

THE
NATIONAL LAW REVIEW

Elder Abuse: Are Granny Cams a Solution, a Compliance Burden, or Both?

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Monday, November 20, 2017

In Minnesota, 97% of the 25,226 allegations of elder abuse (neglect, physical abuse, unexplained serious injuries and thefts) in state-licensed senior facilities in 2016 were never investigated. This prompted Minnesota Governor, Mark Dayton, [to announce plans](#) last week to form a task force to find out why. As one might expect, Minnesota is not alone. A [study](#) published in 2011 found that an estimated 260,000 (1 in 13) older adults in New York had been victims of one form of abuse or another during a 12-month period between 2008 and 2009, with “a dramatic gap” between elder abuse events reported and the number of cases referred to formal elder abuse services. Clearly, states are struggling to protect a vulnerable and growing group of residents from abuse. Technologies such as hidden cameras may help to address the problem, but their use raises privacy, security, compliance, and other concerns.

With governmental agencies apparently lacking the resources to identify, investigate, and respond to mounting cases of elder abuse in the long-term care services industry, and the number of persons in need of long-term care services on the rise, this problem is likely to get worse before it gets better. According to a [2016 CDC report concerning users of long-term care services](#), more than 9 million people in the United States receive regulated long-term care services. These numbers are only expected to increase. The [Family Caregiver Alliance reports](#) that by 2050, the number of individuals using paid long-term care services in any setting (e.g., at home, residential care such as assisted living, or skilled nursing facilities) will likely double from the 13 million using services in 2000, to 27 million people.

However, technologies such as hidden cameras are making it easier for families and others to step in and help protect their loved ones. In fact, some states are implementing measures to leverage these technologies to help address the problem of elder abuse. For example, New Jersey’s Attorney General recently expanded the [“Safe Care Cam” program](#) which lends cameras and memory cards to Garden State residents who suspect their loved ones may be victims of abuse by an in-home caregiver.

Common known as “granny cams,” these easy-to-hide devices which can record video and sometimes audio are being strategically placed in nursing homes, long-term care, and residential care facilities. For example, the [“Charge Cam”](#) (pictured above) is designed to look like and actually function as a plug used to charge smartphone devices. Once plugged in, it is able to

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record eight hours of video and sound. For a nursing home resident's family concerned about the treatment of the resident, use of a "Charge Cam" or similar device could be a very helpful way of getting answers to their suspicions of abuse. However, for the unsuspecting nursing home or other residential or long-term care facility, as well as for the well-meaning family members, the use of these devices can pose a number of issues and potential risks. Here are just some questions that should be considered:

- Is there a state law that specifically addresses "granny cams"? Note that at least five states (Illinois, New Mexico, Oklahoma, Texas, and Washington) have laws specifically addressing the use of cameras in this context. In Illinois, for example, the resident and the resident's roommate must consent to the camera, and notice must be posted outside the resident's room to alert those entering the room about the recording.
- Is consent required from all of the parties to conversations that are recorded by the device?
- Do the HIPAA privacy and security regulations apply to the video and audio recordings that contain individually identifiable health information of the resident or other residents whose information is captured in the video or audio recorded?
- How do the features of the device, such as camera placement and zoom capabilities, affect the analysis of the issues raised above?
- How can the validity of a recording be confirmed?
- What effects will there be on employee recruiting and employee retention?
- If the organization permits the device to be installed, what rights and obligations does it have with respect to the scope, content, security, preservation, and other aspects of the recording?

Just as body cameras for police are viewed by some as a way to help address concerns over police brutality allegations, some believe granny cams can serve as a deterrent to abuse of residents at long-term care and similar facilities. However, families and facilities have to consider these technologies carefully. *[The Law Offices of Elovson & Tenore](#)*, is a firm specializing in elder law. We can be reached at [203-336-2566](tel:203-336-2566) or by email at ct@connecticutelderlaw.com.

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