

RESOLVING PROBLEMS IN NURSING HOMES

Consumer Fact Sheet No. 5

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There are several steps to take when dealing with problems encountered in nursing homes. Some problems may seem, and sometimes are, overwhelming. However, concerned individuals and organizations have been successful in working for improvements for individual residents and for the nursing home system as a whole. You, as a resident, family member, friend, volunteer or advocate need to know the steps you can take. It is important to keep in mind that sometimes a problem may primarily be a matter of miscommunication or misunderstanding. Other times it may be caused by complex factors beyond the control of the staff directly involved. Some problems stem from lack of skill, knowledge, or sensitivity by staff. Other problems may be the direct result of management decisions limiting the amount of resources for needed care and services. In any event, the following steps should help in approaching the problem.

Problem Solving Within the Nursing Home

Step 1: Voice Concern to Those Directly Involved

The first step is to voice concern. Say something at the time a problem occurs, or as soon afterwards as possible. Do so in an informal, non-confrontational manner, being respectful of the staff. Talk with the staff persons directly involved with the problem. This would include the nurse or nurse's aide for a care issue, the director of the dietary department for a food-related concern, and so on. Sometimes staff are not aware that something is a problem, and they will respond once it is brought to their attention.

In raising concerns to staff, find out from their point of view why the situation exists as it does and what they think must happen in order for it to be any different. Find out if it will be necessary to talk with others responsible for decisions that have created the problem.

Though deficiencies in care are emotional issues, strive to maintain a calm and business-like demeanor when addressing concerns. Be persistent, confident, respectful, and solution-oriented. Don't feel that you are unreasonable to expect good care. Document the date, time, names of those involved, and the specifics of the problem to use in pursuing your concern further. It may be helpful to maintain a small notebook so that you have a clear, concise, and easily accessible record when needed.

Step 2: Bring Your Concern to Staff Supervisors

If talking with the staff most immediately involved does not resolve the problem, bring the concern to those who supervise the staff. This may be the charge nurse for the shift in question or the director of nursing. They will need to have concrete information. *What happened? When? What efforts were made to resolve the situation? How did it affect the resident?*

The more specific you can be, the easier it will be for staff to look into the problem. It is often difficult for staff who are not involved in a situation to be able to respond to general concerns such as "Staff people aren't nice." For example, staff respond more easily to a complaint that a particular aide was gruff in a particular situation. Providing detailed information also will demonstrate the seriousness of the concern. Record the date and time, the name of the supervisor you contact, and their response to your concern.

Step 3: Follow the Facility's Grievance Process

Keep your own copies of written materials and complaints leading up to and during this process. Every facility is required (by federal Medicaid regulations and/or state licensure standards) to have a formal grievance (i.e. complaint) process. Usually a staff person (possibly the director of social services, the activities director, or the assistant administrator) is designated by the facility to review grievances. Once again, be specific about the concerns and the steps that have been taken to resolve them. According to law, residents and family members are entitled to a "reasonable response" to a grievance, in a timely fashion.

Step 4: Work With the Resident or Family Council

Many nursing homes have resident councils and/or family councils that meet regularly to discuss concerns, projects, and activities. Councils vary in their effectiveness and independence. They can be useful tools for exploring whether your concerns are shared by others and changes needed to resolve concerns. If the council's actions are ineffective, get involved to help strengthen the council.

Outside Help

Step 5: Contact the Long-Term Care Ombudsman

The long-term care ombudsman is an advocate for nursing home residents. The ombudsman has the power, based on federal law, to intervene on behalf of consumers having problems with nursing home care. An ombudsman can investigate complaints and work with the facility to respond to concerns on your behalf. The ombudsman can keep your complaints confidential if desired. They can also try to find out if others at the home have similar concerns, and approach the problem on a facility-wide basis. It will help the ombudsman if you can provide detailed information about the complaint, who has been contacted about it, and what response has been received. Contact your State Office on Aging or NCCNHR for the ombudsman closest to you.

Step 6: Contact the State Survey Agency

The State Survey Agency licenses nursing homes and conducts inspections annually to monitor and evaluate the care facilities provide. This agency also is required to respond to complaints from consumers about poor nursing home care.

Procedures for responding to complaints vary from state to state. However, if the complaint involves a situation in which the health or safety of a resident is in immediate jeopardy, Federal regulations require the agency to investigate within two working days of receipt. In less serious cases, the agency may investigate the complaint during the next annual survey if it is scheduled for the near future. Sometimes consumers must be persistent in requesting that complaints be investigated in order to prompt action by the Survey Agency.

The Survey Agency will only sanction a nursing home in response to a complaint when its own surveyor's investigation proves that the problem exists and violates federal or state nursing home standards of practice. This process can be frustrating for consumers because it can be lengthy and violations can be difficult to prove after the fact.

Step 7: Talk with Inspectors When They Survey the Facility

Nursing homes are inspected (surveyed) annually. During each inspection, surveyors are supposed to set aside time for private interviews with nursing home residents to discuss their views about the care the

facility provides. Surveyors may talk with family members and friends of residents during these interviews or the course of the inspection. Make a point of talking with the surveyors during the inspection about your concerns.

Some facilities and some inspectors post a sign indicating that the inspection is taking place. Sometimes, facilities are aware in advance that an inspection is about to take place even though the law requires that surveyor visits be unannounced. If you notice a facility preparing for an inspection, be prepared to talk with inspectors while they are there and alert them that you believe the facility was preparing for the survey. The results of the most recent survey must be posted in an accessible place in the facility.

Step 8: Continue to insist on good care

If all of these steps yield no result, don't give up! Contact NCCNHR to find out if there is an established **citizen advocacy group** in your area or how to organize with other concerned individuals to bring about change.

Learn more about NCCNHR's publications by calling 202-332-2275 for a publication list or visiting the website at <http://www.nccnhr.org>.

- **Nursing Homes: Getting Good Care There,** Cost: \$11.95
- **Using Resident Assessment and Care Planning: An Advocacy Tool for Residents and their Advocates,** Cost: \$12
- **Where Do I Go From Here?: A Guide for Nursing Home Residents, Families, and Friends on Consulting an Attorney,** Cost \$7.50
- **Avoiding Physical Restraint Use - consumer booklet,** Cost: \$7.50
- **Avoiding Drugs Used as Chemical Restraints - consumer booklet,** Cost: \$7.50

Order both Restraint booklets for \$14
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