IF YOU HAVE QUESTIONS OR CONCERNS, PLEASE CONTACT:

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(859) 283-8185  (866) 766-2372

OR

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Nursing Home Ombudsman Agency

Sherry Culp
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Division of Health Care
Office of Kentucky Inspector General
275 East Main Street, 5E-A
Frankfort, KY 40621
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RESIDENT’S RIGHTS FOR KENTUCKY’S LONG-TERM CARE RESIDENTS

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resident is transferred or discharged, the right to appeal, and the name, address, and telephone number of the state long-term care ombudsman

- Safe transfer or discharge through sufficient preparation by the nursing home
- To file an appeal, you must write or fax a request for a hearing within 15 days of receiving the involuntary discharge notice to:
  
  Secretary  
  Cabinet for Health and Family Services  
  275 East Main Street 5 W-A  
  Frankfort, KY 40621  
  Fax: (502) 564-7091

- The District Long-Term Care Ombudsman can help you file the request for appeal and contact Legal Aid of Northern Kentucky to obtain legal representation for you. We can also help you contact a private attorney, if you prefer

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**What Does the District Long-Term Care Ombudsman Do?**

- Protects the rights of all residents
- Identifies, investigates, and works to solve problems
- Provides regular friendly visits to all residents
- Provides services to all residents
- Provides information & assistance to the community
- Monitors government actions affecting residents
- Educates facilities and providers

**Who is my District Long-Term Care Ombudsman and How Do I Contact Him/Her?**

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This document combines both Federal and Kentucky statutes as well as information from the National Citizens' Coalition for Nursing Home Reform at [www.nccnhr.com](http://www.nccnhr.com). This brochure is funded, in part, under a contract with the Kentucky Cabinet for Health and Family Services and with funds from the U.S. Department of Health and Human Services, the Administration on Aging, Centers for Medicare and Medicaid Services.
**Who do I contact if I have a problem?**

There are several ways to address concerns that you have about your care. It is often best to try and resolve the problem within the facility first.

- Start with talking to the nursing home staff about your concerns/issues. If possible, document any concerns in writing that arise with a date, time, name, and the specific problem.
- Voice your concern to those directly involved.
- Raise your concerns with the staff supervisors.
- Work with the Resident Council or Family Council.

**What happens if my problems are not resolved by the facility staff?**

Your nursing home ombudsman is an advocate for nursing home residents and has the power, based on federal law, to intervene on your behalf.

**What will the Ombudsman do?**

- An ombudsman first investigates complaints to verify and document reports.
- Findings of investigations are shared with the complaining party.
- Ombudsmen explain options for resolving concerns to residents and families to help find solutions.
- Ombudsmen will only take action that has been authorized by the resident and their family.
- Complaints are treated confidentially.
- You will control the complain process.
- Ombudsmen will not act without consulting you.
- Your ombudsman can also refer you to other agencies in the state that can also assist with your complaints.

- To privacy in written communications, including the right to send and promptly receive mail that is unopened.
- Right to reasonable access to use of telephone where calls can be made without being overheard.
- Representatives of the State Long-Term Care Ombudsman Program must be allowed by the facility to examine your medical and social records if you/your legal representative grants permission.

**Right to Visits**

- By a resident's personal physician and representatives from the state survey agency and ombudsman programs.
- By relatives, friends, and others of the residents' choosing.
- By organizations or individuals providing health, social, legal, or other services.
- Residents have the right to refuse visitors.

**Right to Complain**

- Present grievances to staff or any other person, without fear of reprisal and with prompt efforts by the facility to resolve those grievances.
- To complain to the ombudsman program.
- To file a complaint with the state survey and certification agency.

**Rights During Transfers and Discharges**

- Remain in the nursing facility unless a transfer or discharge:
  (a) is necessary to meet the resident's welfare;
  (b) is appropriate because the resident's health has improved and s/he no longer requires nursing home care;
  (c) is needed to protect the health and safety of other residents or staff;
  (d) is required because the resident has failed, after reasonable notice, to pay the facility charge for an item or service provided at the resident’s request.
- Receive thirty-day notice of transfer or discharge which includes the reason, effective date, location to which the...
Right to Make Independent Choices

- Make personal decisions, such as what to wear and how to spend free time
- Reasonable accommodation of one’s needs and preferences
- Choose a physician
- Participate in community activities, both inside and outside the nursing home
- Organize and participate in a Resident Council
- Manage one’s own financial affairs – the facility may not require you to deposit personal funds within the facility
  - If the facility accepts the responsibility for managing your funds:
    - The facility must keep funds over $50 in an interest-bearing account, separate from the facility’s accounts
    - The facility must keep funds of less than $50 in a separate account such as a petty cash fund
    - The facility must maintain a full and separate accounting of your funds held by the facility and must give a statement to you or your legal guardian quarterly and upon request
    - If you are receiving Medicaid benefits, the facility must notify you when the amount in your account comes within $200 of the Medicaid limit and of the effect of this on your eligibility
    - The facility must purchase a surety bond to assure the security of all your funds deposited within the facility
- The facility must not require a third party guarantee of payment as a condition of admission/continued stay
- The facility must not charge, solicit, accept, or receive any gift, money, donation, or other consideration as a precondition of admission or continued stay in the facility

Right to Privacy and Confidentiality

- Private and unrestricted communication with any person of their choice
- During treatment and care of one’s personal needs
- Regarding medical, personal, or financial affairs

History of Kentucky Ombudsman Program

- First launched in 1972 as a demonstration program, the Ombudsman Program today operates in all states as a provision of the Older Americans Act and is administered by the federal Administration on Aging.
- Since 1978, the Kentucky Long-Term Care Ombudsman program has served residents of long-term care facilities in all 120 Kentucky counties.
  - Services of the State Long Term Care Ombudsman program are coordinated through the Nursing Home Ombudsman Agency. The program also has oversight for 15 district programs affiliated with Area Agencies on Aging and Independent Living.
  - The program receives federal, state, and local funding and does not charge for services
- The Northern Kentucky Long Term Care Ombudsman Program serves the 8 counties of Northern Kentucky: Boone, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, and Pendleton counties.

- The Northern Kentucky Ombudsman Program has trained ombudsmen who regularly visit long-term care facilities, monitor conditions, and provide a voice for those unable to speak for themselves.
What can I expect in the first weeks of moving in?

Facility must complete a comprehensive assessment within 14 days of admission
- Evaluates your physical and mental condition
- Ability to perform activities of daily living (ADLs), such as eating, dressing, walking, bathing, and communicating
- Your personal preferences and habits

Within 7 days of the assessment, the facility must hold a care plan conference.
- At this conference, an individualized care plan is developed by a team including a nurse, nurse aide, activities director, dietary staff, and a social worker
- It is very important that you, and a loved one (if possible), participate in the meeting
- You (or your family) can also ask your ombudsman to attend with you
- The care plan outlines how the staff will assist you on a daily basis to ensure that you maintain the highest physical, mental, and social functioning as possible

Right to Participate in One's Own Care
- Receive adequate and appropriate care
- Be informed of all changes in medical condition
- Participate in their own assessment, care-planning, treatment, and discharge
- Refuse medication and treatment
- Refuse chemical and physical restraints
- Refuse to participate in experimental research
- Review one’s medical record (right to access all records within 24 hours, excluding weekends and holidays). You may purchase photocopies (first copy must be free of cost to you) of your records upon request and with two working days advance notice to the facility.
- Be free from charge for services covered by Medicaid or Medicare
- The facility cannot require residents or potential residents to waive their rights to Medicaid or Medicare
- You, your physician, and your legal guardian (or a designated interested family member) must be notified immediately of any serious accident, significant change in your health/mental status, or a decision to transfer or discharge you from the facility
- If you have been found mentally disabled under State Law, your rights are exercised by your guardian
Your Rights as a Nursing Home Resident

As in all facilities, there are rules and procedures to keep things running smoothly. However, you do have specific legal rights as a resident of a nursing facility. This booklet is a summary of your rights taken from Kentucky and Federal law and regulations. Please read this booklet carefully and keep it for future reference. If you have questions about your rights, please ask that they be explained to you.

Residents Rights:
Residents’ Rights were part of the Nursing Home Reform Law enacted in 1987 by the U.S. Congress. Residents’ rights were also incorporated into Kentucky Regulatory Statutes (KRS 216.515). These laws require nursing homes and other long-term care health facilities to promote and protect the rights of each resident. Resident rights place a strong emphasis on individual dignity and self-determination. Nursing homes must meet residents’ rights requirements to participate in Medicaid or Medicare.

You Have At Least the Following Rights:

Right to Dignity, Respect, and Freedom
- To be treated with consideration, respect, and dignity
- To be free from mental and physical abuse, corporal punishment, involuntary seclusion, and physical and chemical restraints
- To self-determination
- Security of possessions
- To make advance directives

The Right to Be Fully Informed of
- Available services and the charges for each service

Who will be taking care of me?

- Certified Nursing Assistants (CNAs) provide most of the hands-on care in nursing homes. They will take care of your day-to-day needs such as dressing, toileting, and bathing
- Registered Nurses (RNs) and/or Licensed Practical Nurses (LPN) manage the care of the residence on each unit and supervise the CNAs. The RN or LPN usually distributes your medications
- Director of Nursing (DON) is in charge of all the nursing services in the facility
- Director of Social Services provides medically-related social services and assist residents in maintaining or improving their ability to manage their everyday physical, mental, and psychosocial needs.
- Director of dietary services oversees your dietary needs
- Administrator oversees the operations of the entire facility

Your Care Plan

What is a Plan of Care?

A plan of care is a strategy for how the staff will help a resident.

The plan of care says what each staff person will do and when it will happen. Care plans must be reviewed regularly and they must be revised as needed. For care plans to work, you must be comfortable with the plan and feel that it meets your needs.

Care plans can address any medical or non-medical problems. For example: medications are a medical concern; incompatibility with a roommate is a non-medical concern.
A Good Care Plan:
- Is specific, individualized, and written in a common language that everyone can understand
- Reflects the resident’s concerns and supports the resident’s well-being, functioning, and rights. It should not label the resident’s choices or needs as “problem behaviors”
- Uses a multi-disciplinary team approach and referrals
- Should be re-evaluated and revised routinely

What is a Care Planning Conference?
A care planning conference is a meeting where staff, residents, and/or families talk about life in the facility. You can bring up problems, ask questions, or offer information to staff.

When Are Care Planning Conferences Held?
Assessments must be done within 14 days of admission and at least once a year with reviews every 3 months.

The care plan must be done within 7 days of an assessment. Care plan meetings must occur at least every three months and whenever there is a significant change in your physical or mental health that might require a change in care.

What Should You Talk About at the Meeting?
- Talk about what you need and how you feel
- Ask questions about care and daily routine, food, interests, activities, staff, personal care, medications, getting around
- Staff must talk to you about treatment options (ex: medication & restraints) and can only do what you agree to
- You may have to be persistent about concerns and choices
- If you want family, friends, or the ombudsman at the meeting, ask to hold the meeting at a time they can attend

- Makes the home feel more homelike
- Positive changes that improve the quality of life in the home
- Benefits for the nursing home include:
  - Allow nursing home staff to deal directly with family concerns and ideas
  - Convey needed information to families
  - Establish meaningful lines of communication
  - Administrative staff may also be able to use the family council as a sounding board for new ideas

Some family councils are started by interested families/friends, nursing home volunteers, or community leaders. Others are initially started by nursing home staff – often at the administrator’s request. Although the organizational structures of family councils vary greatly, there are some common features of most councils.

A family council is not “family night”. Family night is a name used in many nursing homes for occasional education or social functions planned and hosted by the nursing home staff for families and friends of the home’s residents. While these programs are beneficial, they are different from a family council which is run by the relatives and friends themselves.
What is a Family Council?
A family council is an organized group of relatives and friends of nursing home residents who meet regularly to discuss issues and concerns regarding the home.

Kentucky law gives family members of nursing home residents the right to present concerns without retaliation. Medicare- and Medicaid-certified nursing homes must allow family councils to operate and provide a meeting space in the facility.

Family councils:
- Are run by friends and relatives of the home's residents
- Choose their own topics
- Have elective leadership
- Meet on a regular basis
- Have an established method for exchanging information with nursing home staff
- May have other purposes as chosen by family council:
  - Support for families
  - Education and information
  - Discussion and action on concerns and complaints
  - Services and activities for residents
  - Joint activities for families and residents

What are the Benefits of a Family Council?
Effective family councils provide benefits for the families, residents, and the facility:
- Benefits for family include:
  - Opportunity to express ideas/concerns
  - Way to work for positive change
- Benefits for residents include:

Questions about my Care
It often helps to have written questions when you attend a care planning meeting. It is sometimes difficult to remember all the questions and discuss all your concerns if they are not in writing. If the care planning staff sees that you have specific questions about your care, they will be more likely to give you time to address those concerns.

Resident Councils and Family Councils
Kentucky law gives residents and family members the right to present concerns without retaliation. Medicare and Medicaid-certified nursing homes must allow councils to operate and must provide a meeting space in the facility for their activities.

What is a Nursing Home Resident Council?
A resident council is an independent, organized group of persons living in a nursing home who meet on a regular basis to discuss concerns, develop suggestions, and plan activities.

If a nursing home does not already have a resident council, it must try to establish one. Sizes and structures of councils vary widely.

State and federal laws give residents the right to meet as a council. The facility must provide space for meetings and give assistance to residents who need the home's staff, relatives, friends, or members of community organizations to participate in the meetings. The home must designate a staff person to serve as a liaison to the council, to attend council meetings as requested, and to provide needed support services and assistance such as typing minutes and correspondence.
**Tasks of the Resident Council:**
- Offer suggestions about facility policies and procedures that affect resident care, treatment, and quality of life
- Plan resident activities
- Participate in educational activities
- Any other tasks/activities the group chooses

**Effective Resident Councils:**
1. **Are run by the residents and supported by the facility**
2. **Improve communications within their homes:** Resident councils are places to get the facts and help dispel rumors.
3. **Help identify problems early when it is easier to do something about them:** Resident councils are an important part of the grievance process and help avoid the necessary of discussing problems with outside sources.
4. **Serve as a sounding board for new ideas:** Resident councils allow participants to review and comment on proposed facility policies/operational decisions that affect resident life and care.
5. **Help individuals speak out about what is bothering them and help overcome the fear of retaliation:** When people are dependent on others for their needs, there is a fear that they may make others so angry that care will be withheld.
6. **Improve the atmosphere of the homes where they are active:** Staff appreciates having residents share in some of the responsibilities of planning activities and events.
7. **Promote friendship:** By working in small groups that meet regularly, residents have a chance to get to know each other well.

**Tips for Resident Councils:**
- The facility must provide space, privacy, and staff support
- Normally, only a staff liaison person is present at the meetings – any others come at the invitation of the council
- Ombudsman should be present and may act as facilitator
- Councils do not have to have officers, but may choose to organize in such a way
- The facility must provide assistance to residents in putting requests in writing from the group
  - They must respond to such requests
  - Written requests from the group may be in the minutes
- The facility must listen to council views and act upon the recommendations/grievances concerning “proposed policy and operational decisions affecting resident care and life”
- Council meetings do not have to be held monthly; residents decide the frequency