#### Today's Webinar:



#### LTCCC WEBINAR

# Competency and Care: Understanding Staffing Training and Responsibility Requirements

Tuesday, January 17, 2023 | 1-2PM ET

nursinghome411.org/webinar-staff-competency



**Richard Mollot** (Executive Director, LTCCC) on what families, advocates, and ombudsmen should know about nursing home staffing competency requirements.

For materials from today's webinar, visit nursinghome411.org/webinar-staff-competency



# Purpose of today's discussion

Staffing is the most important factor affecting resident safety, dignity, and quality of life.

Sufficient staffing is key.

However, it is critical that the staff have the competencies necessary to meet their residents' clinical and psychosocial needs.

Knowledge of expectations for care staff skills and knowledge can support resident-centered advocacy.



# Today's discussion plan



Brief background on the nursing home system and federal requirements.



General competency requirements for nursing home staff.



Training & competency requirements for Certified Nurse Aides (CNAs).



Fighting the myths that nursing homes can't maintain sufficient, competent staff.



Resources to support better care & program integrity.



Q & A

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## Background

Federal Nursing Home Standards

- + The Nursing Home Reform Law
  - ■The law passed in 1987.
  - Every nursing home that participates in Medicaid/Medicare agrees to meet or exceed the standards laid out in the Reform Law and its implementing regulations.
  - ■Participation in Medicaid/Medicare is voluntary. Nursing homes that do not wish to meet these standards are free to run private facilities.

- + 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 their highest practicable physical, emotional, & psychosocial 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.
  - Nursing homes are required to have sufficient staffing, with the appropriate knowledge and competencies, to fulfill these requirements.

+ The Nursing Home Reform Law

Question: If the law and standards are so strong, why aren't nursing homes decent and safe places to live and work?

Answer: Laws and standards can only make a difference if they are enforced.



Federal data, our studies, and countless federal reports indicate that baseline requirements are largely unenforced.



Long-term care continues to be understaffed, poorly regulated and vulnerable to predation by for-profit conglomerates and privateequity firms.

E. Tammy Kim, "This Is Why Nursing Homes Failed So Badly," The New York Times (Dec. 31, 2020)

## The fundamental problem:

In the absence of meaningful enforcement, nursing home operators can largely provide any level of staffing and any quality of care & quality of life services that they choose.

#### What can we do?

Knowledge of requirements for nursing home care, including those for care staff and the provision of services, can support effective advocacy for resident safety and dignity.

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## Nursing Services

General Requirements

\* Who provides nursing home care?

Under federal requirements, there are three categories of nursing home care staff:

- Registered Nurses (RNs)
- Licensed Practical Nurses/Licensed Vocational Nurses (LPNs/LVNs)
- Certified Nurse Aides (CNAs)

## + Sufficient Staffing [42 CFR 483.35(a) F-726]

The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans: ...licensed nurses; and... [o]ther nursing personnel, including but not limited to nurse aides.

- RNs, LPNs, andLVNs areconsideredlicensed nurses.
- CNAs are not licensed.
- Facilities may also use feeding assistants. They receive minimal training and are not considered nursing staff.

[The regulations make provisions for a very limited exception to the requirement to provide licensed nurses on a 24-hour basis. See 42 CFR 483.35(e).]



## NURSING SERVICES [42 CFR 483.35 F-725]

The facility must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility's resident population in accordance with the facility assessment....

[Emphasis added.]

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## Nursing Services

Training & competency requirements for Certified Nurse Aides (CNAs)

## \* Summary of the CNA Training Requirements

- The federal government sets minimum requirements for CNA training, including for both initial certification and ongoing in-service training.
- States can impose additional requirements (such as more required class hours or additional curriculum).
- Minimum federal requirements:
  - All nurse aide certification training programs must provide "no less than 75 clock hours of training," including at least 16 hours of supervised practical training.
  - → Practical training means "training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual" under the appropriate supervision.
  - Certain skills and subjects that must be covered...

CNAs provide about 90% of direct resident care in nursing

## Federal CNA Training Requirements

The federal regulations specify that **prior to any direct patient contact**, individuals must complete at least 16 hours of training in:

Communication and interpersonal skills	Infection control	Safety/emergency procedures, including the Heimlich maneuver	Promoting residents' independence	Respecting residents' rights



# Federal CNA Training Requirements

Every CNA training and competency program curricula must cover a range of topics necessary to support good resident care with dignity, including:

**Basic nursing skills** (such as recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor);

**Personal care skills** (such as mouth care, grooming, and skin care);

Mental health and social service needs (such as how to appropriately respond to resident behavior);

Care of cognitively impaired residents (including appropriate methods of communicating with cognitively impaired residents and techniques for addressing the unique needs and behaviors of individual with dementia);

**Basic restorative services** (including proper turning and positioning in bed and chair); and

**Resident rights** (such as providing resident privacy, maintaining care and security of residents' personal possessions, and promoting the resident's right to make personal choices).

## + Federal CNA Training Requirements

#### LONG TERM CARE COMMUNITY COALITION

#### Advancing Quality, Dignity & Justice REQUIRED SUBJECTS FOR NURSE AIDE TRAINING

#### FACT SHEET

Certified Nurse Aides (CNAs) provide about 90% of direct resident care to nursing home residents. 
Thus, it is essential that there are both <u>sufficient numbers of</u> CNAs and that they have the skills and knowledge necessary to meet residents' clinical and psycho-social needs.

Following are the subjects and competencies that must be covered in any certification course under the federal rules. A nurse aide training and competency evaluation program must consist of **no less** than **75 hours of training**. I Note: Many states, recognizing the significant needs of nursing home residents, have higher training requirements than the federal minimum.]

Note: Information below is directly quoted from the Code of Federal Regulations (CFR). Federal standards are applicable to all residents in licensed U.S. nursing homes, including short-term, longterm, private pay, Medicaid, Medicare, or privately insured.

Requirements for approval of a nurse aide training and competency evaluation program 42 C.F.R. § 483.152(b) | F 726

The curriculum of the nurse aide training program must include -

- (1) At least a total of 16 hours of training in the following areas prior to any direct contact with a resident:
  - (j) Communication and interpersonal skills;
  - (ii) Infection control;
  - (iii) Safety/emergency procedures, including the Heimlich maneuver;
  - (iv) Promoting residents' independence; and
  - (v) Respecting residents' rights.
- (2) Basic nursing skills;
  - (j) Taking and recording vital signs;
  - (ii) Measuring and recording height and weight;
  - (iii) Caring for the residents' environment;
  - (iv) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor; and
  - (v) Caring for residents when death is imminent.
- (3) Personal care skills, including, but not limited to -
  - (j) Bathing;
  - (ii) Grooming, including mouth care;
- https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2715163/#R6
- <sup>2</sup> CFR § 483.152(a)(1)

- (iii) Dressing;
- (iv) Toileting;
- (v) Assisting with eating and hydration;
- (vi) Proper feeding techniques;
- (vii) Skin care; and
- (viii) Transfers, positioning, and turning.
- (4) Mental health and social service needs:
  - (j) Modifying aide's behavior in response to residents' behavior;
  - (ii) Awareness of developmental tasks associated with the aging process;
  - (iii) How to respond to resident behavior;
  - (iv) Allowing the resident to make personal choices, <u>providing</u> and reinforcing other behavior consistent with the resident's dignity; and
  - (v) Using the resident's family as a source of emotional support.
- (5) Care of cognitively impaired residents:
  - (j) Techniques for addressing the unique needs and behaviors of individual with dementia (Alzheimer's and others):
  - (ii) Communicating with cognitively impaired residents;
  - (iii) Understanding the behavior of cognitively impaired residents;
  - (iv) Appropriate responses to the behavior of cognitively impaired residents; and
  - (v) Methods of reducing the effects of cognitive impairments.
- (6) Basic restorative services:
  - (j) Training the resident in self care according to the resident's abilities;
  - (ii) Use of assistive devices in transferring, ambulation, eating, and dressing;
  - (iii) Maintenance of range of motion;
  - (iv) Proper turning and positioning in bed and chair;
  - (v) Bowel and bladder training; and
  - (vi) Care and use of prosthetic and orthotic devices.
- (7) Residents' Rights
  - (j) Providing privacy and maintenance of confidentiality;
  - (ii) Promoting the residents' right to make personal choices to accommodate their needs;
  - (iii) Giving assistance in resolving grievances and disputes;
  - (iv) Providing needed assistance in getting to and participating in resident and family groups and other activities;
  - (v) Maintaining care and security of residents' personal possessions;
  - (vi) Promoting the resident's right to be free from abuse, mistreatment, and neglect and the need to report any instances of such treatment to appropriate facility staff;
  - (vii) Avoiding the need for restraints in accordance with current professional standards.

+ State CNA Training Requirements

The need for CNA training beyond the federal minimum requirements has been widely recognized as critical for ensuring that aides have the skills and knowledge necessary to meet the needs of residents.

To receive LTCCC's report on state CNA training requirements.

Numerous states have addressed this inadequacy by imposing higher minimum training requirements for CNAs in their states.

#### Nurse Aide Competency

General rule. A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless—

- That individual is competent to provide nursing and nursing related services; and
- That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the State...; or
- That individual has been deemed or determined competent [based on long-term experience and other federal requirements]....

Non-permanent employees. A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the [above] requirements....



CMS Statement on Competency: "A measurable pattern of knowledge, skills, abilities, behaviors, and other characteristics that an individual needs to perform work roles or occupational functions successfully."

[From CMS Surveyor Training.]

#### A Note on COVID Pandemic Waivers

- At the start of the pandemic, CMS waived CNA training requirements. States could keep their training requirements or decrease them... down to zero.
- However, CMS did **not** waive any requirements for skills, knowledge, or competency.
- Nevertheless, this raised serious concerns about who is providing care to residents just when they were most vulnerable.
- CMS finally lifted the nurse aide training waiver on April 7, 2022, requiring non-certified aides to complete training and testing by October 6, 2022.
- However, CMS has allowed the waiver to continue in "instances where the volume of aides that must complete a state approved [training program] exceed the available capacity for enrollees in a training program or taking the exam.

#### + Performance Review & Training of Nurse Aides

I. Regular in-service education. [42 CFR 483.35(d)(7) F-730]

The facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. In-service training must comply with the requirements of §483.95(g).

## **II.** *Required in-service training for nurse aides.* [42 CFR 483.95(g) F-947]

In-service training must—

- (1) Be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year.
- (2) Include dementia management training and resident abuse prevention training.
- (3) Address areas of weakness as determined in nurse aides' performance reviews and facility assessment... and may address the special needs of residents as determined by the facility staff.
- (4) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

#### + Considerations for Resident-Centered Care

Resident call bells responded to in a timely fashion.

Residents
waking up
and going to
bed at a time
of their
choosing.

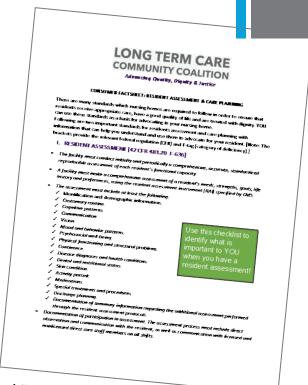
Does the nursing home have enough staff on the floor to meet residents' needs in a timely manner?
This includes...

Residents not being put into diapers because there are not enough staff to help them go to the bathroom.

Residents getting baths/showers at a time and frequency of their choosing.

## + Considerations for Resident-Centered Care

- Are staff finding and implementing options that most meet the physical and emotional needs of each resident?
- Are the assessment and care planning processes identifying and seeking ways to support residents' individual needs?
- Are those processes being implemented by care staff across shifts?
- Are staff informing residents and those they designate about the resident's health status and health care choices and their ramifications?



Visit
nursinghome411.org/learn/facts
for this and other fact sheets.

#### + Considerations for Resident-Centered Care

- Does the facility administration and environment promote actions by staff that maintain or enhance each resident's dignity?
- Do staff interaction with residents display full recognition of each resident's individuality? Is this occurring during different shifts and on weekends?
- Is the nursing home providing alternatives to drug therapy or restraints by understanding and communicating to staff why residents act as they do, what they are attempting to communicate, and what needs the staff must meet?
- Is the nursing home actively assisting residents with discharge planning services (e.g., helping to place a resident on a waiting list for community congregate living, arranging intake for home care services for residents returning home)?
- Are staff members assisting residents to determine how they would like to make decisions about their health care, and whether or not they would like anyone else to be involved in those decisions?
- Does the nursing home actively assist in making referrals and obtaining services from outside entities (e.g., talking books, absentee ballots, community wheelchair transportation)?

# No Excuse For Low Staffing or Poor Care

We must reject the nursing home industry's myths that they cannot do better

**Myth #1**: Nursing home payment is insufficient to provide good care.

**Reality**: Most nursing homes are run for-profit and are seen as attractive investments.

- The industry's longstanding argument that it does not get paid enough to provide sufficient staffing, baseline infection control protocols, etc... is unsubstantiated.
- In fact, nursing homes are increasingly operated by forprofit entities.
- Private equity and REITs have increasing, substantial investment in the sector.
- There are virtually no limitations on the use of public funds to pay for administrative staff or siphon off into profits.
- Operators commonly use related party transactions to hide profits (and perpetuate the myth of "razor-thin margins").

Myth #2: Nursing homes cannot find the staff needed to provide appropriate care.

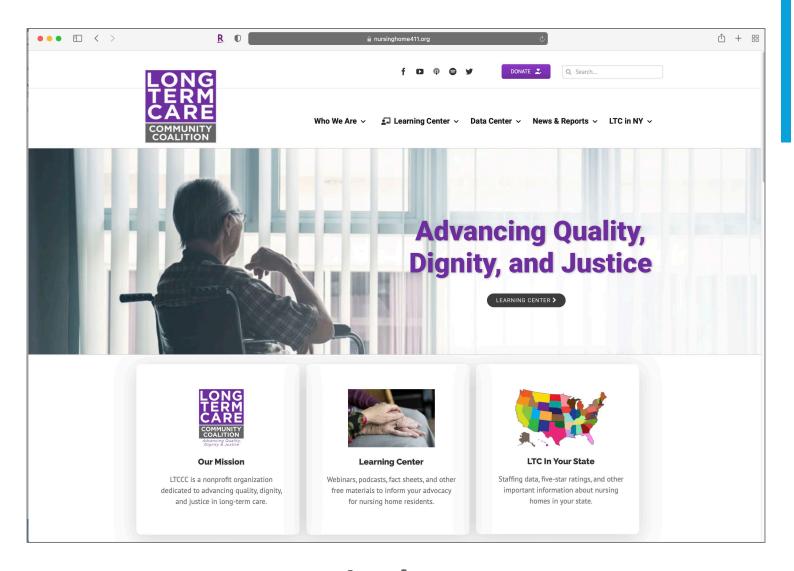
**Reality**: The nursing home industry has extraordinarily high turnover rates due to poor salaries and dangerous and demeaning conditions.

- Overall turnover rates for nursing staff are 50% per year. Many nursing homes have 100% or more turnover.
- The CNA job is persistently one of the most dangerous in the U.S.A.
- Due to the industry's model of bare bone staffing, working in a nursing home, especially as a CNA, is poorly paid, highly stressful, and degrading.

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LTCCC Resources www.nursinghome411.org





## www.nursinghome411.org

#### + Learning Center

Select boxes below to access our latest materials and resources to support good care and resident-centered advocacy. Scroll to the bottom of this page for LTCCC's most recent Learning Center resources. For COVID-19, see LTCCC's Coronavirus Resource Center.



#### Webinars

Learn about long-term care issues at LTCCC's monthly Zoom webinars. Attend programs live or watch recordings on YouTube.



#### Get the Facts

Fact sheets providing information on care standards to support better care and quality of life for long-term care residents.



#### Families & Ombudsmen

LTCCC's Family &
Ombudsman Resource Center
provides resources, tools, and
information to support
resident-centered advocacy.



#### Dementia Care & Antipsychotic Drugging

Resources for promoting good dementia care and reducing dangerous antipsychotic drugging.



#### **Podcasts**

Listen to interviews and conversations with a variety of leading experts in long-term care.



#### Abuse & Neglect

Information and resources to to help identify and address nursing home resident abuse and neglect.



#### Resident Advocacy

Forms and printouts to help you advocate for residents in long-term care and promote resident rights.



#### Assisted Living

Guidebooks, reports, fact sheets, and other resources to advocate for residents in assisted living.

www.nursinghome411.org/learning-center/

#### + Fact Sheets











Who We Are v

Learning Center ∨

Data Center v Our Work v LTC in NY v

#### **Fact Sheets**

Home » Learning Center » Fact Sheets

LTCCC Fact Sheets provide brief summaries of relevant standards and tips on how the standards can be used to support better care and quality of life. Also included here are several FAQ Sheets, which provide examples of Frequently Asked Questions and scenarios that residents might face in regard to a particular resident right or standard of care. [Note: We have not developed a FAQ Sheet for every resident right covered in the Fact Sheets but, rather, only in cases where we though the supplementary discussion might be useful to support resident-centered advocacy.]

We welcome you to use, copy and adapt these materials in your efforts to improve care. For basic information on selected resident care concerns, please visit our Handouts page. For more in-depth information, please see our Issue Alerts or our Reports pages.

Abuse, Neglect & Exploitation

Abuse & Neglect in Assisted Living

**Admission & Discharge Rights in NY State Nursing Homes** 

**Antipsychotic Drugging** 

**Bed Rails** 

**Dementia Care & Antipsychotic Drug Basics** 

Dementia Care & Psychotropic Drugs

**Dementia Care Considerations** 

**Dementia Care Practices** 

**Foundations of Resident Rights** 

**Immediate Access to Nursing Home Residents** 

Infection Prevention and Control

Informed Consent

Introduction to the Dementia Care Toolkit

Requirements for Nursing Home Care Staff & Administration

Requirements for Nursing Home Physician, Rehab & Dental

Services

**Resident & Family Councils** 

Resident & Family Record-Keeping

Resident Assessment & Care Planning

Resident Care Planning

Resident Dignity & Quality of Life Standards

**Resident Grievances & Complaints** 

Resident-Centered Advocacy When a Nursing Home is Cited for

Substandard Care, Abuse or Neglect

Resident Rights to Dignity & Respect

Safe Environment

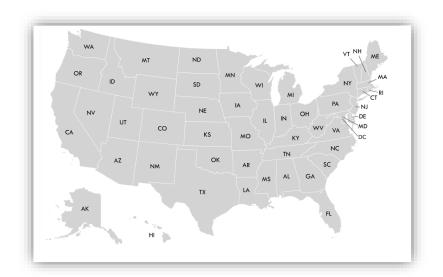
Staffing Ratios in Assisted Living

https://nursinghome411.org/facts/



## LTCCC's state pages

- Use clickable map to find your state
- State pages contain state-specific
  - Staffing
  - Ratings
  - Ombudsman resources
  - And more...



nursinghome411.org/states

## + Nursing Home Staffing Data

LTCCC's Q2 2022 Staffing Report provides user-friendly files containing data on: 1) Nurse staff levels (RN, LPN, and CNA, including Admin & DON, NA in Training, Med Aide/Tech.); 2) Important non-nursing staff levels, including administrators and activities staff; 3) Contract workers; 4) Summary staffing data at the state, CMS region, and national levels; 5) Turnover rates, weekend staffing levels, staffing ratings, and other data.

**Download US nursing home staffing datasets by clicking the purple buttons below.** Files can be modified to isolate locations and identify variables of interest. For example, a file can be filtered and sorted to identify nursing homes in a selected state and/or county with the highest or lowest RN staffing levels.

See table below for state summary data on total nurse staff HPRD (hours per resident day), RN HPRD, and % Contract Staff Hours.

Source: CMS payroll-based journal data.

CALIFORNIA

92,827

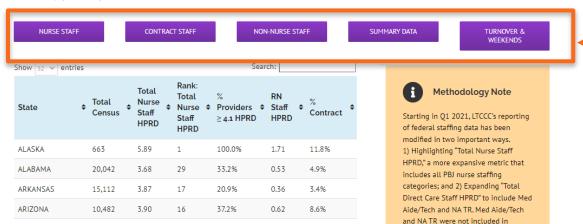
4.12

45.0%

Q2 2022 Staffing Summary	
Total Nurse Staff HPRD	3.63
Total Direct Care Staff HPRD	3.35
Total RN HPRD	0.60
RN Care Staff HPRD (excl. Admin/DON)	0.40
% Providers ≥ 4.1 HPRD	26.3%
Total MDS Census (Daily Avg.)	1,149,561
Edit	

previous LTCCC staffing reports.

Summary Data



0.52

4.8%

#### National Staffing Data:

- Nursing staff
- Non-nursing
- Contract
- State Rankings
- Turnover/Weekends

nursinghome411.org/staffing-q2-2022/

### + Family Council Resource Center

#### **Family Council Resources**

When families and friends of nursing home residents join together, they can be a powerful force for improving care and dignity. LTCCC, a nonprofit organization dedicated to improving nursing home care, provides a range of resources and tools to support resident-centered advocacy. This page includes a family council toolkit and other resources for residents, families, and those who work with them. All of our materials are free to use and share.

Download Family Council Toolkit

\*Click here for two-sided printing option.

A Note to Families

Family councils can make a real difference in the lives of nursing home residents. Here's how.

Read more >

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Free Meeting Rooms

Host free online family council meetings (unlimited time) for in the NursingHome411 Zoom Room.

Sign up >

Get In Touch

Contact our family council liaison: families@ltccc.org, 212-385-0355.

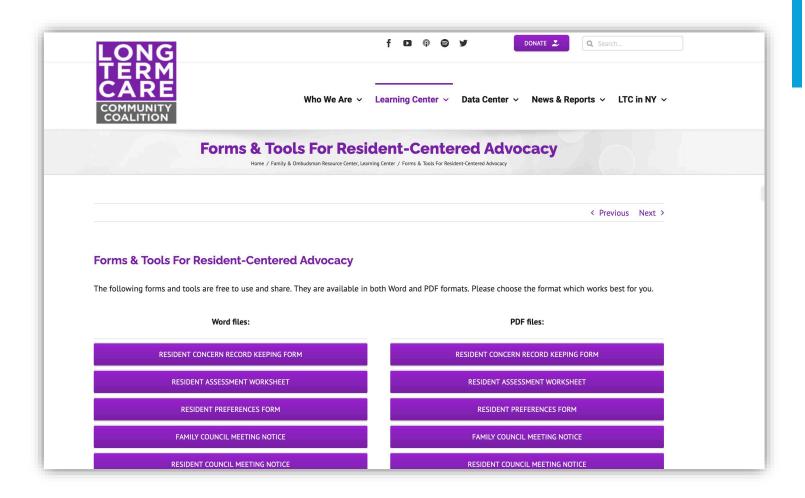
Let's chat >

**Resources for Families** 

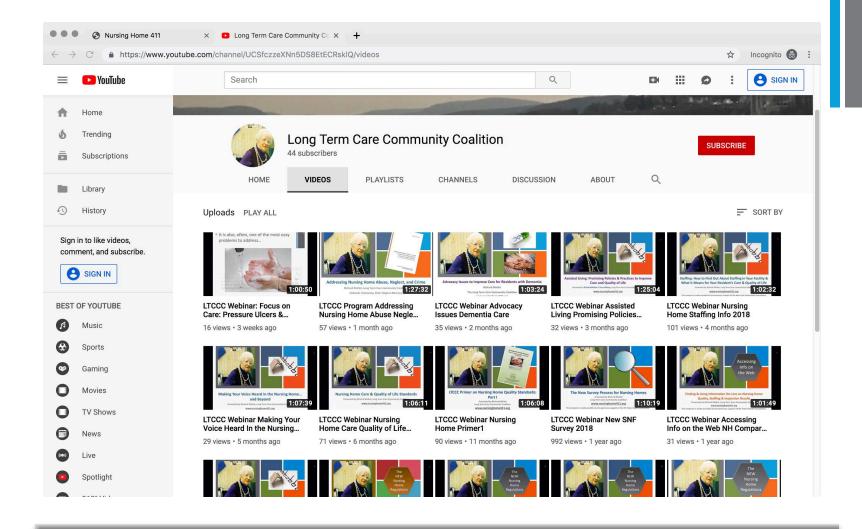
Family & Ombudsman Resource Center Forms & Tools for Advocacy LTCCC Webinars LTCCC Data Center Long-Term Care in New York NursingHome411 Podcast Fact Sheet Center LTCCC Learning Center Find Your Legislators Families can sign up for LTCCC's Family Council Zoom Meeting Room!

www.nursinghome411.org/families/

### + Forms & Tools for Resident-Centered Advocacy



#### + Webinars



https://www.youtube.com/c/LongTermCareCommunityCoalition/

#### + The NursingHome411 Podcast

#### **Podcast**

Home » Podcast



#### Transfer and Discharge: What's Legal, What's Illegal, and What You Can Do to Promote Positive Outcomes

Lindsay Heckler (Center for Elder Law & Justice) on all things transfer and discharge: when they're legal, when they're illegal, and how to promote safe outcomes for residents. We also get into the role of ombudsmen, payment discrimination, personal needs allowance (it's only \$50 per month in NY!), hockey, and more.

Interview recorded October 13, 2022 [...]



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#### www.nursinghome411.org

#### for

- Staffing and quality info for every U.S. nursing home,
- Guides & fact sheets on important resident care standards,
- Webinars and podcasts with useful information and insights; and
- Tools for resident-centered advocacy, including the Dementia Care Advocacy Toolkit.