



## What to Do if You Have a Concern about Quality in a New York Nursing Home

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### Advice and resources for dealing with quality concerns

Nursing homes in New York provide continuous skilled nursing and supportive services to residents. New York has more than 600 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 also 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. 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 New York nursing home?

Under the law, you have the right to:

- Dignity, respect and a comfortable living environment
- Quality care and treatment that is fair and free of discrimination
- Freedom of choice to make your own independent decisions
- Voice and file complaints or grievances without fear of retaliation

For a full list of all of your rights, see the New York Department of Health brochure:

*Your Rights as a Nursing Home Resident in New York State and Nursing Home Responsibilities*

<http://www.health.ny.gov/facilities/nursing/rights/>

## **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, particularly if the concern affects others in the nursing home.

### **Step 2 — Contact 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 Long Term Care Ombudsman Program. This is a program of the New York Office for the Aging. Ombudsmen are trained volunteers who receive and resolve complaints from residents in nursing homes and adult care facilities. Their services are free. Ombudsmen received over 6,000 complaints in New York in 2010, and 64% of those complaints were resolved to the satisfaction of the resident or person who complained.

All nursing homes are required to post the phone number for their local ombudsman program. You can also call the New York State Senior Citizen's Help Line: 800-342-9871. In addition, the name, phone number and e-mail address for the ombudsman in each county can be found at this website:

<http://www.ltombudsman.ny.gov/whois/directory.cfm>

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 New York State Department of Health.

### **Step 3 — File a complaint with the New York State Department of Health.**

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

The department receives over 9,000 complaints a year about nursing homes and 6,800 of them result in an investigation. Of those, over 4,500 involve DOH staff going on-site to investigate the nursing home. Eight percent of the homes that are investigated on-site receive some type of DOH action.

You can file a complaint with DOH by:

Calling the Nursing Home Complaint Hotline: 888-201-4563

Sending an e-mail to [nhintake@health.state.ny.us](mailto:nhintake@health.state.ny.us) that includes your e-mail address and contact information

Submitting your complaint by fax: 518-408-1157

Mailing your complaint to:  
Centralized Complaint Intake Unit  
161 Delaware Ave.  
Delmar, NY 12054

You should be as specific as possible about your concern if you are writing your complaint. Make sure you make a copy of what you send. Once DOH receives your complaint, they will send you a letter within 24 hours confirming that they have it.

**The investigation:** What happens next depends on how serious your concerns are and when they happened. Some complaints involve serious harm such as death or a very bad injury. If this happens and there is still a threat to residents, it is called "immediate jeopardy." In this case, investigators from DOH should be at the nursing home investigating within 2 days of getting the complaint. Investigations into the next level, or "high priority" complaints, are opened within 10 days. These are cases where injury or harm has occurred, but there is no longer a threat to residents. Investigations into other complaints are begun within 45- 120 days.

Complaint investigations that involve visits to the nursing home are unannounced—the nursing home administration and staff are not told in advance that a DOH investigator is coming. Other investigations may not involve a visit to the nursing home.

Depending on the type of complaint, the DOH investigator will probably talk to you and other residents and family members, look at your medical records, talk to and observe staff members and inspect the facility. After the investigation is done, the investigator will contact you by phone to tell you the results. You should also receive a letter telling you what they found.

**What are the outcomes?** If the investigation finds that there was a quality problem, DOH issues a report outlining the problem and what the nursing home 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 complaints and investigation outcomes for nursing homes is available on several websites noted below.

**How long will it take?** DOH has an internal goal of finishing all cases within 180 days, however it is not required to do so. Investigations can vary depending on a number of factors, including how easy it is to gather information and evidence.

**What if I disagree with the findings?** If you disagree with the findings of the investigation, you can ask that the case be re-opened. To do so, contact a DOH regional office: [http://www.health.ny.gov/facilities/nursing/regional\\_offices.htm](http://www.health.ny.gov/facilities/nursing/regional_offices.htm). The regional office will assign someone to review the case and look at any new or missed information. That person will decide if the investigation is complete or needs to be re-opened. A summary of that review is added to the file and you will be told of the outcome.

If you are still not satisfied with the outcome, you can submit your concerns in writing to:

Director of the Statewide Nursing Home Complaint Program  
Centralized Complaint Intake Unit  
161 Delaware Ave.  
Delmar, NY 12054

If the Director re-opens the case, two DOH staff nurses look at all of the evidence. They may call on outside help from physicians or others to decide whether to re-open the case or not. If you are still not satisfied, you may appeal to higher levels within DOH.

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

You have the right to remain anonymous when you file a complaint—that is, to not give your name or contact information. If you do give your name and contact information, you can ask DOH staff to 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 DOH 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 New York State Department of Health or ombudsman program with your concern.

New York State Department of Health Nursing Home Complaint Hotline: 888-201-4563

New York State Senior Citizen's Help Line (for referral to an ombudsman program): 800-342-9871

### **Where else can you go with a concern about quality?**

**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 New York, 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/>

**Medicaid:** You can also call the Medicaid Fraud and Abuse Hotline if you have a concern about certain activities in a nursing home. Examples include providing unnecessary services, billing for

medical services that you didn't get, billing for more expensive services or billing more than once for the same medical service.

New York Office of the Medicaid Inspector General: 877-87-FRAUD (877-873-7283)

<http://www.omig.ny.gov/fraud/fraud-abuse>

**Joint Commission:** The Joint Commission is a non-profit organization that evaluates and accredits (judges the quality of organizations against a set of rules or 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?**

**New York 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 New York Assembly member and senator. They have staff who can help people living in their districts who aren't getting the help they need.

New York State Assembly: <http://assembly.state.ny.us/mem/>

New York State Senate: <http://www.nysenate.gov/>

## **Where can you find information about New York nursing homes?**

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

### **New York State Nursing Home Profiles:**

Includes a broad range of information about New York nursing homes, including complaints. Also includes information on facility characteristics, quality of care, inspection survey results, and whether the nursing home has been fined (under the "enforcement" tab).

<http://nursinghomes.nyhealth.gov/>

### **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 New York hospital, managed care plan or HMO, doctor's office, or with the care provided by registered nurses, here's where to go for more information:

### **IPI Hospital Tip Sheet:**

**What to Do if You Have a Concern about the Quality of Care in a New York Hospital**

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

## **Managed Care/HMOs**

New York State Department of Health - Complaints and Appeals

[http://www.health.ny.gov/health\\_care/managed\\_care/complaints/index.htm](http://www.health.ny.gov/health_care/managed_care/complaints/index.htm)

Health Care Bureau of the New York State Office of the Attorney General

<http://www.ag.ny.gov/bureau/health-care-bureau>

## **IPI Doctor Tip Sheet:**

**What to Do if You Have a Concern about the Quality of Care from a New York Doctor**

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

## **Registered Nurses**

New York Office of the Professions

<http://www.op.nysed.gov/opd/complain.htm>

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[www.informedpatientinstitute.org](http://www.informedpatientinstitute.org)

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