before we could recover any of the assets which have been taken from her by way of the conservatorship. The woman's daughter has now been appointed as administrator of her estate and we are pursuing an elder financial abuse claim and recovery of the assets for the woman's estate.

These are just a few examples of the abuses that are being perpetrated on elders. These abuses occur to seniors in all walks of life, sometimes by strangers, but more often by persons who the seniors have placed trust in. Very often assets are taken by the agent under a power-of-attorney. If you suspect that any of your clients are being abused physically or financially, contact APS. If it looks like assets were taken by abuse of a power of attorney or trust or by undue influence, or if you believe the client did not have the capacity to enter into a transaction, we are available to help recover any assets wrongfully taken for the senior or for his or her estate.

Bed Sores are Serious Problem for the Elderly

Experts estimate that two million Americans suffer from pressure ulcers each year, usually through some combination of immobility, poor nutrition, dehydration and incontinence. The Centers for Disease Control and Prevention does not keep statistics on fatalities, but one prominent victim was the actor Christopher Reeve, who died of a bedsore infection and other complications in 2004.

New research is suggesting that the battle against pressure ulcers requires a team approach, enlisting everyone from nurses and nursing assistants to laundry workers, nutritionists, maintenance workers and even in-house beauticians.

While Dennis was undergoing physical therapy for his quadriplegia many years ago, he saw a great deal of disabled and elderly patients being treated for pressure ulcers and the pain they were experiencing. For this reason, Dennis and his legal staff are very cognizant of this problem in immobile patients. Karen Griffith, our Geriatric Care Coordinator, is especially diligent in making sure that the life care planning clients of our law firm are being properly inspected and cared for by nursing home staff, assisted living staff, geriatric care managers and in-home care providers.

In a study of a collaborative program involving 52 nursing homes around the country, The Journal of the American Geriatrics Society reported in August 2007 that team efforts had reduced the number of severe pressure ulcers acquired in-house by sixty-nine percent. "Preventing pressure ulcers is a 24/7/365 kind of job," said Jeff West, a clinical reviewer at Qualis Health in Seattle, who helped to set up the collaborative study in 2003. "It's not as if one person can get it all done. And if it fails just a little bit, just during the weekends, for instance, you're not going to get the results. It takes tremendous consistency."

At the Lutheran Home in Fort Wayne, Indiana, for instance, "the laundry workers helped us see that some clothes weren't fitting the residents properly and were restricting their skin," said Jeanie Langschied, a registered nurse there. The kitchen staff began putting protein powders in cookies to boost nutrition. They added buffet dining, so residents would not remain in one position for so long, compressing fragile skin. Even the beauty shop "realized that wait times needed to decrease," Ms. Langschied said, and residents should be repositioned while getting their hair done. "It was all departments looking at everything, and it was just amazing the information that flowed through."

Lutheran Home was one of the 52 facilities that took part in the collaborative study, sponsored by the Centers for Medicare and Medicaid Services. Dr. Joanne Lynn, who helped begin the project when she was a senior natural scientist with the RAND Corporation (she has since joined the Medicare centers), said the goal was to educate nursing home workers in bedsore prevention and to encourage them to come up with creative, low-tech solutions of their own. "It was a combination of education, cheerleading and something like systems

engineering,” Dr. Lynn recalled. The number of superficial bedsores did not decrease to a statistically significant degree, for reasons that are unclear.

At David Place, a nursing home in David City, Nebraska, staff members say they focused on assessing each resident’s risk for bedsores, and noted this risk on the assignment sheets used by nursing assistants. “The residents at highest risk,” said Dan Smith, Director of Nursing, “would be the last up for meals and the first down after meals so they would not be in their wheelchairs for long periods of time putting pressure on their bottoms.” Residents at risk from weight loss were given yellow plates, so that staff members would remember to encourage them to eat more. David Place also bought new mattresses made of high-density foam to reduce pressure in key areas. Staff members say they redoubled efforts to keep feet elevated with pillows so that bedsores would not develop on the heels. And they began to use new moisture barrier creams with residents who were incontinent, since lingering moisture can speed the development of sores.

Staff members at Palatka Health Care Center in Palatka, Florida, initiated a similar blend of measures. They created a “skin-watch action team,” or SWAT, to identify vulnerable residents and to make sure that their heels were floated, that they were given pressure-reducing cushions and that they were repositioned frequently, said Carol Jones, a risk manager at the center. “We got the grass-roots level, the certified nursing assistants, much more involved, and they were held accountable,” Ms. Jones said. If a bedsore began to develop, she said, “we’d ask them, how did this happen?”

Initially, as the collaborative study collected data from participating facilities, the incidence of pressure ulcers did not appear to change, Dr. Lynn said. It was only when researchers focused on data for the most severe bedsores that they saw an improvement.

Clinicians document four stages of pressure ulcers, in which Stages 1 and 2 are superficial sores and Stages 3 and 4 are deep wounds that result from death of the skin and underlying tissues. “In good care, almost all new stage 3 or 4 pressure ulcers show up fully formed,” Dr. Lynn said, meaning that they do not begin as superficial bruises that then go deeper. The injury, she said, “appears to be in the deep tissues from the start, though it can take a few days for the extent of dead tissue to become apparent.” The deeper sores may have different underlying causes than the superficial ones, she said. But it is unclear why the less severe ones did not respond as well to the practices instituted by the collaborative.

Dr. Horn, of the Institute for Clinical Outcomes Research, praised the collaborative study as “the first major national effort driven by Medicare to reduce pressure ulcers.” But she said that better outcomes could be achieved if more nursing homes improved their documentation, so that all of the information on a given resident, including details on eating, urinary and bowel function, appeared on a single sheet, with key reminders to nursing assistants and other staff members about best practices. Institutional change and work-flow redesign are critical, she added, given the high rates of turnover in nursing home staff across the country. The changes need to become hard-wired in an organization, said Mr. West, of Qualis. “A lot of places do well when they have a lot of support,” he said. “But it’s hard to keep that momentum going. That’s the real challenge.” Statewide efforts to reduce pressure ulcers are also under way in California, New Jersey, New York and elsewhere.

Bedsores are “a major quality-of-life issue, and a self-esteem issue,” said Joanie Jones, a nurse at David Place in Nebraska.

Help to Find Wandering Alzheimer’s Patients

About four years ago, client of my law firm with Alzheimer’s Disease was picked up in the middle of the California desert by the California Highway Patrol, hundreds of miles from her home in Torrance. She had taken the family car to search of aluminum cans and had continued to drive until the car ran out of gas.

Fortunately for her, she managed to avoid an accident while driving on the city streets and freeways and a highway patrol officer spotted her before some serious harm came to her out in the desert.

An 89-year-old woman from Oklahoma suffered a much worse, having been found dead in her locked car along a rural highway last year, a week after her family reported her missing. Authorities say she apparently became disoriented on her way home from a mall and died of heatstroke.

Stories such as these inspired Jim Nalley, a telecommunications executive, to look for a solution. He has formed a company and set out to design an electronic monitoring system that would quickly find older people with dementia who wander. Jim and Chris Buehler, his business partner, have received backing for EmFinders from the North Texas Enterprise Center for Medical Technology. EmFinders is developing a tracking system that Mr. Nalley believes could have located these disoriented women within minutes of their disappearance and directed law enforcement officials to them. He and Mr. Chris Buehler, hope to roll out their product by summer.

Law enforcement authorities and Alzheimer's Association officials who have studied EmFinders' system, or seen it demonstrated, say they're intrigued. They agree it could provide peace of mind to families of the 5.1 million Americans living with Alzheimer's disease. Six in ten people with dementia will wander at least once, according to the Alzheimer's Association. They may leave home because they're bored or restless. Or they run an errand and forget where they are. Or they just take off for no apparent reason, sometimes in the middle of the night.

"Wandering can turn out to be life-threatening more often than people think," said Lisa Brodsky, Director of Programs and Services for the Dallas, Texas chapter of the Alzheimer's Association. "If someone with dementia isn't found within twenty-four hours, he runs a fifty percent chance of serious injury or death." Electronically tracking Alzheimer's patients is mostly a scattering of rudimentary business ventures at the moment, as small entrepreneurs experiment with radio-based and satellite technologies. But experts predict it will grow into a full-fledged industry when 78 million baby boomers reach old age.

EmFinders will fit its customers with radio transmitters disguised as tamperproof bracelets or watchbands that, when remotely activated, will notify 911 dispatchers, Mr. Nalley said. The coin-size devices will use the cellular network to pinpoint their location and guide rescuers to them. "Though cellphones with global positioning chips have become popular with perpetually moving teenagers and young people, they aren't practical for older adults with dementia," the EmFinders chief executive said. "So we had to build another kind of system for people who can't use cellphones."

The way the system will work is that when someone with Alzheimer's disappears, the caregiver will notify the police and EmFinders' call center. The center will turn on the bracelet's transmitter so the device can contact the 911 system and provide the person's location. The call center will also give the 911 dispatcher more details about the lost person. "What's appealing about EmFinders' system is that it's not pie-in-the-sky – it relies on a combination of current technology and local law enforcement," said Monica Moreno, a national executive with the Alzheimer's Association. EmFinders expects to charge about \$100 upfront for the device and \$10 to \$15 per month for support services, Mr. Nalley said. When the company demonstrated its system for the Austin, Texas police and Austin Alzheimer's Association, it determined a person's location to within fifteen feet after about ten seconds.

"Jim and Chris got our attention because they have a solution to a fast-growing concern for families," said Larry Calton, the business accelerator's director. Nalley and Buehler say their electronic tracking system will take caregivers a couple of steps beyond current anti-wandering efforts.

The Alzheimer's Association now sponsors a Safe Return program that notifies law enforcement authorities when someone wanders off. Participants wear ID jewelry with the program's toll-free number. Then, when someone finds a missing person, the wanderer can be identified and reunited with relatives. The association

recently joined with MedicAlert, a nonprofit group, to make health records available to emergency medical personnel if a wanderer requires immediate attention. Still, the program must rely on a law officer or Good Samaritan to spot someone in distress. Some states, including Texas, have begun issuing Silver Alerts to enlist the public's help in finding missing seniors, similar to Amber Alerts for missing children.

The best-known program for locating the missing is Project Lifesaver, an international nonprofit organization that teams with local law enforcement agencies to provide Alzheimer's patients and autistic children with wristbands that emit radio signals. But the program exists only where police participate. About 640 agencies belong to the project.

Pat Van Dyke, who's 56 and lives in McKinney, Texas, began wearing an Alzheimer's Association Safe Return bracelet shortly after being diagnosed four years ago. However, she was intrigued enough by EmFinders' idea to join a focus group about the prospective product and offer her opinions. Although Ms. Van Dyke still leads an independent life and works as a volunteer, she wants to be prepared for the possibility she will lose her way someday. "It would be a relief to me and my family to know I'd be found quickly," she said. "Yes, I'm definitely interested in some sort of tracking system."

Anyone developing a product for tracking people with dementia will need to overcome three problems, said Majd Alwan, director of the Center for Aging Services Technologies, a national coalition of technology companies, senior care providers and universities. The first problem is cost. No matter how sophisticated, a satellite-based system that charges hundreds of dollars a month won't attract buyers, he said. The next hurdle is battery life. If batteries need recharging every few days, caregivers will think the system is more a burden than a blessing, Mr. Alwan said. And the last obstacle is appearance. If seniors don't find the transmitting device attractive, they won't wear it, he said.

Mark Warner, co-founder of the Alzheimer's Store, which sells hundreds of Alzheimer's products online, offered some low-tech advice to the high-tech entrepreneurs struggling to design an aesthetically pleasing transmitter. The answer may lie as much in the presentation as in the design, he said. "I've found that seniors will wear anything their grandchildren give them," he said. "Just wrap up the transmitter as a present, say it's from little Susie, and you'll never have to worry about it being tossed into some corner."

Save The Date!!

Friday, April 18, 2008

Third Annual Inland Empire Caregivers Symposium

See the registration form that accompanies the e-Newsletter for more information about this year's speakers, topics they will cover and how to register to attend.

We think this will be our best Symposium yet, and we hope you can attend!

Program:

- 8:00 **Registration**
- 8:30 **Opening Remarks**
- 8:45 **Codes of Ethics: Who, What, Where, When and Why?**
Speaker: Dr. Connie Milton
- 9:45 **Morning Break**
- 10:00 **Snoring, Dreaming, Screaming, and Kicking**
Speaker: Dr. Stuart Menn, M.D.
- 11:00 **Lunch**
Sponsored by Planning Services, Inc. – Paul Smith, CEA
- Noon **Pharmacology and the Elder: Beware and Be Aware!**
Speaker: Susan Drummond, RN
- 1:00 **Planning for “The Forgetting”: Getting an Alzheimer’s Patient’s Estate and Finances in Order**
Speaker: Dennis Sandoval, J.D.
- 2:00 **Elder Abuse: What Must Be Done**
Speaker: Dorothy Miller
- 2:45 **Afternoon Break**
- 3:00 **Understanding Mental Health Issues With Seniors**
Speaker: David Sharp, R.N., Ph.D.
- 4:00 **Aid and Attendance: What Is It and Who Can Get It?**
Speaker: Jeanette Phillips
- 4:45 **Closing Remarks**

Faculty

Susan Drummond, R.N.

Associate Professor, California Baptist University

Stuart Menn, M.D.

Investigator, Pacific Sleep Medicine Services

Dorothy Miller

Coordinator, DPSS, Adult Protective Services

Connie Milton, R.N., Ph.D.

Dean, School of Nursing, California Baptist University

Jeanette Phillips

Service Representative, Veterans Services

Dennis M. Sandoval, J.D., LL.M., CELA, AEP

Certified Elder Law Attorney

David Sharp, RN., Ph.D.

Associate Dean, School of Nursing, California Baptist University

2008 Consumer Seminars

Call 951-787-7711 to make reservations – Seating is limited!!!!

Topic	Date	Location
Planning for Special Needs Persons: What You Need to Know – Sponsored by Adults with Epilepsy Support Group	February 1, 2008 6:30 – 8 p.m.	Parkview Hospital Riverside
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	February 7, 2008 7 – 9 p.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	February 9, 2008 9 – 11 a.m.	Our Classroom*
Special Session – Legacy Wealth Planning for Same Sex and Unmarried Partners: Why Your Existing Estate Plan † Won't Work	February 23, 2008 9 – 11 a.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	March 5, 2008 7 – 9 p.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	March 8, 2008 9 – 11 a.m.	Our Classroom*
Legacy Wealth Planning for Persons With Large Retirement Assets (More Than \$250,000): Why Your Existing Estate Plan † Won't Work	March 15, 2008 9 – 11 a.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	April 9, 2008 7 – 9 p.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	April 12, 2008 9 – 11 a.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	May 7, 2008 7 – 9 p.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	May 10, 2008 9 – 11 a.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	June 11, 2008 7 – 9 p.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	June 14, 2008 9 – 11 a.m.	Our Classroom*
Special Session – Legacy Wealth Planning for Same Sex and Unmarried Partners: Why Your Existing Estate Plan † Won't Work	June 21, 2008 9 – 11 a.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	July 16, 2008 7 – 9 p.m.	Our Classroom*
Legacy Wealth Planning: Why Your Existing Estate Plan † Won't Work	June 19, 2008 9 – 11 a.m.	Our Classroom*

** Unless attendance requires a larger classroom or is scheduled elsewhere, all classes will be conducted in our law firm classroom, located at 3233 Arlington Avenue Ste. 105 Riverside, California 92506 (corner of Division Street and Arlington (near Target Store and across the street from California School for the Deaf)) -- (Maximum attendance in the law firm classroom is twelve persons)*

† The reference to an existing estate plan is a reference to existing estate plan drafted by a law firm other than Dennis M. Sandoval, A Professional Law Corporation

Interested in having Dennis Sandoval or Pamela Valencia conduct a seminar for your church, employee group or other organization? We would be glad to accommodate most requests. Call 951-787-7711 now to inquire about availability of a speaker.