Wander Management in Senior Care: Lessons From the Brookfield Assisted Living Settlement

Zach Rothenberg interviewed regarding Liability and Legal Concerns—

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In May, a lawsuit against Brookfield Assisted Living in Bella Vista concluded with a $2 million settlement. It comes less than two years after 74-year-old Barbara Doyle went missing after wandering from the facility in August 2021, and was found dead 13 days later.

Her husband, Jack, alleged in the wrongful death lawsuit that an employee saw that Doyle had left the facility but did not notify anyone. The $2 million settlement agreement states that no parties “admit or acknowledge any fault or negligence.”

While Doyle’s case is tragic, it highlights the importance of having policies and procedures to prevent wandering and keep senior care residents safe. It also evokes questions about liability and legal ramifications that senior care facilities should be aware of.

We consulted with two experts to examine these issues further.

Liability and Legal Concerns

Zachary Rothenberg, partner at Nelson Hardiman Healthcare Lawyers, explains that a wrongful death case is similar to a personal injury case. However, in a wrongful death case the injured person has died. The case could be a violent crime or a death that occurred during a supervised activity. Negligence can also be a factor, such as an instance where a senior care facility failed to meet a standard of care.

“The uniqueness of a wrongful death case is that ordinarily in a personal injury case, the plaintiff is the injured person,” explains Rothenberg. “Here, the plaintiff can’t be the injured person. Each state has their own statutes. In most of them, some variation of the estate sues on behalf of the decedent.”

Rothenberg notes that the damages can be different in a wrongful death case, too. In a personal injury case, damages might include medical care and pain and suffering. In a wrongful death case, the economic loss of the family is considered, instead. The harm caused may be quantified by factors like the loss of comfort and care, the loss of protection, and the loss of camaraderie that the family experiences because of the person’s death.

The lawsuit against Brookfield Assisted Living alleges that the facility was negligent in several areas, including in implementing measures to prevent Doyle from wandering and supervising its employees. Rothenberg explains that, on a high level, avoiding such situations starts with company culture. “It is critical to have a team that understands and appreciates the company’s mission to serve, and a team that understands and appreciates an open door policy for voicing concerns, making suggestions, and being accountable,” he says.

“I’ve found that when things go wrong within a business, many things just can’t be prevented, and human error is

inevitable. The more open and transparent the company is at looking at what went wrong and taking those things to heart, the better they are in the future." While companies often downplay problems, Rothenberg notes that it's important to be willing to conduct an honest investigation into what happened.

He recommends that senior care facilities have well-established and clear policies and procedures that staff fully understand. It's also important to hold regular trainings on the policies and procedures.

Adequate staffing levels can also play a role in helping avoid mistakes and problems. Good insurance is critical, but a senior care facility should also have a good crisis management team, as well as a crisis management plan from a public relations perspective. While a facility can't predict every potential problem, Rothenberg recommends making a list of worst-case scenarios and planning out how to respond.

He also suggests that facilities develop relationships within their communities, including with law enforcement and first responders. Developing relationships ensures that first responders are familiar with the facility if they do have to respond to an incident.

"Also, know your legal counsel," he says. "Broadly speaking, there are many instances where a client eventually looks back and says, 'I wish I'd been more flexible right at the start and not shut down and fought so hard.' When people behave that way, things grow and become more publicized. Having the sense that your legal counsel will advise you in a practical way, rather than just fishing to win at all costs when it's not in your best interest, that's something you want to know ahead of time."

Precautions Against Resident Wandering

Jessica Beaven, executive director at The Homeplace of Henderson, explains that wandering is a common behavior among individuals living with a form of dementia. "There are a number of precautions used in memory care settings to ensure resident safety as it relates to wandering, including securing exits and entrances, creating a safe environment, using monitoring technologies, and engaging residents in activities," she explains. "However, the most important aspect is a proactive approach. As care providers, we need to learn about their routines, career, family, and social life prior to the dementia diagnosis to develop a life story and gain a better understanding of when and why wandering occurs, allowing service plans to be tailored to each resident's unique needs."

Technology can play an important role in keeping residents safe relating to wandering, too. "In my experience, location technology such as real-time location systems (RTLS) provide valuable solutions to support resident independence, ensure safety, and assist with wander management," says Beaven.

"If a resident wearing an RTLS pendant is sensed in an 'out-of-bounds' location, a real-time alert notification, with custom escalation paths, is delivered by text message or notification to mobile devices," she explains. "When caregivers receive an alert, the resident's exact location and name are provided, enabling an immediate response. This technology grants residents that crucial independence while providing the tools for staff to quickly remedy a potentially dangerous situation."

The ability to customize a technology solution to each resident's unique needs is also critical. For example, CenTrak's TruView RTLS system offers the ability to customize alerts and adjust access at the individual level based on risk or time of day. "This has been crucial to our success in keeping residents safe while also ensuring caregivers and staff are not bombarded with constant alerts and alarms," says Beaven. "Utilizing real-time location information provides both proactive and reactive insights, allows facilities to manage wandering as it occurs, and empowers team members and management to respond accordingly, further advancing senior care."

Beaven recommends that any facility considering an RTLS for wander management look for a solution provider that can unite multiple systems under a single platform. Those systems might include wander and roaming, wireless emergency call, asset tracking, contact tracking, and even integrated alerts from other building systems like smoke detectors and fall detection. Uniting those systems under one platform can create cost efficiencies and simplify IT installation and maintenance processes.

She also recommends looking for a system that has been specifically designed for senior living. "We have found that healthcare technology is often designed and priced for large hospitals, and then repurposed for senior living communities. By choosing a technology system specifically designed to support the total continuum of senior care, it's been tailored to best fit the needs of our residents and staff," Beaven explains.

When it comes to ensuring resident safety, it’s essential to put multiple processes in place to prevent dangerous situations. “It is our responsibility as care providers to ensure the safety of our residents,” Beaven says. “As part of that duty, it is crucial during training that employees are aware of the residents and understand that dementia doesn’t have a look and sometimes it’s hard to identify. It is always important to have a current picture in any software you use, ensure technology is tested and maintained, and ultimately invest in your team by ensuring they have the tools to be successful; this means not only providing care but truly knowing who you are caring for.”

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