



## What To Do If You Have a Concern About Quality in a California Nursing Home

### Advice and resources for dealing with quality concerns

Nursing homes in California provide skilled nursing and supportive services to residents. California has more than 1,200 licensed facilities, and most provide quality care most of the time. However, there are times when residents or family members have concerns about the quality of care in a nursing home. If this happens to you, this tip sheet can help. It gives you:

- Practical advice about what to do and who to talk with including phone numbers and addresses
- Links to resources that can help

This tip sheet explains steps you can take within the nursing home to deal with your concerns about quality of care. It tells you how to contact places that regulate or oversee nursing homes. You can also consider filing a lawsuit, but that is not the focus of this tip sheet.

### Is it worth it to pursue a concern about quality?

For many of us, it's not easy to act on a concern about the quality of care we or a loved one receive. The process can be stressful, frustrating and take a long time. And ultimately in the end, it's possible that others may not agree with the way we see the situation.

Is it worth the time and energy to take action on concerns about the quality of nursing home care? Only you or your loved one can decide. In making the decision, think about the continued harm that might take place if you do nothing. And think about how the actions you take might lead to better care for future residents and their families.

### What is quality of care?

Quality health care is doing the right thing, at the right time, in the right way, for the right person—and having the best possible results.

### What are some of your quality of care rights in a California nursing home?

Under the law, you have the following rights:

To be treated with respect and dignity in recognition of your individuality and preferences

To receive quality care and treatment that is fair and free of discrimination

To voice and to file complaints or grievances without fear of retaliation

To have a relative or legal representative act on your behalf when you are not able to do so

For a full list of all of your rights, see the California Department of Health Services brochure: Your

Rights as a Resident in a Nursing Home (also available in Chinese, Spanish and Tagalog)

English: <http://www.cdph.ca.gov/HealthInfo/Documents/YourRightsAsAResidentInANursingHome-English.pdf>

Spanish: <http://www.cdph.ca.gov/HealthInfo/Documents/YourRightsAsAResidentInANursingHome-Spanish.pdf>

Chinese:

<http://www.cdph.ca.gov/HealthInfo/Documents/YourRightsAsAResidentInANursingHomeChinese.pdf>

Tagalog:

<http://www.cdph.ca.gov/HealthInfo/Documents/YourRightsAsAResidentInANursingHomeTagalog.pdf>

## **What types of quality concerns might you see in a nursing home?**

Health care quality concerns could arise for a variety of reasons in a nursing home. Some might relate to how well the whole staff works together or whether there is enough staff to provide care for residents. Other quality concerns might result from a specific action a staff member takes (or doesn't take), such as giving you a drug that you shouldn't get or giving too many drugs. Some of these actions may not affect your health at all; some may cause inconvenience or pain; others may cause serious harm.

Staff that physically harm, abuse or neglect patients are always cause for major concern. They put you, your loved one and other residents in a situation that may lead to serious injury or death called "immediate jeopardy."

## **What steps should you take if you have a concern about quality?**

### **Step 1 — Talk with a nursing home staff member who can fix the problem**

For many quality concerns, it's often best to try to resolve them with staff or others at the nursing home first. You can talk with the social worker, a nurse, the administrator, or another trusted staff member who you think has the ability to address your concern. You could put your concerns in writing and ask for a written response. You might also bring your concerns to the resident or family council, particularly if the concern affects others in the nursing home.

### **Step 2 — The Nursing Home Ombudsman Program**

If your concern is not fixed within a reasonable time, or if you are not comfortable talking with someone in the nursing home, you can call the Nursing Home Ombudsman Program, a program of the California Department of Aging. Ombudsmen are volunteers who are trained to receive and resolve complaints from residents in nursing homes and other long-term care facilities. Their services are free. All nursing homes are required to post the phone number for their local ombudsman program, or you can call the statewide crisis line: 1-800-231-4024. The crisis line is available 24 hours a day, 7 days a week. In addition, information about all of the ombudsman programs in the state can be found at this website: [http://www.aging.ca.gov/programs/ombudsman\\_contacts.asp](http://www.aging.ca.gov/programs/ombudsman_contacts.asp)

The ombudsman will meet with you and/or a family member in a private setting so you can talk freely. If you allow it, they'll talk with nursing home staff or review records to see if they can solve the problem. You or your family member will be told what the ombudsman finds out about your concern. If you're not happy with the result or if you want to protect others from possible harm, you can file a complaint with the California Department of Public Health.

### **Step 3 — File a complaint with the California Department of Public Health**

California nursing homes are licensed by the California Department of Public Health (DPH). This means that they must follow certain rules and regulations in order to care for residents and receive payment. One function of DPH is to receive and investigate complaints about licensed organizations.

The department received over 6,000 complaints about long term care facilities in FY 2009-2010. They issued a total of 1,452 citations or other actions against nursing homes in the same time period. You can file a complaint with DPH by:

Contacting one of their District offices:

<http://www.cdph.ca.gov/certlic/facilities/Pages/LCDistrictOffices.aspx>

Completing and submitting their online complaint form:

<https://hfcis.cdph.ca.gov/LongTermCare/ConsumerComplaint.aspx>

Calling: 800-236-9747

**Sending the complaint:** You should be as specific as possible about your concern if you are writing your complaint. Make sure you keep a copy of what you send. Once DPH receives your complaint, it should notify you within two days and give you the name of the DPH staff person who will investigate your complaint, a complaint number and information about how DPH intends to follow up.

**The investigation:** What happens next depends on how serious your concerns are. If the complaint involves a situation that could cause imminent danger, death or serious harm (“immediate jeopardy”), the investigators should be at the nursing home investigating within 24 hours of receipt of the complaint. Complaints that don't fall into this category should be investigated within 10 days. Complaint investigations are unannounced—the nursing home administration and staff are not told in advance that the DPH investigator is coming.

The DPH investigator will probably interview you, other residents and family members, review your medical records, interview and observe staff members and inspect the facility. You have the right to ask to accompany (or have a family member accompany) the investigator to the facility. Once the investigation is done, the investigator will write a report on what they found. You must be provided a copy of the report within 10 working days after it is done.

**What are the outcomes?** If the investigation finds that there was a quality violation, they will issue a report outlining the problems and what the nursing home must do to correct them. Depending on the severity of the violation, the DPH might issue a citation. The nursing home may have to pay a penalty of up to \$100,000 for the worst violations, those that result in the death of a patient (called an AA violation). Information on complaints and investigation outcomes for nursing homes is available on several websites noted below.

**How long will it take?** The DPH policy is to complete complaint investigations within 30 days. According to a DPH 2011-2012 annual report, a little under half (47%) of the most serious complaints

were completed within 40 days of receipt of the complaint and over half (54%) of other complaints were completed within 60 days of receipt of the complaint.

**Can I appeal the findings?** If you disagree with the findings in the report, you have the right to appeal the process. Within 5 business days after you receive the findings, you can request an informal conference with the DPH district manager. Here is a list of District Offices:

<http://www.cdph.ca.gov/certlic/facilities/Pages/LCDistrictOffices.aspx>

A representative from the nursing home may also attend the meeting. Within 10 days of that meeting, the DPH district officer should notify you and the nursing home of its decision.

You have one final place to appeal if you are still not happy with the results. Within 15 days of receiving the report from the informal conference, you can appeal to the office of the Deputy Director of the California Department of Public Health. A representative from the Complainant Appeals Unit in that office will review all of the information about the complaint. You have the right to meet with that representative. Based on the Complainant Appeals Unit review, the Deputy Director will make a final decision within 30 days and notify both you and the nursing home.

### **Can you remain anonymous when you file a complaint?**

You have the right to remain anonymous when you file a complaint with DPH—that is, to not give your name or contact information. Remaining completely anonymous may make your case more difficult as it may limit DPH staff's ability to verify information. You can talk with the ombudsman about the pros and cons of remaining anonymous in your case

### **What if the nursing home retaliates against you or a loved one for filing a complaint?**

Being concerned about staff punishing you or a loved one is understandable given your dependence on them for care. However, it is absolutely against the law to retaliate against a resident of a nursing home for filing a complaint. If you feel you are being retaliated against, you should contact the ombudsman program or the California Department of Public Health with your concern.

California Nursing Home Ombudsman Program: 1-800-231-4024 California

Department of Public Health: 800-236-9747

### **Where else can you send a complaint?**

**Medicare:** If your nursing home care is paid for by Medicare (the federal health insurance program for people over age 65 or people under 65 who are disabled), you have an additional place to go with a quality of care concern. Medicare pays a Quality Improvement Organization (QIO) to take complaints from Medicare patients. In California, that organization is called Livanta.

You can call Livanta at the following number: 877-588-1123. Explain to the person who answers the phone what your concerns are. Depending on the type of problem you are having, they may be able to get help right away. For example, with your permission, they may be able to call the nursing home to see if they can help solve your problem. In other cases, they may ask you to send your complaint in writing using a complaint form.

If you send Livanta a complaint, you will be notified if the care you or your loved one received met the expected standard. Their process is generally focused on improving the performance of nursing homes, not on punishing them.

For more information about the Livanta complaint system and to access an online complaint form:

<http://bfccqioarea5.com/>

**Medi-Cal:** You can also call the Medi-Cal Fraud and Abuse Hotline if you have a concern about the quality of care in a nursing home. Examples of abuse in a nursing home include failure to assist in hygiene, failure to provide medical care or protect a resident from health hazards, or malnutrition or dehydration.

Attorney General's Bureau of Medic-Cal Fraud & Elder Abuse: 800-722-0432

Website: <http://oag.ca.gov/bmfea/>

**Joint Commission:** The Joint Commission is a non-profit organization that evaluates and accredits (judges the quality of organizations against a set of standards) health care organizations across the country. Not all nursing homes are accredited by the Joint Commission. Those that are must follow the Joint Commission's complaint process. To find out if the Joint Commission has accredited your nursing home, search for it in the Quality Check database:

<http://www.qualitycheck.org/consumer/searchQCR.aspx>

Information about the complaint process at the Joint Commission:

[http://www.jointcommission.org/report\\_a\\_complaint.aspx](http://www.jointcommission.org/report_a_complaint.aspx)

## **What should you do if you're not getting any response?**

**California Legislators:** If you are not hearing back from the nursing home or you have other concerns about the way you're being treated, you can call your California Assembly member and senator. They have staff who help people living in their districts who aren't getting the help they need. List of California Legislators: <http://www.legislature.ca.gov/>

**California Advocates for Nursing Home Reform (CANHR):** CANHR is a statewide non-profit advocacy organization dedicated to improving the choices, care and quality of life for California's longterm care consumers. It provides a wealth of information about nursing homes and has staff that can help with the complaint process.

CANHR Consumer Information Hotline: 800-474-1116

<http://www.canhr.org/>

## **Where can you find information about complaints against a California nursing home?**

There are several online resources you can check for complaints against nursing homes, as well as other information about the quality of care they provide:

**CalQualityCare.org — Your Guide to Long Term Care in California:**

Includes the number and type of nursing home complaints filed against California nursing homes, as well as information on quality of care, and staffing.

<http://www.calqualitycare.org/>

**Nursing Home Guide, California Advocates for Nursing Home Reform:**

Includes a summary of complaints, deficiencies and citations by nursing home by year.

<http://www.nursinghomeguide.org>

**California Department of Public Health Nursing Home AA Citations by County:**

Provides information on the nursing homes that have received AA citations—a violation that caused the death of a patient.

<http://www.cdph.ca.gov/certlic/facilities/Pages/AACounties.aspx>

**Nursing Home Compare:**

A federal website that includes information on deficiencies found during regular surveys and complaint investigations.

<http://www.medicare.gov/nursinghomecompare/search.html>

**Other useful information:**

If you are concerned about the quality of care in a California hospital, managed care plan or HMO or physician office or with the care provided by various types of nurses, here is information about what to do:

**What To Do If You Have Concern About Quality of Care from a California Hospital:**

<http://www.informedpatientinstitute.org/HOSQuality-CA.php>

**What To Do If You Have Concern About Quality of Care from a California Doctor:**

<http://www.informedpatientinstitute.org/PHYQuality-CA.php>

**Managed Care: California Department of Managed Health Care — Problems and Complaints:**

[http://www.dmhc.ca.gov/dmhc\\_consumer/pc/pc\\_default.aspx](http://www.dmhc.ca.gov/dmhc_consumer/pc/pc_default.aspx)

**Nurses: California Department of Consumer Affairs**

Registered Nurses: [http://www.dca.ca.gov/online\\_services/complaints/complain\\_rn.shtml](http://www.dca.ca.gov/online_services/complaints/complain_rn.shtml)

Vocational Nurses: [http://www.dca.ca.gov/online\\_services/complaints/complain\\_vocnurse.shtml](http://www.dca.ca.gov/online_services/complaints/complain_vocnurse.shtml)

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