

NURSING HOMES: AN OVERVIEW OF THE STATE SYSTEM

Nursing homes provide care to over 1.7 million people every year. However, many individuals and family members find it a real challenge to select a facility and to ensure appropriate care will be provided. Generally, a nursing home is a residential facility offering daily assistance to individuals who are physically or mentally unable to live independently. Residents are provided rooms, meals, assistance with daily living, nursing services and some medical treatment. Medicare can help pay for skilled nursing facility (SNF) care for up to 100 days in a benefit period when a beneficiary meets certain conditions. Medicaid may also help pay for nursing home care, though coverage varies from state to state. Individuals who require custodial care such as help with eating, bathing, taking medicine and toileting, as well as those who require skilled care may have their nursing home stay paid for by Medicaid if they meet specific financial criteria.

The long term care system is complex and difficult to understand. The many different agencies responsible to help ensure good care for nursing home residents are listed below.

THE STATE LONG TERM CARE OMBUDSMAN PROGRAM

The **State Long Term Care Ombudsman Program (1)** is authorized by the federal Older Americans Act. This act requires every state, through the **Office on Aging (2)**, to create a statewide ombudsman program to "investigate and resolve complaints made by or on behalf of older individuals who are residents of long term care facilities" (including nursing homes, assisted living and board and care facilities). The statewide program is usually composed of several **regional or local ombudsman programs (11)** that operate within an Area Agency on Aging or other community organization.

While ombudsmen do not have direct authority to require action by a facility, they have the responsibility to negotiate on a resident's behalf and to work with other state agencies for effective enforcement. Most state ombudsman programs publish annual reports about the problems and concerns they address.

In addition to their advocacy work, ombudsmen can also serve as a valuable resource for residents, families and community members. Although programs vary in the scope of their activities and in funding resources to support their work, they can offer important services. An ombudsman may be able to:

- share information about community groups and activities available to improve life and care for nursing home residents;
- provide education on residents' rights;
- offer advice about how to select a nursing home and answer questions about long term care facilities;
- help people find the services they need in the community instead of entering a nursing home;
- explain how nursing homes are inspected;
- provide information on and assistance with family and resident councils;
- direct residents to a local legal services program if they need legal assistance; and
- provide information about current legislative and regulatory efforts in the state.

Many ombudsman programs have limited staff resources. For this reason, most local programs seek volunteers who can be trained to help visit residents, act as advocates, and monitor general facility conditions. It is important to learn about, understand, and support local and state ombudsman programs so they can maintain an effective advocacy program for residents and their representatives.

THE STATE LICENSURE AND CERTIFICATION PROGRAM

The program that inspects and licenses nursing facilities is usually located within the state **Licensure and Certification Division (3)**. Sometimes it is located within an umbrella agency relating to human services, health, or human resources. The Licensure and Certification program is responsible for an onsite inspection of all nursing facilities every 9–15 months to find out if they meet both the state licensure standards and the federal standards for Medicare and Medicaid. This inspection is called a "survey." Nursing home surveys are supposed to be unannounced and the homes are required to post the most recent survey report. The Centers for Medicare and Medicaid Services (CMS), the federal agency that oversees nursing homes, has a website at www.medicare.gov/nursing/home.asp that contains information on every Medicare and Medicaid certified nursing home in the country, including the latest state reported survey results. Licensure and Certification is also responsible for complaint investigations and has the authority to sanction facilities (impose fines, limit admissions, etc.) that do not meet state and federal standards.

OTHER STATE RESOURCES

The state **Medicaid Fraud Control Unit (MFCU) (4)** is authorized by the federal Social Security Act to investigate fraud and abuse by providers (nursing facilities and others) who receive payments from Medicare and Medicaid. Most units are located within the Office of the State Attorney General. They have broad investigative powers and can bring criminal and civil cases against providers.

Federal law mandates licensing of nursing home administrators. A state **Board of Examiners for Nursing Home Administrators (5)** oversees this requirement. The board provides a test to potential administrators and maintains their licenses. The board also receives complaints about administrators. States establish boards to set standards for other health care personnel including registered nurses, licensed practical nurses, physical therapists, certified nursing assistants, social workers, physicians, dentists, and optometrists. Check with your board to see if they handle direct complaints from consumers.

The state **Medicaid Agency (6)** establishes the state Medicaid benefit and eligibility requirements as well as the reimbursement rates the state pays nursing home facilities for their services. The annual cost reports they receive from facilities are available to the public upon request.

The **Quality Improvement Organization (QIO) (7)** formerly known as a Peer Review Organization (PRO) is a physician-directed organization operating in every State, the District of Columbia, and the territories.

QIOs share information about best practices with physicians, hospitals, and nursing homes. Working together with health care providers, QIOs identify opportunities and provide assistance for improvement. By law, the governing body of every QIO must include at least one consumer representative. QIOs are paid by the Medicare program to: 1) Conduct health care quality improvement projects, chiefly in hospitals but increasingly in long term care facilities, 2) Resolve appeals by Medicare enrollees who believe they are about to be discharged too early from a hospital stay, 3) Investigate complaints by Medicare enrollees regarding the quality of care that they receive, and 4) Reduce Medicare hospital payment errors -- overpayments, underpayments, and unnecessary admissions.

The **Protection and Advocacy System (P&A) (8)** is a federally funded, state designated organization which provides protection and advocacy for the mentally ill and disabled. The P&A System staff are legally mandated (with probable cause) to enter a nursing facility and take action to protect a resident in danger.

The **Adult Protective Service Agency (APS) (9)** provides protective and supportive services for aged, disabled, or incapacitated adults who are abused, neglected, or exploited. In some states APS staff are responsible for investigating complaints from individuals about abuse, neglect or exploitation in licensed/unlicensed long term care facilities.

A **Citizen Advocacy Group (CAG) (10)** is a local or statewide organization formed to work for nursing home reform in order to help assure that residents in long term care facilities receive quality care according to publicly adopted state and federal standards (regulations). Many people who organize and join CAG's have had direct experience as family members of nursing home residents. Often, they directly question and challenge owners and providers of care and officials in the government regulatory program that are responsible to help protect residents.

The **Eldercare Locator** is a nationwide, directory assistance service designed to help older persons and caregivers locate local support resources for aging Americans. Anyone can call the toll-free number, **1-800-677-1116**, Monday through Friday, 9 a.m. to 11 p.m., Eastern Time.

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<http://nursinghomeaction.org/>

www.ltombudsman.org

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