



What to do When Nursing Home Staff is Not Responsive to Your Needs

Presented by Richard Mollot
Long Term Care Community Coalition

www.nursinghome411.org



Fundamentals



Be as knowledgeable as possible about both your needs and your rights.



Be respectful.



Start from those working close to the resident and move out from there.



Be clear and concise.



Track your issue, complaints, and responses.



Don't go it alone! The LTC Ombudsman Program, resident and/or family councils can provide strength and support.



A Brief Background

Nursing Home Requirements & Resident
Rights


+ 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 & standards are for ALL 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.



+ Important Note

- Too many nursing homes fail to meet the basic standards laid out in the Nursing Home Reform Law.
- We recognize that, as a result of these widespread failures, far too many residents suffer neglect, abuse, and demeaning conditions.
- The purpose of today's program is not to say that there are easy solutions. Rather, the purpose is to raise awareness of...
 1. Ways in which nursing homes can and should be held accountable;
 2. How you can effectively advocate for your loved one.
- We know that there are significant challenges to getting good care. However, we can only advocate for change if we know of the mechanisms by which change can be carried out.



+ What To Do When Things Go Wrong

+ Know Your Resident's Rights

Too often, we accept substandard care because we have been conditioned to accept it.

Learning Center

Home » Learning Center

Welcome to LTCCC's 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.



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.



Family Council Empowerment

A toolkit and other resources to support families and friends in their development of family councils.



Dementia Care & Antipsychotics

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



Families & Ombudsmen

Fact sheets and other resources supporting resident-centered advocacy.



Reporting Abuse & Neglect

Information and resources to help identify and address abuse and neglect.



Assisted Living

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



Podcasts

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

User-Friendly Fact Sheets Include:

- Abuse, Neglect & Exploitation
- Antipsychotic Drugging
- Bed Rails
- Dementia Care Practices
- Fall & Accident Prevention
- Food, Nutrition, and Dietary Services
- Foundations of Resident Rights
- Infection Prevention and Control
- Informed Consent
- Requirements for Nursing Home Care Staff & Administration
- Requirements for Nursing Home Physician, Rehab, & Dental Services
- Transfer & Discharge Rights

+ A Problem Has Been Identified

- Consider the severity of the problem and how it can be rectified.
 - ➡ For minor care or comfort issues, seek assistance from the facility staff on the floor.
 - Examples: Mom's food is cold or unpalatable or inappropriate. Dad has to go to the bathroom and needs help walking to the bathroom.
 - Ask for help from an aide on the floor or someone at the nurse's station.
 - ➡ For urgent care or comfort issues, seek assistance from the facility staff on the floor. If that does not work, escalate your concern to supervisory nursing and then administrative staff.

Note: In case of medical or other emergency, dial 911.

A good source for what to do while waiting for emergency help is <https://www.consumerreports.org/first-aid/what-to-do-in-a-medical-emergency/>.

+ Questions Unanswered, Problems Unsolved

As noted earlier, it is always best to start as close as possible to those working directly with residents and work your way out if you do not get a satisfactory response.

- Why? Going directly to the administrator can undermine your relationship with care staff and cut off opportunities to resolve problems with staff in between the direct care staff and administrator.
- However, too often, problems are not resolved by working with direct care staff or the problem is resolved but happens again.
 - Example: Mom's food is **repeatedly** cold or unpalatable or inappropriate. She's losing weight or seems listless.
 - Example: Dad **repeatedly** does not get help getting to the bathroom and you find that he has been put in a diaper. You find Dad sitting in a wet diaper. He doesn't know for how long.

What do you do??

+ Things you can do...

- Contact your LTC Ombudsman Program for help.
- Connect with the family council (or start one if the facility doesn't have one!).
- Raise your concerns with the appropriate department in your facility, such as the dietician, therapy staff, social worker, or medical director.
- Track your concern!
 - Too often, residents and families have valid concerns about their nursing home care or safety.
 - However, it is challenging to support those concerns if you don't keep a good record of what has happened and how the problem has been addressed (or not).

Today's Date: _____

Record-Keeping Form For Resident Concerns

This form can be used to keep records of a problem or concern and how it is addressed by the facility. Keeping track of who you spoke to and when, what the response was, and what actions were taken to resolve the problem can strengthen your advocacy, both in the facility and beyond. This form can be used to facilitate conversations and follow-up with staff and administration, raise issues at resident or family council meetings, or support a complaint to a government agency.

Date When Issue Occurred or Was Discovered: _____

Issue:

People Involved or Witnesses (if any):

Staff Person(s) Spoken To:

Response/Plan of Action from Staff:

Actions Taken:

+ File a Grievance

Every nursing home is required to have a grievance officer who handles complaints about care or service and ensures that they are investigated and that the individual receives a meaningful response.

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

CONSUMER FACTSHEET: RESIDENT GRIEVANCES

Too often residents and families are hesitant to file a complaint about problems with their nursing home's care or quality of life. They may think it is not going to do any good or are worried that they will face retaliation from facility staff.

The new federal nursing home standards make substantial improvements for how complaints (referred to as "grievances" in the regulations) are handled. These changes are meant to ensure that a resident's concerns are heard and responded to, and that individuals who complain are protected from retaliation. This fact sheet presents key elements of the new federal requirements which you can use to support your resident-centered advocacy.

Please note: (1) Text in italics is directly from the federal regulations. (2) Numbers in brackets refer to the provision in the federal regulations (42 CFR xx) and F-tag used by surveyors when a deficiency is cited. (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. Right to Voice Grievances [42 CFR 483.10(j) F-585]

- *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.*

II. Requirements for a Nursing Home's Grievance Policy

- *Notifying resident individually or through postings in prominent locations throughout the facility of the right to file grievances orally (meaning spoken) or in writing;*
- *Safeguarding the resident's right to file grievances anonymously;*

- *Provide 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;*
- *Provide a reasonable expected time frame for completing the review of the grievance;*
- *Honor the resident's right to obtain a written decision regarding his or her grievance; and*
- *Provide 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.*

III. Requirements for a Nursing Home's Grievance Officer

- *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.*

Requirements for Written Grievance Decisions

- The date the grievance was received,
- 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.

RESOURCES

- WWW.NURSINGHOME411.ORG. LTCCC's website includes a variety of resources to support resident-centered advocacy, including all of our webinar programs and fact sheets.
- WWW.THECONSUMERVOICE.ORG. The Consumer Voice has numerous materials and resources for residents, family members and LTC Ombudsmen.

+ Request a Resident Assessment and/or Care Planning Meeting

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

CONSUMER FACTSHEET: RESIDENT ASSESSMENT & CARE PLANNING

There are many standards which nursing homes are required to follow in order to ensure that residents receive appropriate care, have a good quality of life and are treated with dignity. YOU can use these standards as a basis for advocating in your nursing home.

Following are two important standards for residents assessment and care planning with information that can help you understand and use them to advocate for your resident. [Note: The brackets provide the relevant federal regulation (CFR) and F-tag (category of deficiency).]

I. RESIDENT ASSESSMENT [42 CFR 483.20 F-636]

- *The facility must conduct initially and periodically a comprehensive, accurate, standardized reproducible assessment of each resident's functional capacity.*
- *A facility must make a comprehensive assessment of a resident's needs, strengths, goals, life history and preferences, using the resident assessment instrument (RAI) specified by CMS.*
- *The assessment must include at least the following:*
 - ✓ Identification and demographic information.
 - ✓ Customary routine.
 - ✓ Cognitive patterns.
 - ✓ Communication.
 - ✓ Vision.
 - ✓ Mood and behavior patterns.
 - ✓ Psychosocial well-being.
 - ✓ Physical functioning and structural problems.
 - ✓ Continence.
 - ✓ Disease diagnoses and health conditions.
 - ✓ Dental and nutritional status.
 - ✓ Skin condition.
 - ✓ Activity pursuit.
 - ✓ Medications.
 - ✓ Special treatments and procedures.
 - ✓ Discharge planning.
 - ✓ Documentation of summary information regarding the additional assessment performed through the resident assessment protocols.
- *Documentation of participation in assessment. The assessment process must include direct observation and communication with the resident, as well as communication with licensed and nonlicensed direct care staff members on all shifts.*

Use this checklist to identify what is important to YOU when you have a resident assessment!

II. COMPREHENSIVE PERSON-CENTERED CARE PLANNING [42 CFR 483.21 F-656]

The facility must develop and implement a comprehensive person-centered care plan for each resident, consistent with... resident rights..., that includes measurable objectives and timeframes to meet a resident's medical, nursing, and mental and psychosocial needs that are identified in the comprehensive assessment.

The comprehensive care plan must describe the following:

- *The services that are to be furnished to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being...*
- *Any services that would otherwise be required... but are not provided due to the resident's exercise of rights..., including the right to refuse treatment...*
- *In consultation with the resident and the resident's representative(s)—*
 - *The resident's goals for admission and desired outcomes.*
 - *The resident's preference and potential for future discharge. Facilities must document whether the resident's desire to return to the community was assessed and any referrals to local contact agencies and/or other appropriate entities, for this purpose.*
 - *Discharge plans in the comprehensive care plan, as appropriate...*

A comprehensive care plan must be...Developed within 7 days after completion of the comprehensive assessment.

IMPORTANT NOTE: The new federal nursing home standards greatly expanded expectations for care planning. See the "LTCCC Factsheet Care Planning Requirements" for important details on how care plans must be developed and carried out.

BASIC CONSIDERATION TO KEEP IN MIND

- A facility must make an assessment of the resident's capacity, needs and preferences.
- The assessment must include a wide range of resident needs and abilities, including customary routine, cognitive patterns, mood, ability to and methods of communication, physical, dental and nutritional status.
- A facility is expected to primarily rely on direct observation and communication with the resident in order to assess his or her functional capacity.
- In addition to direct observation and communication with the resident, the facility must use a variety of other sources, including communication with care staff on all shifts.
- A resident's care plan "must describe... the services to be furnished to attain or maintain the resident's highest practicable physical, mental and psychosocial well-being...."
- The care plan must be based on the assessment. In other words, it must come from the resident's needs and abilities, not the services or staffing levels which the nursing home decides to provide based on its financial (or other) priorities.

RESOURCES

WWW.NURSINGHOME411.ORG. LTCCC's website includes materials on the relevant standards for nursing home care, training materials and other resources.

+ Going beyond the Facility

Abuse, Neglect, and Crime Reporting Center

Home » Learning Center » Abuse, Neglect, and Crime Reporting Center

Residents in nursing homes are typically frail. The majority are senior citizens, and many have dementia. By definition, they all need 24-hour a day skilled nursing services. Nevertheless, though they live in an institutional setting, it is crucial to keep in mind that residents retain all of the rights of people who live outside of a facility. This includes the right to live free of physical, emotional, verbal, and sexual abuse and the right to be treated with dignity. It also includes the right to have the same access to criminal justice as anyone living in the outside community.

Unfortunately, too often, when individuals go into a nursing home, society views them as having entered a separate world, where different rules apply. This is not true. To strengthen realization of vital protections for seniors in nursing homes, LTCCC undertook a **study to identify promising practices** that have been employed in different communities to address elder abuse, neglect, and crime in residential settings.

This pages features a selection of resources that are free to use, share, and adapt. We also recommend viewing **LTCCC's 2020 Symposium on identifying and addressing resident abuse and neglect**.



LTCCC SYMPOSIUM: IDENTIFYING & ADDRESSING ABUSE & NEGLECT

ADDRESSING ABUSE, NEGLECT, AND SUSPICION OF CRIME AGAINST NURSING HOME RESIDENTS

FEDERAL CONTACTS FOR FILING A COMPLAINT

LINK TO STATE AGENCY CONTACTS & COMPLAINT FORMS

LINK TO STATE MEDICAID FRAUD CONTROL UNITS

DEFINITIONS OF NURSING HOME ABUSE, NEGLECT, & CRIME

FORM FOR INVESTIGATING RESIDENT INJURIES OR SUSPICION OF CRIME

FORMS & TOOLS FOR RESIDENT-CENTERED ADVOCACY

MEMO FOR LAW ENFORCEMENT ON NURSING HOME ABUSE & NEGLECT

UNDERSTANDING BODILY INJURY WHEN REPORTING SUSPICION OF A CRIME AGAINST A NURSING HOME RESIDENT

REPORTING NURSING HOME ABUSE, NEGLECT, AND SUSPICION OF A CRIME: FEDERAL REQUIREMENTS & NY STATE RESOURCES

OPTIONS

- File a complaint with the state health department and/or Medicaid Fraud Control Unit.
 - You can make a complaint by phone or using any form you prefer.
 - Complaints can be anonymous.
- Contact your state or federal legislator.
 - Legislators can be a strong voice with both providers and oversight agencies.
- Contact the CMS location overseeing your state.
 - If you do not receive an adequate response from your state agency.
- Seek legal help.
 - We recommend using an attorney or firm with many years of experience with abuse & neglect cases.

www.nursinghome411.org/learn/abuse-neglect-crime