



What To Do if You Have a Concern About Quality in a Maine Nursing Home

Advice and resources for dealing with quality concerns

Nursing homes in Maine provide skilled nursing and supportive services to residents. Maine has more than 100 licensed nursing homes, 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 our loved ones receive. The process can be stressful, frustrating and take a long time. And 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 Maine nursing home?

Under the law, you have the right to:

- Be fully informed about your health and health care choices
- Be free from neglect or abuse
- Make a complaint to the staff or any other person without fear of punishment

For more information about your rights, see this Maine Long-Term Care Ombudsman Program information: http://www.maineombudsman.org/About/resident_rights.php

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

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 talk with staff at the nursing home first. You can talk with the social worker, a nurse, the administrator (head of the nursing home) or another trusted staff member. You could put your concerns in writing and ask for a written response. You might also bring your concerns to the resident council or family council, particularly if the concern affects others in the nursing home.

Step 2 – Call the Long-Term Care 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 Maine Long-Term Care Ombudsman Program. Ombudsmen are staff and trained volunteers who receive and resolve complaints from residents in nursing homes and adult care facilities. Their services are free. According to federal information, ombudsmen received 1,340 complaints in Maine in 2012. They successfully helped about 81% of those cases.

All nursing homes are required to post the phone number for their local ombudsman program. You can call the Maine Long-Term Care Ombudsman Program at 800-499-0229 or 207-621-1079.

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 Maine Department of Health and Human Services.

For additional information about the Maine Long-Term Care Ombudsman Program:
<http://www.maineombudsman.org/>

Step 3 – File a complaint with the Maine Department of Health and Human Services.

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

The department receives approximately 850-950 complaints a year about nursing homes. Most of these complaints deal with failure to follow a care plan, failure to follow doctor's orders, failure to conduct a comprehensive assessment or issues of abuse and neglect. Eighteen percent of these complaints are found to be true and result in some type of DHHS action against the nursing home.

There are several ways that you can file a complaint with DHHS:

Call this toll-free number: 800-383-2441
M-F 8:00-5:00. After 5:00 pm., leave a voice message.

Emergency Number: 800-624-8404
Available 24 hours/7 days a week

Send an e-mail to: dhrs.complaint@maine.gov

You can mail your complaint to:
Division of Licensing and Regulatory Services
Complaint Intake Unit
41 Anthony Ave.
11 State House Station
Augusta, ME 04333-0011

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 DHHS receives your complaint, generally within a week you will receive a letter confirming that they have it.

The investigation: What happens next depends on how serious your concerns are. Some complaints involve serious harm or the possibility of serious harm, such as death or a very bad injury. If this happens it is called “immediate jeopardy.” In this case, DHHS staff should be at the nursing home investigating within 2 days of getting the complaint. Concerns that are “high priority” trigger investigations within 10 days. Medium and lower-level complaints may take anywhere from 45 to 100 days. Some of these are reviewed the next time the DHHS staff visit the nursing home for a regular inspection.

Complaint investigations that involve visits to the nursing home are always unannounced—the nursing home administration and staff are not told in advance that a DHHS investigator is coming. Some investigations do not require a visit to the nursing home.

Depending on the type of complaint, the DHHS investigator might talk to you or other residents and family members. They might look at your medical records, talk to and watch staff members and inspect the nursing home. Once the investigation is done, you should get a letter that tells you what was found. You can only ask for the investigation to be reopened if you have new information that you hadn't given before.

What are the outcomes? If the investigation finds that there was a quality violation, DHHS issues a report outlining the problem and the nursing home reports what it must do to correct it. The nursing home may have to pay a penalty of up to \$10,000 a day for the worst violations. Information on nursing home inspections is available on the federal government's Nursing Home Compare website noted below.

How long will it take? It generally takes an average of 6-8 months to complete an investigation of a nursing home complaint. That time-frame can vary, though, depending on the case.

Can you remain anonymous when you file a complaint?

You have the right to remain anonymous when you file a complaint with DHHS—that is, to not give your name or contact information. If you do give your name and contact information, you can ask that staff treat it confidentially and not tell the nursing home that you are the person complaining.

Remaining completely anonymous may make your case more difficult as it may limit DHHS staff's ability to verify information. You also won't be able to follow up or receive information about what happened. 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 Maine Long-Term Care Ombudsman Program or the Maine Department of Health and Human Services with your concern.

Maine Long-Term Care Ombudsman Program: 800-499-0229 or 207-621-1079

Maine Department of Health and Human Services: 800-383-2441

Where else can you go with a concern about quality?

Nursing Home Administrators Licensing Board: Nursing home administrators are licensed by the state of Maine Office of Licensing and Registration. Administrators must undergo education and training in order to hold their position.

If you feel that a nursing home administrator is not fulfilling their duties, you may complain to the Office of Licensing and Registration: 207-624-8660

Or you can send an e-mail to: otherboardcomplaints.PFR@maine.gov

Or file an electronic complaint form:

http://www.maine.gov/pfr/professionallicensing/complaint_form_noscript.html

Adult Protective Services: If you suspect an adult is suffering abuse (such as pushing, hitting, denying visits with friends and family), neglect (failure to provide care and services such as food, medical attention or necessities such as glasses or hearing aids) or exploitation (forcing an adult to give away property), you can call Adult Protective Services. This is the program of the Maine Office of Aging and Disability Services that helps protect adults who can't protect themselves. All complaints received by DHHS involving abuse, neglect or exploitation are automatically referred to Adult Protective Services.

To report abuse, neglect or exploitation, call this 24-hour, toll-free hotline: 800-624-8404

Additional information about abuse, neglect and exploitation in licensed Maine facilities is available here: <http://www.maine.gov/dhhs/oads/aging/aps/index.shtml>

Attorney General's Office: You can also call the Healthcare Crimes Unit of the Maine Attorney General's Office if you have a concern about abuse or neglect. The office handles concerns dealing with fraud too, for example, billing for services that are not needed or billing more than once for the same medical service.

Health Care Crimes Unit
Maine Office of Attorney General
207-626-8870

http://www.maine.gov/ag/crime/crimes_we_prosecute/healthcare_crimes.shtml

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 Maine, that organization is called Livanta.

You can call Livanta at the following number: 866-815-5440. 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://bfccqioarea1.com/>

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

Maine 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 Maine state or federal House or Senate member. Their staff assist people living in their districts who aren't getting the help they need.

List of Maine state legislators: <http://www.maine.gov/portal/government/legislature>

List of Maine federal legislators: <http://www.maine.gov/portal/government/federal>

Where can you find information about Maine nursing homes?

Nursing Home Compare: A federal website that includes information on problems found during regular surveys and complaint investigations. Also includes information on the quality of nursing home care.

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

Other useful information:

If you are concerned about the quality of care in a Maine hospital, managed care plan (HMO) or the care provided by a physician or nurse, here's where to go for more information:

Doctors

What to Do if You Have a Concern About the Quality of Care from a Maine Doctor

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

Hospitals

What To Do if You Have a Concern About Quality in a Maine Hospital

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

Managed Care/HMOs

Maine Bureau of Insurance

<http://www.maine.gov/pfr/insurance/complaint.htm#a>

Registered Nurses, Licensed Practical Nurses

Maine State Board of Nursing

<http://www.maine.gov/boardofnursing/Discipline/complaint.htm>

This document was written by Carol Cronin, Executive Director, Informed Patient Institute (IPI). Preparation of this document was conducted under contract with the Maine Health Management Coalition (<http://www.mhmc.info/>), with funding from the Maine Health Access Foundation (<http://www.mehaf.org/>).

Reviewed and updated: January 2014

Originally written: February 2011