

Metro & New Mexico

Suit Alleges Sex Abuse At Senior Home

Complaint Claims Corporation's Hiring Practices Were Negligent

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Manor Care Inc. failed Jane Doe, a 79-year-old nursing home resident, by letting a young man with a criminal background care for her alone and unsupervised during a graveyard shift, a lawsuit filed Wednesday claims.

The elderly woman was sexually abused July 3 or 4, 2003, by Justin



ARGABRIGHT:
Suit claims
aide sexually
abused an
elderly woman

Argabright, the suit alleges. A search of Bernalillo County's criminal records turned up no charges against Argabright for the alleged sexual assault.

Argabright's booking sheet for an unrelated arrest, under the name Argobright, shows he is 6-foot-1, 220 pounds and has the word "Thug" tattooed on his back and "Bubba" on his chest.

Manor Care Inc., Four Seasons Nursing Centers and Argabright, 20, are named as defendants in the lawsuit, which was filed in Bernalillo County District Court by attorney Carl Bettinger and the Dines and Gross law firm.

Julie Beckert, of Manor Care's Toledo, Ohio, corporate communications office, said the company has not yet received or reviewed legal documents in the case.

"The safety and well being of our residents and patients is our primary concern and we believe we have systems and procedures in place to prevent

abuse," she said in a written statement.

Beckert declined to comment further. Argabright could not be reached for comment.

The suit claims the nursing home chain routinely fails to investigate, select, monitor and oversee its employees despite adequate revenues to do so — \$3 billion a year.

"It is hard to imagine a more vulnerable population, or one more in need of every reasonable protection, than our elderly in nursing homes," Bettinger said in a statement.

Doe, now 80, had been living at ManorCare Heights for about three years when the alleged assault occurred. She moved there after a stroke that left her mentally intact but partially paralyzed on one side.

Argabright had been hired as a nurse's aide the month before the alleged assault, although he was not certified to work and "had an extensive criminal background both as a juvenile and as an adult," the suit alleges.

Among charges filed against him, the lawsuit says, were larceny, aggravated assault with intent to do great bodily harm and unlawful possession of a handgun. His history, it says, was "publicly available and would be considered by a reasonably prudent employer."

Because nurse aides provide basic medical and health care to aged and infirm residents, usually away from publicly accessible areas, it's imperative that a reasonable inquiry be conducted into employees' backgrounds, the suit says.

State law requires employers to conduct criminal background checks when hiring

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caregivers at an array of health care facilities, including facilities for people with mental retardation, long-term care hospitals, psychiatric and rehabilitation hospitals and residential care facilities.

Care providers are barred from hiring individuals with felony convictions.

Manor Care's hiring practices have been questioned in five wrongful-death lawsuits based in part on allegations of inadequate staffing and unqualified employees.

Bettinger settled one such lawsuit in January for unspecified "millions" of dollars, three days into trial in state district court. That case involved claims of inadequate staffing, leading to problems with medication, illness and injury to residents. Among the claims in that lawsuit were that corpo-

rate officialdom lived high on the hog, using a private jet to oversee the corporation's 500 facilities nationwide while simultaneously putting intense pressure on nursing home administrators to keep overhead down.

The Jane Doe lawsuit goes beyond claims of negligent hiring and supervision to allege civil conspiracy and seeks punitive damages from the company.

Punitive damages are sought based on "a systematic pattern of failing to assess the criminal backgrounds of prospective and current employees," as well as inadequate staffing and improper supervision, the suit states.

"The wrongful conduct of ManorCare that injured Ms. Doe is a replica of similar transgressions committed by ManorCare nationwide and illustrates the reprehensibility of the wrong," the suit states.