

page 2
Don't give up! You might be compensated for a sports injury

Anti-nausea medication Zofran is tied to birth defects

page 3
Laundry pod poisonings becoming widespread

page 4
School responsible for not having defibrillator at sports event

Consumer Safety
fall 2015

Legal Matters®

Nursing home abuse and neglect are more common than most people think

Elderly patients are being neglected and mistreated in nursing homes far more frequently than most people realize.

According to the National Center on Elder Abuse, about one out of every three nursing home residents in America suffers from neglect. In one survey conducted by the Center, nearly half of all participating residents claimed they personally had been abused in some way, and nearly all of them claimed they had seen another patient being abused.

The problem isn't always that nursing home staff members are malicious – many obviously care a great deal about the patients. Often, the problem lies with the nursing home management. A large number of nursing homes are understaffed, and the staff they do have are sometimes poorly trained and don't know how to properly care for the residents. Many nursing homes have high staff turnover, and as a result, patients get lost in the shuffle. And if management pays low wages and treats its staff poorly, the staff might not be motivated to treat patients the way they should.



©istockphoto.com

These conditions can lead to situations where patients are neglected or mistreated, resulting in physical and psychological harm ... and in a number of cases, even death.

One reason we don't hear more about the problem is that many deaths related to nursing-home abuse are never identified or reported.

continued on page 3


PARKER & FREY pllc
LAW FIRM

600 West Cumberland Street
Dunn, NC 28334
(910) 892-9175
www.nccompspecialist.com

Don't give up! You might be compensated for a sports injury

People who play recreational sports sometimes get injured; that's a risk they face when they decide to engage in an athletic pursuit. But often, the real cause of an injury isn't the person's own carelessness or bad luck; it's something that the proprietor of the sports facility did (or didn't do).

If you've been injured playing a sport, it's always wise to talk to an attorney, because you might never know whether you can be compensated for an injury unless an attorney investigates all the circumstances.



©istockphoto.com

Here are three cases that illustrate this point:

► **Snow tubing crash.** Snow tubing – which involves sliding down a slope in a large, inflatable inner tube – is becoming an increasingly popular alternative to skiing and snowboarding at many ski areas. It's fun, and unlike skiing or snowboarding, it requires no skill to enjoy.

But just as with snowboarding and skiing, you can get hurt.

Andrew Roebuck was snow tubing at Pennsylvania's Bear Creek Mountain Resort when the tubing run iced up and became, as one employee described it, "smoking fast." Roebuck couldn't control the tube, which vaulted into a net at the end of the run. He fell on his head and suffered a spinal injury that kept him out of work for six months and robbed him of the ability to lead an active lifestyle.

Roebuck sued the resort, claiming it was careless in failing to keep the slope safe and in not warning him of the conditions.

The resort said it couldn't be held liable because there was a

waiver of liability printed on each ticket, and all ticket purchasers were required to sign a release.

But a court decided that Roebuck could sue, because he had been given the tickets rather than buying them himself. As a result, he didn't sign the release and never saw the waiver.

At the trial, a jury found that the resort was indeed at fault for not warning that the slope was unusually fast and that people were having trouble stopping.

► **Health club injury.** A member of a 24 Hour Fitness facility in Sacramento, California fell backwards from a moving treadmill and smacked her head against a different exercise machine that the club had placed less than four feet behind the treadmill. This violated the treadmill maker's safety specifications, which said that there should be a six-foot "safety zone" between the back of the treadmill and other gym equipment.

The club member sued, and the club argued that it was protected by the liability waiver that the member had signed.

But the California Court of Appeal said the case could go to trial.

According to the court, 24 Hour Fitness knew it was violating the manufacturer's safety directions when it arranged the exercise machines without providing a proper safety zone, and it did this to squeeze more machines into the facility to make room for more paying customers. The court said this wasn't just carelessness; it could be considered "gross negligence" and so serious that it voided the liability waiver.

► **Soccer accident.** Andrew Dann, an experienced soccer player in New York, was hurt playing in a recreational indoor league at a local domed sports complex. He shattered his kneecap when he slid into a raised concrete foundation footer that was hidden by the inflated fabric wall of the dome.

Dann sued the complex. At first, a judge rejected the suit, saying Dann assumed the risk of injury when he decided to play in the league.

But an appeals court thought differently. It said that while recreational athletes such as Dann assume certain risks when they sign up to play, this doesn't extend to hidden dangers that aren't inherent to the sport. As a result, Dann's case could be decided by a jury.

Anti-nausea medication Zofran is tied to birth defects

Zofran is an anti-nausea drug that's often prescribed for pregnant women suffering from morning sickness. But it now appears that taking Zofran while pregnant could seriously harm the fetus, according to a recent study in the *American Journal of Obstetrics and Gynecology*.

According to the study of 900,000 Danish women, the risk of infant heart defects doubled when pregnant women took the drug. This is significant because an estimated 80 percent of pregnant women suffer from nausea and vomiting during preg-

nancy, and about 1 million of them have been taking Zofran (or a generic equivalent) each year.

Other women who have used the drug during pregnancy have reported babies born with cleft palates, club foot, malformed skulls, vision problems, and mental impairments.

GlaxoSmithKline, which manufactures Zofran, paid the government a significant fine in 2012 for illegal promotion of the drug and failing to report safety data. A number of lawsuits have now been filed by affected families as well.

Laundry pod poisonings becoming widespread

Laundry pods – those single-dose packets of laundry detergent that can be put unopened into a washing machine instead of liquids or powders – have caused a spate of poisonings and other accidents recently.

Laundry pods are particularly dangerous to small children, who might bite into the pods or squeeze them, causing them to suddenly burst open. Exposure can cause vomiting, breathing difficulties, chemical burns, and depression of the nervous system.

About 30 accidental exposures involving children are being reported to poison-control centers across the country *each day*. Worse yet, six child deaths

have been reported as well.

There have also been cases involving elderly people with dementia who, like children, have mistaken the colorful pods for candy.

Manufacturers such as Tide have changed their designs and placed child-proof closures on the packaging, but the incidents keep happening.

A growing number of lawsuits are now being filed, seeking compensation for injuries resulting from exposure to the laundry pods.



©istockphoto.com

Nursing home neglect is surprisingly common

continued from page 1

When a young person dies, it's unusual and arouses suspicion. Deaths among older people are more expected. As a result, many people – even doctors – may simply assume that an elderly person's "time has come," and fail to fully investigate what happened.

Further, in many states, doctors are permitted to sign off on death certificates without viewing the body. As a result, a treating doctor might chalk up a nursing-home death as being due to natural causes, and record it as such on a death certificate, even though there might actually be grounds for skepticism. When this happens, there's no autopsy that would reveal what really caused the person's demise.

One recent survey found that post-mortem exams were performed on fewer than one percent of all senior citizens who died in nursing homes.

If you have a loved one in a nursing home, it's a good idea to keep an eye out for any changes or problems, and for anything that makes you feel suspicious. This could include unusual bruises, cuts or marks on the person's body; mood changes; withdrawal; bedsores; unexplained injuries or infections; rapid weight loss or gain; psychological changes or indications that the person feels scared or uncomfortable; the person's appearing malnourished or dehydrated; or any sudden changes to medications, espe-

cially sedatives.

If the nursing home is uncooperative in response to your questions, that might be a sign that there's something to investigate. It's a good idea to consult with a lawyer to find out what rights you have.

Recently, a retired scientist named Joseph Shepter died after a two-year stay at a California nursing home. He had been paralyzed from a stroke and suffered from dementia.

The cause of his death was listed as heart failure, and his family naturally assumed that was correct.

But a later investigation revealed that he had actually died from symptoms of poor care, including an infected ulcer, pneumonia, dehydration and sepsis. He had also been given powerful antipsychotic drugs, which can have deadly side effects.

The nursing home was fined \$150,000, and a criminal investigation was begun.

In cases similar to this one, families might also be able to sue the nursing home and recover monetary compensation for the harm to a loved one.



©istockphoto.com

We welcome your referrals.

We value all our clients. And while we're a busy firm, we welcome all referrals. If you refer someone to us, we promise to answer their questions and provide them with first-rate, attentive service. And if you've already referred someone to our firm, thank you!

600 West Cumberland Street
Dunn, NC 28334
(910) 892-9175
www.nccompspecialist.com

School responsible for not having defibrillator at sports event

A public school district could be held legally responsible for not having an automated external defibrillator at a high-school soccer game, after a

player collapsed and suffered permanent brain damage, the Florida Supreme Court recently decided.

The player, Abel Limones, had stopped breathing and had no pulse. His coach and a nurse who happened to be at the game

performed CPR. But Abel couldn't be resuscitated until emergency medical technicians arrived on the scene and used an AED.

His parents sued the school district, claiming that

it had a responsibility to keep an AED near the field in case of an emergency.

Initially, a judge threw the case out. The judge said the school had no legal duty to keep an AED handy, and that a state law protected "Good Samaritans" by saying that no one could be sued for misusing an AED in an effort to help.

But on appeal, the Florida Supreme Court sided with Abel's family.

The court said a school was different from a private business, such as a health club. While a private business might not have a legal obligation to have an AED on-site, a school takes the place of parents during school hours, and thus it is held to a higher standard and is required to be more careful than a business in looking out for its students' safety.

The court also said the state law didn't apply, because the school wasn't being sued for *misusing* an AED; it was being sued for not having one available in the first place.



©istockphoto.com