



# The NEW Nursing Home Regulations

**Resident Rights to...**

**A Safe Living Environment, Forming Resident & Family Councils and  
Having Your Grievances Heard**

Presented by Richard Mollot, Long Term Care Community Coalition

[www.nursinghome411.org](http://www.nursinghome411.org)

This program is made possible by the generous support of the NY State Health Foundation

# + What is the Long Term Care Community Coalition?

- **LTCCC**: Nonprofit organization dedicated to improving care & quality of life for the elderly & adult disabled in long-term care (LTC).
- **Our focus**: People who live in nursing homes & assisted living.
- **What we do**:
  - Policy analysis and systems advocacy in NYS & nationally;
  - Education of consumers and families, LTC Ombudsmen and other stakeholders.
- **Coalition members** include several LTC Ombudsman Programs, the Center for Independence of the Disabled, AARP NY, several Alzheimer's Association Chapters, other senior and disabled organizations. Also individuals, including ombudsmen, who join in our mission to protect residents.
- **Richard Mollot**: Joined LTCCC in 2002. Executive director since 2005.



# + What Will We Be Talking About TODAY?

## ■ **Brief Background on the Nursing Home System**

- The Law and Regulatory Standards

## ■ **Focus on Resident Rights**

- Right to a Safe Living Environment
- Right to Form Resident & Family Councils
- Right to Have Your Grievances Heard & Responded to

### Remember:

All rights center on the resident. However, when a resident assigns decision-making authority to another individual, or lacks capacity, the individual making decisions takes the place of the resident in respect to exercising these rights on the resident's behalf.

## + **WHY** Are We Talking About These Rights?

- Nursing homes are currently undergoing the biggest changes to quality of care & quality of life requirements in over 25 years.
- These new standards will affect every aspect of nursing home care.
- We must be prepared and know our rights as the changes are implemented, and beyond!



### Resident Rights

- Law
- Regulation
- Oversight

Knowledge  
=  
Power

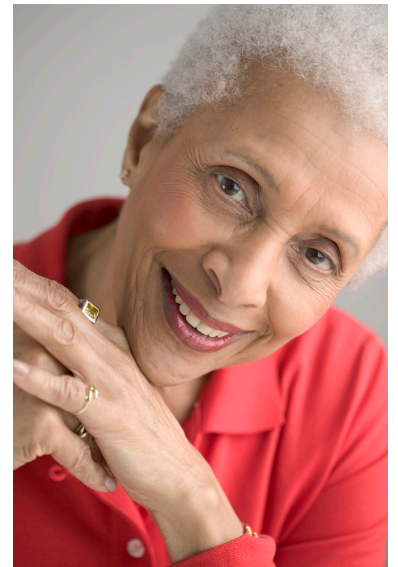
# + The Nursing Home System in a Nutshell

- Virtually all nursing homes participate in Medicaid and/or Medicare.
- In order to participate in Medicaid/Medicare, a facility agrees to meet the standards provided for in the federal **Nursing Home Reform Law**.
- States may have *additional* protections, but no state can have less protections.
- Federal *protections are for all the residents* in a facility, whether their care is paid for by Medicare, Medicaid or private pay.
- The federal agency, CMS, contracts with the state DOH to ensure that residents are protected and receive the services they need and deserve.



## + The Nursing Home Reform Law

- The federal law requires that every nursing home resident is provided the care and quality of life services sufficient to attain and maintain her **highest practicable physical, emotional & social well-being**.
- The law emphasizes **individualized, patient-centered care**.
- Importantly, the law lays out specific resident rights, from **good care** and monitoring to a quality of life that maximizes **choice, dignity & autonomy**.
- The law passed in 1987. Regulatory standards came out in 1991.

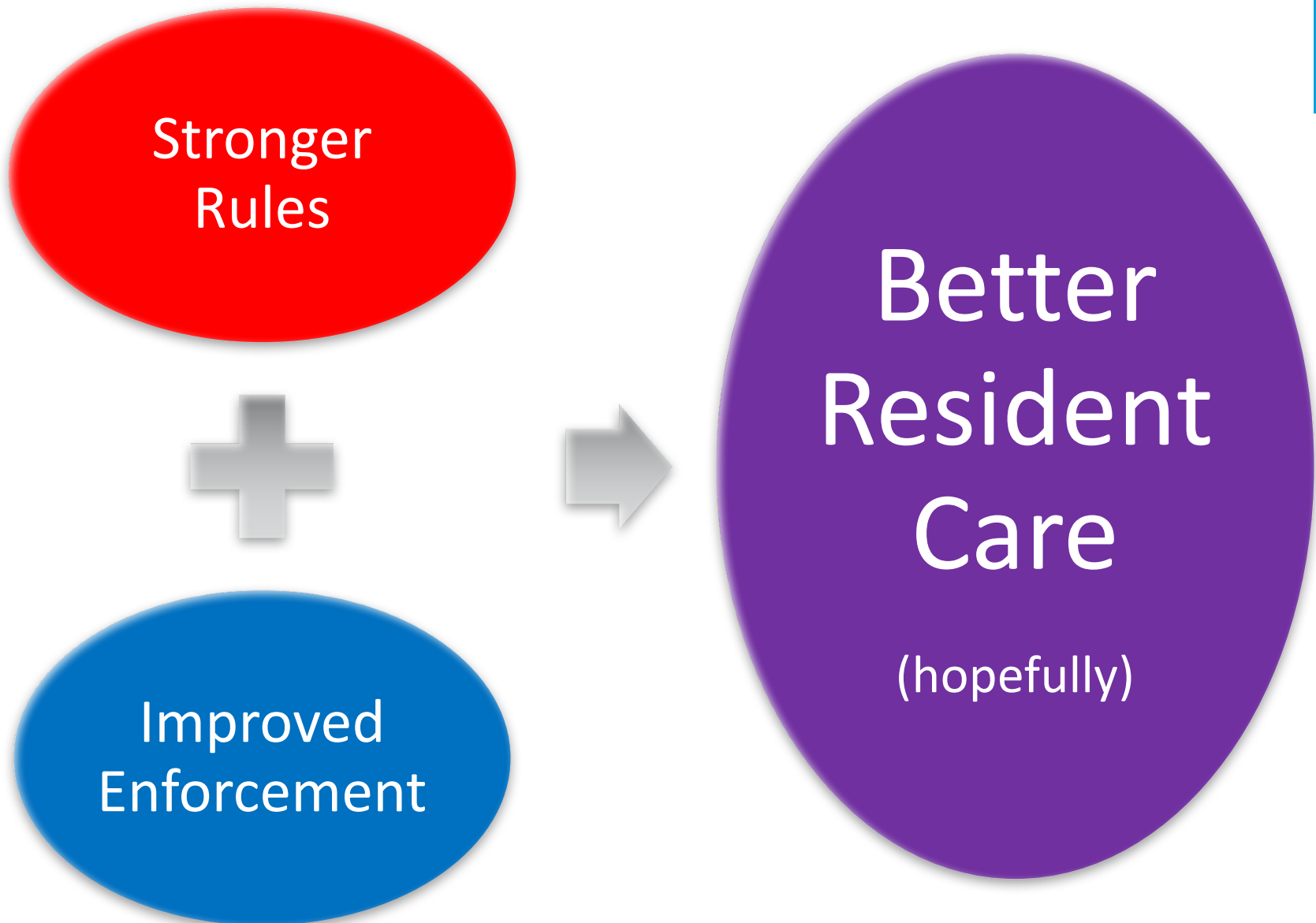


## + What is Happening Now?

- For the first time in 25 years, the federal regulatory system has been significantly revised and updated.
- This will affect **every aspect of care & quality of life.**
- **All of the Regulations are changing.** For 25 years everyone – nursing homes, surveyors, ombudsmen and advocates – knew what the rules were and where to find them. That entire structure has changed.
- **All of the Guidelines are changing.** The guidelines detail what is expected of nursing homes in relation to each standard – what they are supposed to do and how they are suppose to do it.
- **The F-tag system, used by nursing home inspectors, is changing.** When a surveyor identifies a problem in care or living conditions in a nursing home, she cites the nursing home using a system called “F-tags” – numbers that correlate with the regulatory requirements.



## + Why Does it Matter?





## + What Does This Mean For Us?

Now more than ever....

We **MUST** be aware of  
what our rights are, and  
what we have a right to  
expect from our nursing  
homes.



# + How Will This Program Help **YOU** Achieve This?

1. **New Federal Language.** We will review together the federal requirements, so you can see exactly what nursing homes are being told they must do for their residents.
2. **Summaries of Important Points.** At the end of the program we will simplify and recap some of the important points for you.
3. **Fact Sheets.** For each program we are developing free, easy-to-use fact sheets which you can use now and in the future to support resident-centered advocacy and problem solving.

All programs, fact sheets and other resources are available for free on our website, [www.nursinghome411.org](http://www.nursinghome411.org). **There is no need to worry about remembering details - when you have an issue or concern in the future you can easily find and print out the information you need.**

## *Resident Rights:*

- ✓ Safe Environment
- ✓ Resident & Family Councils
- ✓ Resident Grievances Heard & Responded To

## + Safe Environment [CFR 483.10(i)(1)]

The resident has a right to a safe, clean, comfortable and homelike environment, including but not limited to receiving treatment and supports for daily living safely.

The facility must provide--

- A safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible.
  - This includes ensuring that the resident can receive care and services safely and that the physical layout of the facility maximizes resident independence and does not pose a safety risk.
  - The facility shall exercise reasonable care for the protection of the resident's property from loss or theft.
- Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;
- Clean bed and bath linens that are in good condition;
- Private closet space in each resident room...;
- Adequate and comfortable lighting levels in all areas;
- Comfortable and safe temperature levels; and
- For the maintenance of comfortable sound levels.

Orange  
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=  
New  
Regulatory  
Language

## + Resident & Family Councils [CFR 483.10(f)(5)]

The resident has a right to organize and participate in resident groups in the facility.

- The facility must provide a resident or family group, if one exists, with private space; **and take reasonable steps, with the approval of the group, to make residents and family members aware of upcoming meetings in a timely manner.**
- Staff, visitors, **or other guests** may attend **resident group or family group** meetings only at the **respective** group's invitation.
- The facility must provide a designated staff person **who is approved by the resident or family group and the facility and who is** responsible for providing assistance and responding to written requests that result from group meetings.

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=  
New  
Regulatory  
Language

## + Resident & Family Councils (continued)

- **The facility must consider the views of a resident or family group** and act **promptly** upon the grievances and recommendations **of such groups** concerning **issues of** resident care and life in the facility.
- **The facility must be able to demonstrate their response and rationale for such response.**
- **This should not be construed to mean that the facility must implement as recommended every request of the resident or family group.**
- **The resident has a right to participate in family groups.**
- **The resident has a right to have family member(s) or other resident representative(s) meet in the facility with the families or resident representative(s) of other residents in the facility.**

Notice how much has been added to clarify the rights of resident and family councils in the new regulations.

## + Grievances [CFR 483.10(j)]

- The resident has the right to voice grievances **to the facility or other agency or entity that hears grievances** without discrimination or reprisal **and without fear of discrimination or reprisal**. Such grievances include those with respect to care and treatment which has been furnished as well as that which has not been furnished, **the behavior of staff and of other residents, and other concerns regarding their LTC facility stay.**
- The resident has the right to **and the facility must make prompt efforts... to resolve grievances....**
- **The facility must make information on how to file a grievance or complaint available to the resident.**
- **The facility must establish a grievance policy to ensure the prompt resolution of all grievances regarding the residents' rights.... Upon request, the provider must give a copy of the grievance policy to the resident.**



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New  
Regulatory  
Language



## + Grievances: Requirement for a Nursing Home's Grievance Policy

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The grievance policy must include:

- Notifying resident individually or through postings in prominent locations throughout the facility of the right to file grievances orally (meaning spoken) or in writing;
- the right to file grievances anonymously;
- the contact information of the grievance official with whom a grievance can be filed, that is, his or her name, business address (mailing and email) and business phone number;
- a reasonable expected time frame for completing the review of the grievance;
- the right to obtain a written decision regarding his or her grievance;
- and the contact information of independent entities with whom grievances may be filed, that is, the pertinent State agency, Quality Improvement Organization, State Survey Agency and State Long-Term Care Ombudsman program or protection and advocacy system;



Nursing Home  
Grievance  
Policy  
Requirements

## + Grievances: Requirement for a Nursing Home's Grievance Policy

- **Identifying a Grievance Official who is responsible for ...**
  - overseeing the grievance process, receiving and tracking grievances through to their conclusions;
  - leading any necessary investigations by the facility;
  - maintaining the confidentiality of all information associated with grievances, for example, the identity of the resident for those grievances submitted anonymously,
  - issuing written grievance decisions to the resident;
  - and coordinating with state and federal agencies as necessary in light of specific allegations;
- **As necessary, taking immediate action to prevent further potential violations of any resident right while the alleged violation is being investigated;**
- **immediately reporting all alleged violations involving neglect, abuse, including injuries of unknown source, and/or misappropriation of resident property, by anyone furnishing services on behalf of the provider, to the administrator of the provider; and as required by State law;**



**Nursing Home  
Grievance  
Policy  
Requirements**

## + Grievances: Requirement for a Nursing Home's Grievance Policy

- Ensuring that all written grievance decisions include
  - the date the grievance was received,
  - a summary statement of the resident's grievance,
  - the steps taken to investigate the grievance,
  - a summary of the pertinent findings or conclusions regarding the resident's concerns(s),
  - a statement as to whether the grievance was confirmed or not confirmed,
  - any corrective action taken or to be taken by the facility as a result of the grievance, and
  - the date the written decision was issued;
- Taking appropriate corrective action in accordance with State law if the alleged violation of the residents' rights is confirmed by the facility or if an outside entity having jurisdiction, such as the State Survey Agency, Quality Improvement Organization, or local law enforcement agency confirms a violation for any of these residents' rights within its area of responsibility; and
- Maintaining evidence demonstrating the result of all grievances for a period of no less than 3 years from the issuance of the grievance decision.



Nursing Home  
Grievance  
Policy  
Requirements

## + Recap: **Safe Environment**

Nursing home residents are entitled to a safe, clean & comfortable environment.

- ✓ **Comfortable Temperatures** – comfortable & safe.
- ✓ **Comfortable Sound** – does not interfere with resident's hearing and enhance privacy when privacy is desired, and encourages interaction when social participation is desired. "Of particular concern to comfortable sound levels is the resident's control over unwanted noise."
- ✓ **Resident Property** – facility required to take reasonable steps to protect resident property from loss or theft.
- ✓ **Environment** – any environment in the facility that is frequented by residents, including (but not limited to) the residents' rooms, bathrooms, hallways, dining areas, lobby, outdoor patios, therapy areas and activity areas.
- ✓ **Homelike** – facility and staff take steps to de-emphasize the institutional character of the setting and allow the resident to use those personal belongings that support a homelike environment.

## + Recap: Resident & Family Councils

### The Right to Form & Participate in Resident & Family Councils:

- ✓ Facility must provide space & privacy for resident & family councils to meet.
- ✓ Facility staff or other guests can only attend a meeting at the council's request.
- ✓ Facility must designate a staff person (who is approved by the council) who will be responsible for responding to written requests from the council.

### Requirements for Facilities When Responding to Council Concerns:

- ✓ Must consider issues raised by council and attempt to accommodate them, to the extent practicable.
- ✓ Must act promptly upon complaints and recommendations.
- ✓ Must be able to demonstrate both its response to concerns raised and rationale for its response.

Note: This does **not** mean that facilities are required to implement every request from a council.

## + Recap: Grievances

- ✓ Residents have the right to voice grievances to the facility, LTC Ombudsman, State or any other agency that hears grievances.
- ✓ Facilities are prohibited from retaliating or discriminating against residents for making a complaint.
- ✓ Facilities must designate a grievance official with whom complaints can be filed (including anonymously).
- ✓ Facilities must establish a grievance policy and notify residents about it.
- ✓ Expectation: Facility has system in place to ensure prompt attention to and resolution of grievances.

### Requirements for a Nursing Home's Grievance Policy

- **Time Frame:** A reasonable expected time frame for completing the review of the grievance.
- **Written Decision:** The right to obtain a written decision regarding the grievance.
- **Immediate Action:** As necessary, taking immediate action to prevent further potential violations of any resident right while the alleged violation is being investigated.
- **Immediate Reporting:** Immediately reporting all alleged violations involving neglect, abuse, including injuries of unknown source, and/or misappropriation of resident property, by anyone furnishing services on behalf of the provider, to the administrator of the provider; and as required by State law.



# Resources @ [www.nursinghome411.org](http://www.nursinghome411.org)

## LONG TERM CARE COMMUNITY COALITION

*Advancing Quality, Dignity & Justice*

### CONSUMER FACTSHEET: RESIDENT & FAMILY COUNCILS

Resident and Family Councils can play a very important role in improving care and quality of life in a nursing home. However, residents and families can face challenges in respect to organizing and meeting in a way that is independent of the facility staff and enables them to make their voices heard.

The new federal nursing home standards clarify and strengthen requirements for nursing home Resident & Family Councils. Following are relevant provisions in the regulations that you can use to support a vibrant and effective Resident or Family Council in your nursing home.

Please note: (1) Text in italics is directly from the federal regulations. (2) Numbers in brackets [42 CFR 483.xx] refer to the provision in the federal regulations and are provided for reference. (3) These standards are applicable to all residents in licensed nursing homes in the United States, whether they are short-term or long-term, private pay, Medicaid, Medicare or have another type of insurance. (4) Where the resident lacks capacity to make decisions and/or has assigned decision-making to someone else, that person takes the place of the resident in exercising these rights.

#### What is a Resident or Family Council?

The new federal regulations specify that residents and families have the right to join together to...

- Discuss and offer suggestions about facility policies and procedures affecting residents' care, treatment, and quality of life;
- Support each other;
- Plan resident and family activities;
- Participate in educational activities; or
- For any other purpose.

#### THE LAW

##### **I. Resident & Family Councils [CFR 483.10(f)(5)]**

*The resident has a right to organize and participate in resident groups in the facility.*

- The facility must provide a resident or family group, if one exists, with private space; and take reasonable steps, with the approval of the group, to make residents and family members aware of upcoming meetings in a timely manner.
- The resident has a right to *participate in family groups*.
- The resident has a right to have family member(s) or other resident representative(s) meet in the facility with the families or resident representative(s) of other residents in the facility.

## LONG TERM CARE COMMUNITY COALITION

*Advancing Quality, Dignity & Justice*

### CONSUMER FACTSHEET: SAFE ENVIRONMENT

Ensuring that the nursing home is a safe environment for residents is fundamentally important. Residents typically go to a facility when they can no longer live safely at home or when they need significant care or monitoring. The high prevalence of Alzheimer's and other forms of dementia among nursing home residents makes assurance of a safe environment particularly important. Nevertheless, failure to ensure a safe environment is a persistent problem.

The new federal nursing home standards include provisions to ensure resident safety as well as the ability of residents to live comfortably, in an environment that is as home-like as possible. This fact sheet provides some of the important elements of these regulations that you can use to support resident-centered advocacy for both safety and a good quality of life.

Please note: (1) Text in italics is directly from the federal regulations. (2) Numbers in brackets [42 CFR 483.xx] refer to the provision in the federal regulations and are provided for reference. (3) These standards are applicable to all residents in licensed nursing homes in the United States, whether they are short-term or long-term, private pay, Medicaid, Medicare or have another type of insurance. (4) Where the resident lacks capacity to make decisions and/or has assigned decision-making to someone else, that person takes the place of the resident in exercising these rights.

#### THE LAW

##### **I. Safe Environment [CFR 483.10(i)]**

*The resident has a right to a safe, clean, comfortable and homelike environment, including but not limited to receiving treatment and supports for daily living safely.*

The facility must provide--

- A safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible.
- This includes ensuring that the resident can receive care and services safely and that the physical layout of the facility maximizes resident independence and does not pose a safety risk.
- The facility shall exercise reasonable care for the protection of the resident's property from loss or theft.
- Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;





Questions?

Comments?

## + Our Goal: To Provide **You** With **Knowledge** and **Resources** to Support Your Resident-Centered Advocacy

### ■ **Knowledge...**

- **Free monthly training programs** for Resident & Family Councils, LTC Ombudsmen and those who work with them.
- Each program will focus on a nursing home standard that is relevant to resident care, dignity or quality of life.

### ■ **Resources...**

- **WWW.NURSINGHOME411.ORG** has a **Learning Center for Residents, Families, Ombudsmen** and those who work with them.
- For every standard we will post a **free handout** on our website that you can use now and in the future to know your rights about a specific issue or standard.
- **Presentation materials** will be posted on the website after each program for future reference.
- **Technical support for your questions** or concerns on the quality standards via our NYS List-serve and email. Email [info@ltccc.org](mailto:info@ltccc.org).

**You DON'T need to memorize every Resident Right!**  
Just remember [www.nursinghome411.org](http://www.nursinghome411.org) for free info & resources.

+ Coming Up

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**Next Program:** June 20<sup>th</sup> at 1pm.

**Topics:** Resident's Rights...  
*Protections From  
Involuntary Transfer  
or Discharge*



Remember...  
We Can't  
Fight For Our  
Rights If We  
Don't Know  
What They  
Are.



# Thank You For Joining Us Today!

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Email [info@ltccc.org](mailto:info@ltccc.org) or call **212-385-0355** if you would like to...

- Receive the advocacy fact sheet for this program;
- Receive alerts for future programs;
- Sign up for our newsletter and action alerts; or
- Join our list-serve community, open only to residents, families, LTC Ombudsmen and advocates in NY State.

You can also...

- Join us on **Facebook** at [www.facebook.com/ltccc](http://www.facebook.com/ltccc)
- Follow us on **Twitter** at [www.twitter.com/LTCconsumer](http://www.twitter.com/LTCconsumer)
- Visit us on the **Web** at [www.nursinghome411.org](http://www.nursinghome411.org).

**We encourage family members to connect with the Alliance of NY Family Councils at [www.anyfc.org](http://www.anyfc.org) (or email [info@anyfc.org](mailto:info@anyfc.org)).**



**Thank you to the New York State Health Foundation for supporting these programs!**