

Senior Connections, The Capital Area Agency on Aging Long Term Care Ombudsman

Steps to Resolve a Long Term Care Problem:

1. **Clarify the problem.** When did the problem occur? Is anyone else aware of the problem? Has the problem been documented appropriately?
2. **Attempt to resolve the problem.** Usually, the best place to resolve a complaint is within the facility itself. Find out if your facility grievance procedure for receiving and responding to complaints. Most facilities encourage you to use the grievance procedures already in place.
3. **Identify the right person to approach with your concern.** You may need to talk with the Administrator, Resident Care Director, or a physician to communicate with someone about your problem. It is important that you tell someone when a problem exists; otherwise, the proper parties are not fully informed about your concerns.
4. **Approach the proper staff person and explain your situation and your expectations.** You need to state the problem clearly and obtain a commitment from that person on when he or she plans to provide a response. Discuss possible solutions and let the staff know what you expect or consider to be a satisfactory response. Set a time when you can talk with them later to discuss progress.

If a problem remains unresolved, you may want to contact the local Long-Term Care Ombudsman. Complaints concerning resident abuse, neglect, or the misappropriation of a resident's personal property should also be filed with your local Adult Protective Services program.

Complaints and Concerns

Complaints may be received by telephone, email, and fax or in person. When initially receiving a complaint, the local Ombudsman attempts to provide the complainant with the necessary information, guidance and support to enable them to resolve their concerns with the service provider. When initially receiving a complaint alleging abuse, neglect and/or exploitation, Ombudsman staff shall encourage and assist the complainant to also report the complaint to Adult Protective Services.

If intervention by the Ombudsman is requested or appropriate, the Ombudsman must obtain a signed waiver of rights to confidentiality, which permits the Ombudsman to review records. (See Additional Resources). Anonymous complaints are accepted, although the scope of the investigation may be limited. Ombudsman obtains facts and relevant information to determine if the grievance is valid and facilitates a resolution of the problem. Complaint investigations are kept confidential and are not subject to the Freedom of Information Act.

The possible categories of findings are “verified” and “not-verified” if it is determined after a formal investigation that the circumstances described in the complaint could not be substantiated. A report of the investigation and/or complaint findings, by telephone or in person, will be given to the complainant and/or service recipient.

To File a Complaint about a Particular Facility

Contact the appropriate regulatory licensing agency below:

- Nursing facilities are licensed in Virginia by the:
- Office of Licensure and Certification
- Assisted Living facilities are licensed in Virginia by the:
- Virginia Department of Social Services
- Health professionals are licensed in Virginia

Long Term Care Consumer Information

The local Ombudsman program can provide you a listing of nursing home facilities, assisted living facilities and continuing care retiring communities in the Richmond area. These lists can also be downloaded and are available at the end of this site.

Most nursing homes participate in the Medicare and/or Medicaid programs, which reimburse them for part or all of the care that some residents receive. Medicare pays for post-hospital rehabilitation care and hospice care services for short period of time. Medicaid pays for nursing home care for longer periods for those that are financially eligible.

Most nursing home residents, even if they pay privately when they enter a home, eventually run out of money because of the high costs. They then have to apply to have the costs of their care paid for by Medicaid. Unless you are certain a resident can continue to pay indefinitely with private funds, choose a facility that accepts Medicaid payment. Find out the Virginia Medicaid eligibility rules. (See resource information).

Nursing Home Compare data is provided by the federal government through “Nursing Home Compare”: www.medicare.gov/nhcCompare/home.asp. On this site, you can search for nursing homes by state, county, city, or zip code. Once you have selected the facility or facilities, you can view information about the facility, inspections, staffing levels and quality measure information.

“Nursing Home Compare” also provides inspection reports for each facility. State inspection or “survey” reports contain information about any deficiencies found when inspectors complete their annual inspection of the facility. Inspections take place at least every 9 to 15 months. You can obtain state inspection reports from the state survey agency, the facility itself, or the long-term care ombudsman. Each facility is required by law to make the latest state inspection report available for examination in a place readily accessible to residents. To look at a summary of state inspection information on “nursing Home Compare”, click on the tab labeled “Inspections”.

The National Consumer Voice for Quality Long-Term Care (NCCNHR) recommends the following TIPS:

- ✓ Check the date of the inspection results posted on the website to be sure that they are dated within the last 9-15 months.
- ✓ View previous inspection results on site, to see what the pattern of quality has been over a three year period.
- ✓ Compare the number of deficiencies cited to the state average.
- ✓ If a facility has received a deficiency citation in a particular area, be sure to ask questions about this area when you visit the facility.
- ✓ Be aware of choosing a facility with a very high number of deficiencies compared to other facilities in the area and the state average.
- ✓ Don't assume that a "deficiency free" rating necessarily means that there are no problems with care at a particular facility.

The Nursing Home Compare website also lists the number and kind of complaints that have been filed against the facility. Verified or "substantiated" complaint information is included along with the nursing home inspection results. Staffing information is also included about the number of hours of nursing care are provided at each facility. Staffing levels are a critically important factor to consider in evaluating the quality of care given at a facility. The information provided on nurse staffing levels includes national and state staffing averages, and the daily average for individual nursing homes.

Additional TIPS:

- ✓ Pay attention to the number of Certified Nursing Assistant (CNA) staffing hours. CNA's provide 90% of the hands-on resident care.
- ✓ Look for facilities with high levels of RN staffing.
- ✓ Visit the facility and ask staff and families about the numbers of staff available to directly care for residents on each shift.
- ✓ The staffing reported on 'Nursing Home Compare' includes not only the direct care from nurses and CNA's but also administrative nursing time. (This makes it difficult for consumers to know how much direct care residents are receiving). In addition, the staff hour data used is self-reported by the facility and is not audited for accuracy.

Quality Measures

“Nursing Home Compare” also provides information on “Quality Measures”. These quality measures provide important information; however, they are just one piece of the puzzle in choosing nursing home care. The measures are meant to provide indicators of quality care and comparative information. Measures include 14 indicators for chronic care (long-stay) residents, and 5 indicators for acute-care (short-stay) residents. The measures use data taken from quarterly assessments of individual residents done by the facility. The information gathered from the individual’s assessments of the other residents in the facility to produce a facility-wide measure for each category. **Quality Measures are designed to provide comparison information among facilities and are not intended as a nursing home rating system.**

TIPS:

- ✓ Compare a facility’s score with others in the area and/ or the State to see how it measures up.
- ✓ All of the quality measures are negative measures. This means they measure a condition that is undesirable. Consumers should look for facilities that score below the state average – and the lower the better.
- ✓ If you have questions about the quality measure information that is provided, call 1-800-MEDICARE, or contact the Virginia Health Quality Association
- ✓ Don’t assume the information provided is 100% accurate. These measures are based on facility-reported information that is not independently audited for accuracy. These measures only *suggest* good or bad care.

Complaints Alleging Abuse, Neglect or Exploitation

Under federal statute, Ombudsmen are not mandated reporters of abuse and neglect. When an Ombudsman receives a complaint alleging abuse, neglect or financial exploitation, and has permission of the care recipient or the legal decision maker, an immediate referral is made to the Department of Social Services’ Adult Protective Services in the locality where the adult resides or where the abuse, neglect or exploitation is believed to have occurred. If sexual abuse is alleged or suspected, the local law enforcement agency is also notified.

Ombudsmen advise and encourage the reporting of all alleged abuse, neglect or financial exploitation to Adult Protective Services. It is only in rare cases where a care recipient or legal decision maker is adamant about not reporting, that the Ombudsman will not report in deference to the Ombudsman mandate to respect and follow the wishes of the care recipient or their legal decision maker.

Long-term care facilities are required to report and are also required to submit “Facility-Related Incidents” to the Office of Licensure and Certification to report falls and accidents that occur in their facilities.

For an immediate referral to the Virginia Department of Social Services' Adult Protective Services 24 hour hotline call 1-888-83-ADULT.

Important Discharge Information

You generally have the right to stay in a Nursing Home. **There are only six valid reasons that a nursing home can ask you to go to another facility or to go home or to the home of a loved one:**

- Your health care needs truly cannot be met by the home
- Your health has improved enough that you no longer qualify for nursing home care
- You endanger the safety of other residents
- The physical health of others is seriously at risk
- You have failed to pay
- The facility is closing

Even if the nursing home states one of these reasons, you have the right to appeal to challenge the discharge. If you appeal, the facility must let you stay until you have a hearing and the hearing officer makes a decision. Appeals are made to:

Virginia Department of Medical Assistance Services

Division of Client Appeals

600 East Broad Street, Suite 1300

Richmond, Virginia 23219

Phone: 804-371-8488

Fax: 804-371-8491

The facility has to give you written notice (usually 30 days in advance) of the date, location and reason for the transfer or discharge. The nursing home cannot make you leave until you have a safe place to go where you will receive appropriate care. **The nursing home staff must help you and your family an appropriate place for you to move and must develop a plan of care to help you adjust to the new place.**

If you go to the hospital or on therapeutic leave, you have the right to go back to the first available bed in the same nursing home as long as you are Medicaid-eligible and you still need nursing home care – even if you did not pay to hold the bed. **If the nursing home refuses to let you return, you should file an appeal with the Department of Medical Assistance Services.**

If you entered the nursing home for rehabilitation or therapy covered by **Medicare** and your **Medicare coverage is now ending**, the facility cannot force you to leave without notice and the opportunity for a hearing. If you are eligible for **Medicaid**, you should be able to move to a Medicaid-certified bed as soon as one is available and you should be able to stay in the same nursing home.