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# We can better protect disabled NJ residents. This is how | Opinion

*4-minute read*

**Paul M. da Costa** Special to the USA TODAY Network

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[Katie Moronski's last moments](#) undoubtedly were excruciating. As her life slipped away, she had to undergo CPR at a hospital after suffering a severe overdose of medication. These were drugs that helped her when administered in the proper amounts, but killed her in the excessive quantities administered that June day in 2024. Her last moment of awareness likely was either gasping for air or a doctor pounding uselessly on her chest during CPR.

The 21-year-old autistic woman had been sent to the Broadstep group home in Newton for care after she aged out of the school where she was living in Massachusetts. That's when things began to go wrong, and within two days, she was gone.

“I held her when she was born ... and I buried her,” said her father, Sean. “That’s something I’m going to live with the rest of my life. It just wasn’t supposed to be that way.”

Regrettably, Katie — whose estate and family I legally represent — was not the first — and regrettably will likely not be the last.

Just last year, another autistic woman — Stephanie Leiva — fell to her death from a second-story window in a state-licensed group home in New Milford. She was known to have a habit of tossing objects out of her window; it was readily foreseeable that she might hurt herself. As it turned out, there was an alarm on her window, but it

was either not working or inaudible. She jumped or fell, landed on her back, and her agony, from a collapsed lung and acute trauma to her brain, back, and pelvis, must have been enormous. She died in the hospital, 13 days after her fall.

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“She was a huge danger to herself and others,” her sister, Consuelo Leiva, told a reporter. “A lot of sacrifices were made by our entire family to take care of her, and then she falls out of a f-ing window.”

After incidents like these — and there are undoubtedly others — the routine always seems to be the same. The home apologizes for the family’s loss, expresses sympathy to the family, but does not accept responsibility and rather simply moves on with business as usual. The state investigates — though it can take months to do so — and sometimes levies fines, suspensions and other measures on the institution. Lawyers sue, and sometimes money eventually changes hands.

## **New Jersey must do more for its most vulnerable**

It’s time for a new approach to how New Jersey cares for some of its most vulnerable citizens. Prevention would be a far better answer.

How might we do that?

A possible answer: “Strict Liability.” Let me explain:

Put simply, strict liability is a legal principle that holds a party responsible for damages or injuries, even — and this is crucial — when there is not a readily discoverable indication of negligence or intent to cause harm. This is different from ordinary cases, which hinge on provable negligence — meaning an injured person or her survivor must show that a defendant failed to comply with a specific duty of care. The strict liability approach insists that if someone in a group home’s care gets injured or suffers an avoidable death, the group home is responsible. Period.

This principle applies now only in very few, specific instances; one of them is for companies that transport hazardous materials in public. For obvious reasons, this activity is presumed to be perilous, so a leak, crash or other escape of poisons into the public realm is assumed to be the carrier's fault. Another scenario is when a person's dog injures a third party. The similarity is obvious — one could and should see possible trouble coming.

I propose here that that the care of physically and/or intellectually disabled New Jerseyans (and eventually, all Americans) be put in this specialized category, which simply requires extending the analogy. The lives of disabled people — who often cannot ask for help or advocate for themselves but rather are wholly dependent on the group home's staff — should be regarded as intrinsically at risk. Caretakers should be held affirmatively liable for their harm.

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## **We can deliver justice more swiftly**

In the case of Katie and Stephanie, their families' lawyers wouldn't need to point to a particular action that resulted in the deaths of their daughters. The institutions tend to push back, pointing to other possible causes of the harm. The process of working this through the courts can take untold years.

Under the new proposed standard, the mere fact that the disabled resident is under a group home's care, and was seriously injured or perished while under that care, would point to accountability, and thus a verdict that the homes were responsible. Justice would be much swifter.

Why and how would this help? Because group homes couldn't simply wait to see if bad things happen to their patients or clients, and "mop up" afterward, or look for other parties to blame. They would have strong incentive to anticipate problems or harm, and proactively have systems in place to prevent them. This would increase

the odds that group home owners would hire better educated and trained employees, would provide better and necessary training to its employees, and would institute better oversight and monitoring of its employees.

In Katie's case, a supervisor would have noted that she was on a range of medications, and the facility would have had a protocol in place to ensure that she took just as many pills as she needed, on the right schedule, in the right doses. The group home would have had a nurse involved in Katie's medication administration. This didn't happen. They'd have to train their staff meticulously in medication management, as well they should.

As Paul Aronsohn, the New Jersey's former Ombudsman for individuals with intellectual or developmental disabilities, told NorthJersey.com: "At a minimum, a nurse should be overseeing the process."

The strict liability standard will attack the problem at its source — the proliferation of group homes where security, safety and accuracy are secondary to profit. Profits over safety must not be tolerated in the group home industry. Perhaps it's a shame that we need the monetary incentive — which is to say, the threat of legal civil liability — to get providers to do their job, but time and again, it's proven to be the ONLY way to not only encourage, but demand, appropriate and safe care for our most vulnerable fellow New Jerseyans.

One can hope the new governor and the Legislature will consider turning around this neglect and impose this new approach, with its attendant mandates, upon caretakers. It's about time.

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