

## TESTIMONY FOR SENATE AGING COMMITTEE HEARING

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### Background

This is a true story - a tragic and devastating story about a caring and loving elderly woman, with a declining mental facility who entered a local nursing home seeking compassionate care and security, but within a period of approximately 45 days was the victim of a sexual assault by a male employee of the nursing home. I ask that you listen carefully to what I'm going to tell you, and keep the following perspective in mind:

- The nursing home industry is in this business to make a profit.
- Moral competent personnel are a nursing home's most important asset.
- A nursing home has a moral and fiduciary responsibility to provide reasonable and compassionate care for its clients at all and any cost.
- Are nursing homes and their insurance carriers just matter of fact accepting sexual abuse and lawsuits as a normal cost of doing business, instead of addressing and correcting the problem?

I have in my hand a \$ 20 dollar bill - my only exhibit for this testimony. It represents the approximate cost (my uneducated guess) to do a background check, which the nursing home did not do. But for the nursing home's desire to save \$ 20 in expenses, this incident could possibly have been avoided - conversely, it cost the nursing home and their insurance carder an estimated \$ 1,250,000 for a sexual assault claim and related legal fees.

### The Victim

The victim was my 92 year old mother - she loved her family and her home, and enjoyed playing the piano and tending to her flowers and vegetable garden - she was a deeply religious person and always had a smile and a kind sweet word for everyone she met, in addition to a delightful sense of humor. God bless her - the Meyer family is truly blessed to have her as a mother, grandmother and great grandmother.

She celebrated her 92nd birthday on January 29, 1993 and was then living an independent life in her own home. Due to her continuing diminished mental facility (moderate dementia) and becoming increasingly unable to properly look out for her own safety, her immediate family felt it was best for her benefit and safety that she should enter a nursing home to receive the necessary 24 hour round-the-clock care.

Mother had been found by family members outside her home several times that January, in the cold weather and snow - she was unable to find her way back into her home.

Mother entered the local nursing home mid February 1993, but somewhat reluctantly. She was a private pay - she was not on state aid.

On March 29, 1993, my mother, who was unable to properly defend herself and with poor hearing, was

sexually assaulted in her room at approximately 7:30AM by a male Certified Nursing Assistant, an employee of the nursing home. The sexual assault was discovered by another female employee of the nursing home upon becoming concerned that the male CNA appeared to be taking too long to get mother up and dressed, and then taking her to the dining room for breakfast.

May God bless forever and ever the female employee that had the foresight to check-up on this male employee and the tenacity to report her findings. And how many other people did she save from this tragic criminal act?

Upon discovery of the sexual assault, mother was then transported by an ambulance to a hospital 20 miles away for a medical examination in the emergency room and which included a rape trauma test. She was returned to the nursing home in an ambulance with only a blanket wrapped around her - yes, her clothes were kept as potential evidence.

Local police officials were notified of the sexual assault and proceeded to investigate the matter with administrative and nursing personnel at the nursing home, and interrogate and investigate the alleged perpetrator of this tragic incident.

Officials of the Department of Public Health of the State of Illinois (involved with nursing homes) were notified of the incident and they commenced a review of the situation - I don't recall the details of or outcome of their review, The nursing home suspended the male employee pending the outcome of the reviews by local police and the Health Department.

Approximately mid June 1993 our worst fears were confirmed - DNA tests confirmed the sexual assault. The Meyer family was outraged as to why and how this could happen to such a kind, caring and loving lady - and she had only been in the nursing home approximately 45 days- We vowed to not let this tragic incident be swept into a closet, and the door closed and locked forever - let the prosecution begin, let justice prevail.

Upon confirmation of the sexual assault, mother was then transferred to a different nursing home facility in Northern Illinois in July 1993.

For a period of approximately 3 years, and continuing sporadically yet, mother becomes very defensive, belligerent and sometimes mean when nursing home personnel touch her or attempt to remove her clothes when helping her with a bath or preparing her for bed in the evening.

Could it just be that this incident has been etched in her mind forever and ever? And it still comes back to haunt her?

Mother presently resides in a fine nursing home in Northern Illinois and celebrated her 97th birthday last January 29, 1998.

### The Perpetrator

The following information related to the perpetrator is based primarily on documents that I had access to and read during our prosecution of this criminal act in a court of law.

The male employee of the nursing home was approximately 43 years of age and was married. His primary occupations, prior to being employed by the nursing home, appeared to be that of truck driver and general laborer.

In 1985, this man was charged and convicted of the sexual assault of a female minor child and served approximately 1 year in prison - his nature and actions were apparent and the record was then established in the legal enforcement files in the State of Illinois and therefore accessible to those entitled to review it,

This man applied to and was admitted to a local community college to study for and obtain a certificate as a Certified Nursing Assistant - a certificate as a Certified Nursing Assistant was awarded to him in June 1992.

On January 14, 1993, he was hired as a Certified Nursing Assistant at this local nursing home - this was apparently based on their normal interviewing policy and without performing a background check. His starting pay was approximately \$ 5.00 per hour.

On March 29, 1993, he sexually assaulted my mother in her room at approximately 7- 3 OAM. He had only been employed by the nursing home for approximately 2 1/2 months. The nursing home suspended the employee without pay pending the outcome of the reviews of the local police and the State of Illinois Department of Public Health.

Upon confirmation of the sexual assault via DNA tests in mid June 1993, this man was arrested and confined to the local county jail. The States Attorney for the county then commenced legal proceedings for the prosecution of this criminal act.

With overwhelming evidence against him in late August 1993 this man, without a jury trial, voluntarily accepted a 25 year prison sentence before a judge and within a few days was sent off to prison. Several members of the Meyer family including myself and my wife attended the sentencing, a day we shall never forget. It is my understanding, from the local county States Attorney, that this man will probably be released from prison upon serving 50% of his sentence (the year 2006).

### Outrage Prosecution and Anguish

The Meyer family was outraged and all agreed - let the prosecution begin, let justice prevail.

In July 1993 a major law firm in Chicago was engaged to prosecute and handle this criminal action against the nursing home on behalf of my mother - the attorneys that accepted the case were as outraged as the Meyer family. In September 1993, I was appointed mother's legal guardian of her person and her estate.

The original Complaint was filed in Cook County in December 1993. The wheels of justice were in action - meetings with our attorneys were held, depositions taken, private investigators hired, documents collected and evaluated, a video portraying a day in the life of my mother in a nursing home was prepared for use in court if needed expert witnesses were engaged to provide expert testimony on all issues as necessary, mediation hearings to effect a settlement were held to no avail, and amended Complaints were filed. The case was also transferred to Kane County - a collar county to Cook County. Finally, a trial date is set for late April 1995 - 22 months have come and gone since July 1993.

The day before jury selection was to begin, the presiding judge for the trial was able to effect a \$ 1,000,000 settlement on behalf of my mother - in mid August 1995 net settlement proceeds of approximately \$ 585,000 were put into a trust fund for the future benefit and care of my mother (29 months have come and gone since March 29, 1993). Additionally, in December 1996 we had to file a special final report with the Kane County trial judge assigned to our case to conclude the activity

involving this case and the court jurisdiction,

Due process of law. . . judicial process ... justice ... collectively, perhaps an oxymoron in situations such as this. Or perhaps I was just suffering from judicial process frustration and litigation withdrawal.

The outrage and anguish suffered by the Meyer family during this period of time and this ordeal was enormous - we all felt the pain. Their help, counsel, encouragement and support to me was immeasurable. It took me approximately I year to unwind from this ordeal. The compassion and concern of our attorneys was deeply appreciated.

### Resolution - What Can Be Done

What can I do - what can each of you do - what can the nursing homes and their insurance carriers do - what can the government do - what can we all do to make a difference and protect our loved ones? Collectively, I believe that all of us together can change this tragic

Because, unless changes are made could this situation or will this situation happen to your loved ones - think about it and the consequences!!!!

If and/or when it happens, prosecution of the criminal act is a nightmare you have a hard time forgetting. Did it need to be done - absolutely YES! !!!! Would I prosecute again absolutely YES !!!!

Its sad to say, but apparently litigation is needed along with non-confidentiality agreements to expose the guilty parties. Let this testimony and tragic story put nursing home management and their insurance carriers on notice - clean up your act - we will no longer tolerate this abuse (for that matter, any abuse) to be inflicted on our loved ones - where's your moral and fiduciary responsibilities??????

Reality!!!! To nursing home management and their insurance carriers - think about it a \$ 20 investment for a background check just might save you an abuse claim and related legal expenses in the amount of \$ 1 250,000,

Reality \$ 1,250,000 will purchase a lot of background checks. Use a portion of this money to pay for moral competent employees to care for your clients (our loved ones) - we all would appreciate that change of attitude and vision.

Reality! 1 !!! To the local community colleges - do a background check before awarding a certificate to an undesirable person not worthy to be designated a Certified Nursing Assistant.

### Crime Scene Re-Visited

On Tuesday September 8, 1998, a delightful lady from the Senate's Aging Committee called me at work to ask if I would participate in this hearing - I agreed. That Tuesday night, after work, I proceeded to review past litigation documents to see what I could contribute to this hearing and efforts of the Aging Committee

Well, I didn't sleep well that night, or the next couple of nights - for I was revisiting the crime scene and reliving the 29 months of outrage and anguish that I experienced. YES, it was worth it. Thanks for listening and your attention - GOD BLESS AMERICA