

Family, Nursing Home Face Off

■ *Manorcare Sandia accused of negligence in 2001 death of Alzheimer's patient*

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Ray Overson died in June 2001 at age 82, four months after he entered Manorcare Sandia nursing home and 10 days after his son found him curled up in a ball in his room.

He had a broken hip and blood poisoning before the heart failure that was the official cause of death.

But the family's lawyers contend his death is attributable to institutional negligence by a nursing home chain that placed profits before patients. According to their theory, this led to chronic understaffing and lack of follow-up on reports that should have sent alarm bells ringing.

The nursing home defense team contends Overson died from an acceleration of all the conditions that led his family to put him there in the first place. Overson, who had memory problems from 1995 on, was in the "end-stage" cycle of Alzheimer's dementia, they say.

Opening statements on Wednesday kicked off a civil trial in the wrongful-death lawsuit filed against Manorcare by Overson's family.

There won't be an answer for three weeks, after a six-person jury sitting before District Judge William Lang weighs the competing claims and sifts through the mounds of document notebooks now nestled up against the courtroom rail.

The documents detail the medications, examinations and care given — or not given — to Ray Overson.

But there also will be evi-

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dence of things like the corporate jet for the chief executive officer — a plane the defense said is hardly a luxury because the company operates 500 facilities and has corporate headquarters in Toledo, Ohio.

The Overson case is one of many such civil actions nationally and comes in the wake of a November 2002 report by the General Accounting Office, the investigative arm of Congress, assessing nursing home care state-by-state.

According to the report, 19 percent of New Mexico nursing homes have violated federal and state regulations by causing actual harm to residents.

Ila Overson believes her late husband was one who was harmed. Ila, Ray's wife of 60-odd years, was intent on caring for him at the South Valley home Ray had built with his own hands, attorney Carl Bettinger told the jury in an opening statement Wednesday.

But the difficulties of caring for him, even with the assistance of her grown children and paid home health aides, led the family to look for a facility that offered skilled, round-the-clock care. The search was stepped up after Overson wandered off one day in search of the young wife and young children of his imagination.

The family toured a half-dozen homes and selected Manorcare Sandia, which has a unit dedicated to Alzheimer's patients.

Bettinger said the evidence will show that Ray Overson had many medical conditions — congestive heart failure, pulmonary problems, macular degeneration and arthritis among them. He said all were stable and being treated when he entered the nursing home.

Manorcare's own records reflect that he could walk, make himself heard, understand others and, though underweight, he was not malnourished, Bettinger said.

"This is not end-stage demen-

tia," Bettinger said.

Overson broke his hip at dinner with 23 other Alzheimer's patients when only two staffers were present, Bettinger said.

Overson was hospitalized but later readmitted to the nursing home.

Bettinger said understaffing is nothing new to the company, especially in light of a corporate directive to Manorcare managers to cut down on use of temporary staff from agencies or face loss of bonuses.

Bettinger said records at the home were also falsified to indicate, for instance, that Overson's pulse was taken and medication administered even on days when he wasn't there.

And he said there were problems with staff using narcotics and smoking marijuana.

Mistakes were made, acknowledged Tom Countryman, a San Antonio, Texas, attorney representing Manorcare.

But he said Bettinger has selectively plucked records to make his case, and they don't represent the whole story of what happened to Ray Overson.

He reminded jurors they took an oath not to be swayed by emotion and to make a decision based on the evidence.

He said emotional appeals by the plaintiffs' attorney were "out of control."

"The Oversons knew Ray was at the end of his life months before he entered Manorcare," Countryman said.

Overson was confused, incontinent, had bedsores, poor circulation and had sustained a broken hip in 1995 — health issues that were known to the family, he said.

"He was affirmatively in the process of dying," Countryman said.

Overson was also a difficult patient who sometimes refused medications, he said.

"What did we have to work with, and what could we have reasonably done?" Countryman asked. "We could have done better, but we didn't kill Ray Overson."