

# HOW TO PROTECT YOUR LOVED ONES

*from*

## Nursing Home Abuse & Neglect



**MASSEY & ASSOCIATES, PC**  
PERSONAL INJURY LAW

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## **Legal Disclaimer**

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## Why I Wrote This Book



A few years ago, a client was referred to me who needed help because his mother was severely neglected in a nursing home. The case was disgusting. An elderly lady had several (not just one) bed sores that ultimately caused her death. We have a photograph of this lady's artificial hip, taken from her bedside, because you could see her hip through the rotten flesh. Such neglect is unforgivable.

The lady was in her mid-80s and she had three sons who helped take care of her. All three sons were in their 60's. The sons were warned by a nurse they should get a lawyer to help their mother. They said "why?" They had no idea what was wrong. What was worse, they had no idea how to find out what might be wrong or what to look for. These southern gentlemen would never consider pulling the covers and nightgown off their mother to inspect her body. Finally, when their mother was sent to the emergency room, the doctor told them "your mother is not going back to that facility." And he finally explained why. Until then, they had no idea how terrible their mother's injuries were.

As we handled their case, our clients said "If only I had known, I would never have let this happen to my mother." They continue to feel terrible guilt at the thought they failed to protect their mother. They said to me "how were we supposed to know? What should we have done differently?"

This book is my attempt to help families protect loved ones who need a skilled care facility. I hope to help you choose the right facility and how to make sure your loved one receives the quality of care they deserve.

I encourage you to review the information provided in these chapters as you explore the many options in your area for elder care. If you have any further questions, please feel free to contact me at **423-697-4529** or read more about elder abuse at [www.MasseyAttorneys.com](http://www.MasseyAttorneys.com).

## Introduction

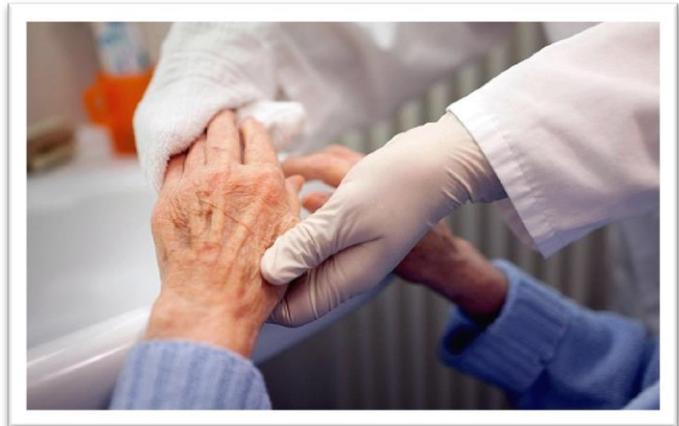
Elder care is a subject that nearly every family will have to address at some point in their elderly loved ones lives. Aging parents, grandparents, aunts, uncles - when they reach their golden years may require more care than they can manage on their own.



Nursing homes, assisted living facilities, and home health services are often the most practical solution for families with elderly loved ones who require help with daily living activities. With the baby boomer generation nearing this stage of life, the nursing home industry is thriving with thousands of options.

Despite the industry's success, not all nursing home facilities are created equal. With more and more facilities opening every year, monitoring and regulating them becomes challenging. Sometimes, negligent or abusive facilities go unchecked until the unthinkable happens: the abuse, neglect, or death of a resident.

As a family man, I value my elders and appreciate the care and wisdom they've provided for me over the years. When I see reports of people being abused or neglected while in the care of facilities or caretakers their sons or daughters trusted, I imagine how devastating it must be for the families to learn of such a tragic event.



Two of my grandparents were residents of long-term care facilities. I know how my family and I would feel if my grandparents were being abused or neglected. This is why I've dedicated my legal practice to advocating for the families of elders who have suffered serious injury or death because of the negligent actions of nursing home facilities and their staff.

I've been practicing law for over 15 years and have represented Tennessee families in instances of personal injury and wrongful death. Over the years I've answered common questions about nursing home abuse such as:

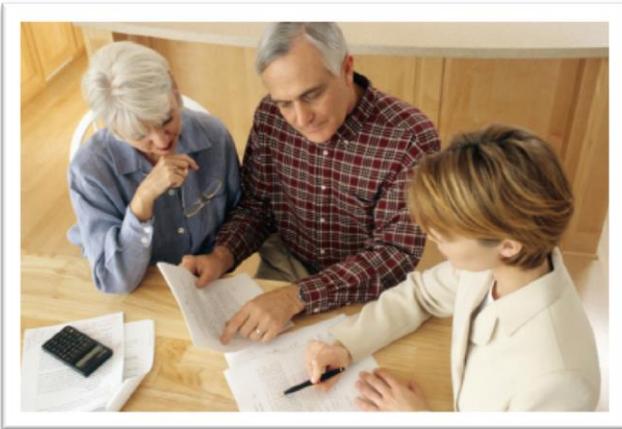
- **How do I choose a good nursing home?**
- **What are the signs of elder abuse or neglect?**
- **How do I seek justice for my loved one?**
- **How do I report a case of elder neglect?**



This book answers these questions, informs you of your legal rights in the event your loved one is the victim of elder abuse or neglect, and much more. I wrote this guide to help families make an informed decision about the future care of their aging loved ones.

## Chapter 1: Choosing a Nursing Home

Selecting a nursing home for your aging loved one is not a process that should be rushed. When



the time comes to transition from self-care or assisted living to a full time nursing home, you should carefully evaluate several facilities until you find the one that best meets the needs of your loved one and your family.

Finding a list of nursing homes in your area is as easy as opening the Yellow Pages or conducting an Internet search. However, choosing a nursing home for your parent is an exercise in patience and determination.

Consider the following factors when narrowing your selections for a nursing home:

- **How far is it?**
- **What are the facility's visiting hours and policies?**
- **Is the resident to staff ratio acceptable?**
- **Is the facility equipped to handle my loved one's special needs?**
- **Is the facility certified or accredited by the state and other respected organizations for elder care?**
- **Does the facility have positive and current annual inspection records? and**
- **Have you heard of any facilities recommended by other locals?**

**DID YOU  
KNOW**



**Medicare's website has a handy **checklist** for **evaluating nursing homes**?**

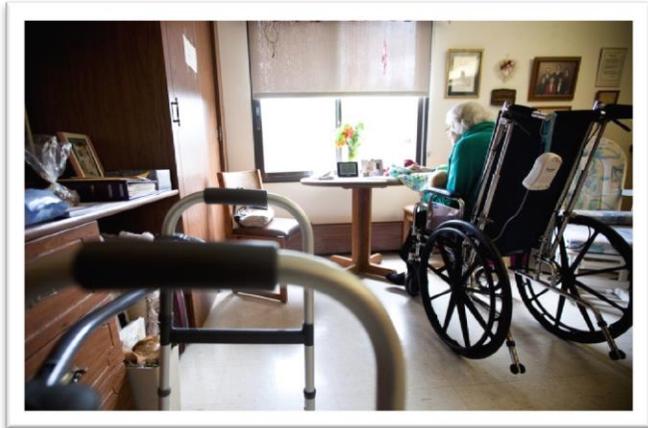
Visit: [www.Medicare.gov/files/nursing-home-checklist.pdf](https://www.Medicare.gov/files/nursing-home-checklist.pdf)

Now that you've narrowed your search to a few facilities, you can look into each facility's operating information even before visiting the location.

## Reviewing a Nursing Home's Inspection Records

Federal and local laws provide regulations nursing homes must follow in order to operate legally. The Nursing Home Reform Act requires that facilities approved to accept Medicare or Medicaid funds undergo regular inspections for safety and quality of care.

When the government inspects a nursing home facility, it issues a Form 2597 which records its findings of the inspection. The nursing home is required to keep a copy of the report for interested parties to see. It's important to note that most inspections take place during the state's annual inspection and during a complaint investigation.



**Annual state inspections** are conducted every 12 to 18 months and typically last from early morning to late evening during a regular weekday. This gives the inspector a thorough sample of the daily operations of the facility to ensure everything is up to federal and state standards.

DID YOU  
KNOW



The **Tennessee Department of Health** received **2,252 complaints** against health care facilities in 2010. Of these complaints, **1,536** were **against nursing homes**.

During these general inspections, officials look for compliance with state building safety codes as well as health and quality of care standards. If any deficiencies in these areas are found, they may conduct a follow-up inspection after the facility has been given adequate time to correct them.

**Complaint investigations** are required when the state health department or ombudsman receives a complaint about the care provided at a specific facility. Complaints are typically filed by nursing home residents' families, nursing home staff members, and anyone who has reason to believe improper conduct is taking place at the facility.

Because these investigations are handled by state departments or the state ombudsman office, the complaint report history and inspection records of a specific facility are generally available upon request.

### **Checking a Nursing Home's Ratings and Credentials**

A nursing home with excellent ratings and good credentials should be proud to display these accolades in their reception or office area. That's not to say the absence of these items is a sign that you're in a poor facility. The best way to determine a nursing home's ratings and verify their credentials is to conduct the research yourself.

There are many independent websites and services that provide ratings based on inspection reports, complaints, and client feedback. Local business directories like Merchant Circle, Google Places, and Angie's List can provide user-based ratings and candid reviews of nursing home facilities in your area.

One of the easiest ways to review a nursing home's credentials is to request them from the nursing home directly. If a facility is reluctant to provide you with their operating license, inspection history, complaint reports, and other credentials, you may want to look elsewhere. A good facility will have these items readily available for your review.



If your loved one has special needs, you'll want to consult his or her doctor beforehand on the specific credentials or amenities the facility should have and then ask to see those credentials.

## Touring the Nursing Home

Once you have a short list of facilities with good inspection reports and proper credentials, and that are a reasonable distance from you or other family members, it's time to visit each facility personally. In this step of process it's important to "listen to your gut" - if something seems "off" while you're visiting, it may be a sign to look elsewhere.

Appearances are important when it comes to selecting a nursing facility. The entire complex should be presentable, from the outside landscaping to the dining room chairs. While the cosmetic details may not have much to do with the safety of your loved one, they do provide insight into how attentive the facility is. If a nursing home neglects to fix a defective outdoor bench, how might they handle your father's broken walker?

While on your tour, pay attention to how the staff interacts with the residents. Do the residents respect the staff members? Or is their relationship adversarial towards each other?



Count the nurses. Does it seem like there are enough of them assisting residents? A good nursing home will have enough staff to handle its daily activities as well as be prepared for any emergency situations. Also, come back outside regular business hours and see whether the number of nurses is adequate to the tasks that need to be done. Fewer duties are required at night, but the same number of tasks must be accomplished on a holiday as on a regular Monday. Does the nursing home cut corners on things like this?

If possible, speak with some of the staff members privately. Ask them candid questions about resident care. When speaking with the facility's administration, inquire about employee turnover. If there are only a few long-term employees and a history of employees leaving soon after being hired, it may be a sign of poor working conditions - and perhaps poor resident conditions.

Now that you've settled on two or three nursing homes, make another few visits, preferably without an appointment. Try to make one visit in the morning to see how many patients are out of bed and dressed. When patients are still in bed and in their pajamas during the latter part of the morning, it may indicate the facility is short staffed. Another good time to visit a facility is during meal time. If most residents aren't eating in the dining room, it could be a sign that the patients aren't receiving the kind of care that keeps them mobile and as self-sufficient as possible.

Ideally your loved one will be able to accompany you on these visits and be able to evaluate the nursing home facilities for him or herself. It's important to consider your elderly loved one's opinions and feelings about the facilities you visit, but they should coincide with your research and track record of each facility. Ultimately, you want to ensure his or her happiness, care, and safety.



## Chapter 2: Nursing Home Bill of Rights

There are several federal and state laws surrounding the rights and protection of elderly Americans while in the care of nursing home facilities. The Nursing Home Reform Act of 1987 is a body of laws that aim to ensure the standards of care and safety are upheld by every nursing home facility.

Residents' rights are to be posted in an area where both residents and their family members are able to see them. The full bill of rights should also be included in a new resident's admissions packet so the family has a copy.



Each state may also have their own bill of rights for nursing home residents. Tennessee law enumerates a nursing home resident's minimum rights at [T.C.A. § 68-11-901 \(www.lexisnexis.com/hottopics/tncode\)](#). The Tennessee Department of Health has included specific rights in the [Standards for Nursing Homes](#) which is available online at the Secretary of State's website. ([tennessee.gov/sos/rules\\_all/2010/1200-08-06.20100523.pdf](https://tennessee.gov/sos/rules_all/2010/1200-08-06.20100523.pdf))

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The **federal law for residents' rights** can be found  
online at: [www.law.cornell.edu/cfr/text/42/483](http://www.law.cornell.edu/cfr/text/42/483)

## Basic Resident Rights under the Nursing Home Reform Act

A resident of a nursing home and their family should expect the following rights to be upheld by their caretakers:

- The right to self-determination.
- The right to be free from abuse and neglect.
- The right to be informed in writing about any services and fees before the resident enters the nursing home.
- The right of a resident to manage his or her own money, or to select who will manage his or her finances.
- The right to be free from physical restraints.
- The right to refuse medications and treatments.
- The right to privacy (including for married couples).
- The right to keep and use their own belongings as long as they don't infringe upon anyone else's health, safety or well-being.
- The right to make private telephone calls.
- The right to be treated in a dignified and respected manner.
- The right to voice complaints without fear of retaliation.
- The right to receive their medical records in full.
- The right to contact any state or federal agency without fear of retaliation.
- The right to retain an attorney without fear of retaliation.



## Chapter 3: Ensuring Your Loved One Receives Good Care

Most nursing homes conduct quarterly or annual evaluations of each resident where his or her family member or representative is called in to review their condition and make any necessary changes to their care plan.

While these scheduled reviews are critical to your loved one's well-being, unplanned visits are often a better way to determine whether or not your loved one is happy and healthy. It's recommended that someone from the family visit your loved one more than once per week, if possible.

### Personal Inspections Reveal Quality of Care

If you inform the nursing home of your visits, or if you visit at the same time every week, it gives the staff the opportunity to prepare and look their best. To prevent this from happening, and to ensure you're seeing an unbiased living situation for your loved one, vary your visitation schedule at least once per month. You want the nursing staff believing your loved one can be visited by a family member at any time which makes it less likely that they'll ignore his or her needs.

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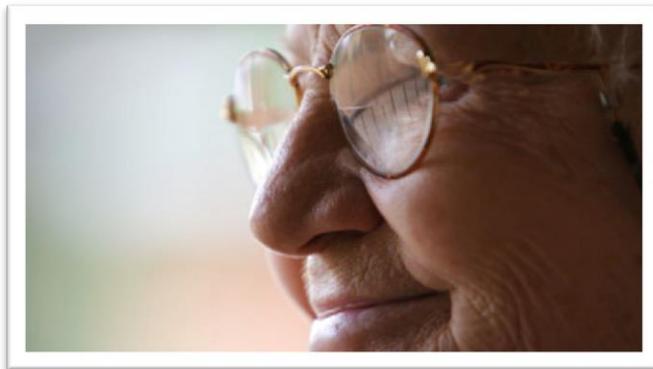
In 2010, there were **325 licensed** nursing homes in Tennessee - **300** of which **received** one or more **complaints** and **37** of which **received** more than **10 complaints**.

It's best when the whole family is involved so it's not the same person visiting every time. Make sure each family member is aware of the signs of nursing home abuse or neglect and get them on board with preventative measures.

Stay with your loved one during times when the staff is providing specific care. Eat a meal with your loved one, or watch your loved one being fed. Help give your loved one a bath, or change his or her clothes. Be involved in their care and take opportunities to learn about the condition of your loved ones' body.

If your loved one can't effectively communicate, periodically inspect his or her body for injuries, especially when you suspect a problem. Someone not employed by the nursing home has to make sure there are no hidden injuries. If a son doesn't want to see his mother without clothes, enlist a trusted female family member, and vice versa.

Be on alert for nursing home employees trying to divert you from your loved one's location when you arrive. Pay attention to staff attempts at distracting you. For example, one staff member might engage you in conversation while another quickly changes your loved one's bed clothes



making it difficult for you to discover injuries. If any of the nursing home's employees have to speak with you, kindly ask them to wait until you've checked on your loved one first.

Most nursing homes have family involvement programs and special family events. Use these events as opportunities to speak with other residents' families and share any concerns or issues you've noticed. Family involvement programs can provide a forum to discuss resident care with other families and discover any common issues with health or safety matters.

### **Keeping Up To Date with the Administration**

When an individual is admitted into a nursing home, the facility must assess his or her health and develop a care plan. If you're available, ask to be included in the development of your loved one's care plan. Whether you attend or not, ask for a copy of the care plan.

Your loved one's care plan will be updated periodically. When possible, attend the care plan meetings which will likely occur on a monthly basis. Whether or not you're able to attend, you'll want to ask the home for the latest version of your loved one's care plan. The facility's care plan keeps you informed of the specific issues and risks your loved one faces. This allows focus on the critical factors in his or her care. If you think your loved one's needs are not being addressed, make yourself heard. Use the care plan to evaluate the level of care provided by the actual staff – knowing what your loved one actually needs.



Any time you're made aware of a new physical condition afflicting your loved one, ask for clarification until you are fully informed. Often, technical jargon is used to conceal an injury. You want to avoid being caught in a situation where the nursing home claims it informed you of a new condition, but you expressed no concerns. At the very least, make sure you feel comfortable with the home's explanation of the condition, what caused it, how long it's been a problem, and

what measures are being taken to treat/resolve it.

Whenever you receive care plan updates from the nursing home's administration, you should also alert other family members who visit him or her regularly. When everyone is aware of the current state of your loved one's condition, there's no confusion about the care they receive.

## Chapter 4: Types of Nursing Home Abuse and Neglect



Physical or psychological signs of nursing home abuse or neglect aren't always easy to identify. In certain cases, a resident's injuries, illness, or unusual behavior can be attributed to his or her natural state of health. In other cases, however, it's clear that nursing home neglect or abuse lead to the resident's adverse health conditions, which can sometimes be confused as a normal part of aging or illness progression.

It's because of these similarities that families should pay close attention to their loved one's physical and mental state every time they visit. Good nursing homes monitor changes in their residents' health and behavior and inform their families of any concerns. If you visit your loved one and discover injuries that haven't been treated or signs of inadequate care, you should alert the staff immediately to prevent further tragedy.

Behavioral changes are perhaps the most overlooked signs of nursing home abuse and neglect. If your loved one is suddenly acting out of character or reverts to the mind of a child after moving into a facility, it may indicate that she or he is not being cared for properly. It's not uncommon for people suffering from abuse or neglect to stop communicating -- either willingly or because they can't -- with loved ones.

## Physical Signs of Nursing Home Abuse

**Bed Sores** - Nursing homes may refer to these injuries as decubitus ulcers, pressure sores, or skin breakdown. Bed sores are almost always preventable, even in patients in poor health. Bed sores indicate a lack of movement, a situation that can be remedied through proper care, even for immobile patients.

Patients confined to beds, wheelchairs, etc., must be turned frequently to prevent the development of bed sores. Facilities can also provide these patients with special mattresses or employ other strategies to prevent bedsores from forming.

**Malnutrition** - Nursing homes are expected to provide substantial, proper nutrition to their residents and follow all doctors' orders as they relate to their dietary needs. When residents can't or won't eat, the nursing home should alert their families and physicians and work on finding solutions. Nursing homes that allow these cases to slip through the cracks often end up with residents who suffer from malnutrition. I have seen many cases where the patient lost a lot of weight soon after becoming a resident of the nursing home. This is a red flag that should be addressed. If the staff says "she just refused to eat," tell them "that's not acceptable. What are we going to do to fix it?"

Unexpected weight loss may indicate the patient is not getting adequate attention, and may not be getting adequate nutrition. Also, loss of hair, dizziness, and disorientation may be the result of inadequate nutrition. Malnutrition has many causes and can be difficult to prevent in a person who is already in poor health. However, your loved one's inability to eat a normal meal is no excuse to neglect taking action to improve their nutrition intake.

DID YOU  
KNOW



**Medicare** refuses to pay for the **treatment** of bed sores because they should have been prevented and are usually the **fault** of the **medical provider**.

**Forced Feeding** - Residents who refuse to eat may be suffering from mental disorders, dental pain, gastrointestinal complications, or other medical conditions. Negligent staff members may attempt to force feed residents to avoid having to report issues to their doctors or the home's director of nursing. Forced feeding can lead to choking, oral damage, and injuries to the head, neck, throat, and arms. Residents who must be fed intravenously may become victims of neglect when their feeding tubes are left in too long, or they're fed improper amounts.

**Dehydration** - Much like food nutrition, nursing homes must monitor patient hydration and take steps to help residents who don't drink enough liquids on their own.

Symptoms of dehydration **may** include:

- Disorientation – being confused about time, place, people, etc.
- Fainting (sometimes looks like person is having heart attack)
- Dry mouth
- Dry eyes or lack of tears
- Lack of urine
- Dark yellow urine
- Eyes that look sunken in
- Low energy or motivation



**Wounds, Bruises and Bleeding** - Every injury has an explanation, and the nursing home should document each incidence of a fall or injury. Pay attention to your loved one's skin for signs of abnormal discoloration, swelling, lesions, and scars. Dried blood on clothing or linens can be a sign of both injury and poor hygienic conditions. **Frequent injury** or injuries that don't normally occur by hitting your arm on a door are suspicious.

**Infections and Amputations** - Untreated wounds and bedsores can become infected and cause additional complications. Unless treated, infections can become septic and begin to deteriorate the skin and tissue, which eventually results in the need to amputate the affected limb. Infections often result from untreated bedsores, improperly cleaned wounds, and contact with

staff members who don't follow proper hygiene procedures such as wearing gloves and masks and washing hands between caring for multiple residents.

**Loss of Communication Ability** - A person who loses their ability to interact, recognize loved ones, or understand what's going on may be suffering neglect. This may result from an untreated infection, dehydration, lack of adequate nutrition, lack of medication, or overly medicating a resident.

### **Environmental Signs of Nursing Home Abuse**

**Facility Conditions** - As I mentioned earlier, nursing home facilities should be well-kept both inside and out. A poorly maintained facility is a sign that its residents are also being neglected. Broken equipment, burned out lighting, loose flooring, and dirty surfaces are all signs that the staff is not being attentive to the hygienic and hazardous conditions that could harm your loved one.

**Building Safety Violations** - Nursing homes must follow the local building codes including fire safety standards and ensure a plan is developed to protect residents in case of a fire or emergency evacuation. Facilities must be maintained regularly and repairs made immediately when they threaten the safety of the residents.

**DID YOU  
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In 2003, a **nursing home fire** in Nashville **claimed the lives of several elderly residents** due to **lack of fire suppression sprinklers**.

**Falls** - Any time a resident falls, the incident should be documented and proper care given to ensure there were no injuries. Many nursing home residents have mobility issues, which means the facility should take adequate measures to prevent falls. This includes proper ambulatory equipment, restraints, ramps and railings, and good monitoring of hallways.

**Cold- and Heat-Related Deaths** - By law, nursing homes must have a written policy and procedure for times when the temperature in resident areas falls below 65 degrees or exceeds 85 degrees. Another danger is during transportation of residents in facility vehicles. Negligent drivers may forget about passengers and leave them in improperly heated or cooled vehicles, increasing the risk of hypothermia or heat stroke.

**Offensive Smells and Stains** - Many nursing home residents suffer from incontinence. Facilities should provide enough staff and training to keep people and their surroundings clean of urine and feces. Part of nursing home care is to keep residents clean when they can't do it for themselves.

Nursing service standards require that incontinent residents receive partial baths and fresh bed linens every time the bed or bed clothing becomes wet or soiled. Some diaper pads have colored indicators to show the level of saturation and nursing staff often wait until maximum saturation to change pads or undergarments.

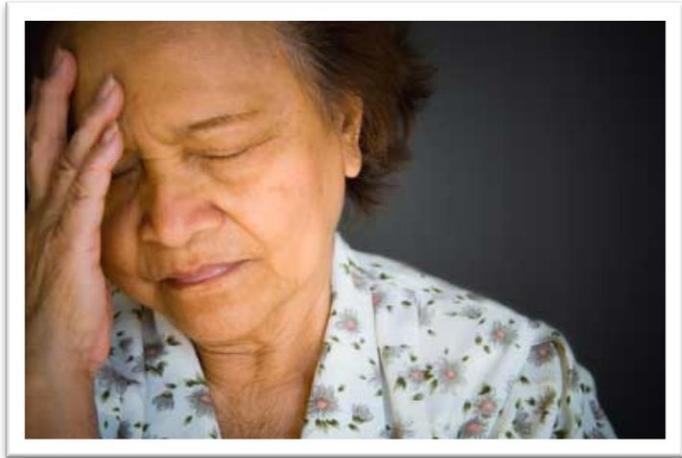


**Communicable Diseases** - Nursing homes must take proper precautions to prevent the instance and spread of communicable diseases. All staff members should be screened for communicable diseases and educated on policies to prevent the infection and spread of influenza, hepatitis, HIV/AIDS, and other diseases. Annual flu vaccines must be administered to residents and offered to all staff members in accordance with the regulations set forth by the Center for Disease Control.

**Wandering Incidents** - The security of a nursing home is an important part of ensuring resident safety. Entryways should be monitored and secured at all hours. Residents who are prone to wandering may require an alarm bracelet to alert staff when they leave their designated areas. Failure to take these precautions could result in residents walking into potentially deadly areas such as busy roadways or bodies of water.

## Administrative & Staff-Related Abuse and Neglect

**Medication Errors** - While nursing homes are required to employ a licensed, registered nurse as their Director of Nursing (who in turn is responsible for monitoring its residents' medication administration), errors still occur. Mix-ups of resident records or poor medication storage can result in the wrong medications being given to the resident. Overdosing or under medicating residents can also cause adverse health conditions.



**Negligent Resident Screening** - When admitting new residents, nursing homes must ensure they won't pose a threat to its staff or existing residents. A nursing home can't admit individuals who have a documented history of harming themselves or others.

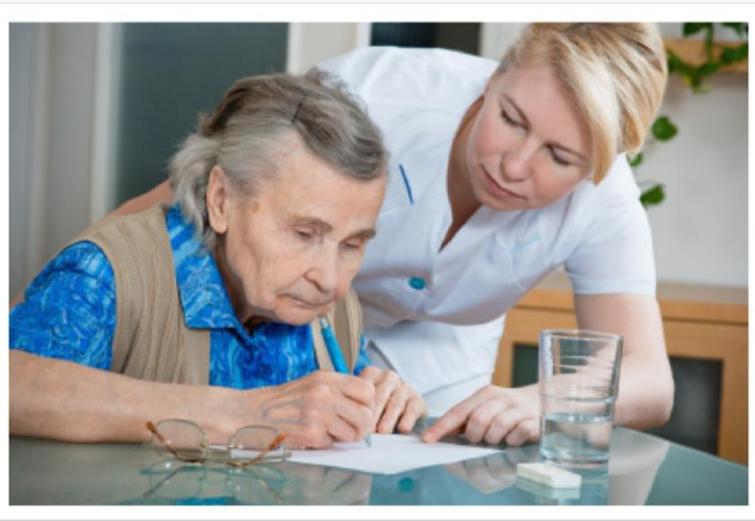
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The most **common medication errors** in nursing homes are caused by: 1) **Neglecting** to read the doctor's orders for **proper dosage**; and 2) **Administering** the **wrong medication**.

**Sexual Assault** - Sexual assault may occur when nursing home staff fails to closely monitor the conduct between residents, visitors, and fellow staff members. A resident may be sexually abused by their fellow residents, visitors to the facility, and most often the nursing home's staff. Residents may be unable to stop unwanted sexual contact due to health conditions. Staff members with a history of sexual misconduct may have their criminal records ignored or never discovered if the administration fails to conduct proper background checks.

**Physical Assault** - Complaints have been filed at thousands of nursing homes across the nation about staff members physically assaulting and abusing residents. In some cases, the abuse is a form of retaliation against residents who are combative or refuse to comply with care. In other cases, residents are abused at the whim of the staff member. In any situation, there is no excuse for physically assaulting or abusing a nursing home resident.



**Verbal Abuse** - Sometimes abuse of a resident occurs in a non-physical way. Verbal abuse includes directly abusive language, yelling, and degrading or derogatory comments. Staff members can also be held accountable for openly gossiping about residents.

**Theft** - If your loved one's property goes missing, the people caring for him or her may not be trustworthy. If a caregiver is willing to steal from your loved one, it's likely he or she will not provide good care.

**Coercion** - Some nursing home staff members have been found guilty of coercing residents to make changes to their wills or legal documents, resulting in the staff members becoming beneficiaries of their estates. There have also been instances where staff members convince residents to give them loans or provide access to their financial accounts in order to steal assets.

**Inadequate Staffing** - State laws provide specific requirements for nursing home staffing, including resident physicians, registered nurses, and a minimum resident to staff ratio. When a facility is inadequately staffed, neglect and abuse are much more prominent.

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**Nursing homes are required to have a Medical Director, Director of Nursing, and at least one licensed, practical or registered nurse on duty at all times as well as two nursing personnel on duty for each shift.**

**Background Checks of Staff and Vendors** - According to federal law, applicants for nursing home staff positions as well as employees of any organization, company, or agency providing or arranging for direct care of residents must undergo a criminal background check before being hired. Some states may have additional laws requiring checks when complaints of criminal activity are issued, but federal laws only require a background check at the time of hire.

It's important to note that the presence of a criminal record doesn't necessarily disqualify an applicant or vendor from being hired. Federal and state laws typically exclude applicants with a record indicating crime of a violent, deceptive, or sexual nature. When a nursing home fails to abide by these laws and perform the necessary assessments of its employees, it puts its residents at risk of being robbed, abused, or assaulted.

**Document Falsification** - Any incident regarding your loved one's health and care should be documented and made available to you upon request. This means every fall, injury, or health concern should have an accompanying report. Staff members may neglect to file an injury report or falsify the document to reduce or eliminate their liability for injuries caused by abuse or neglect.

## Chapter 5: Addressing Issues with the Nursing Home

Even though nursing homes undergo annual inspections, the assessments are not foolproof. Facilities are well aware of when inspections take place giving them months to prepare.

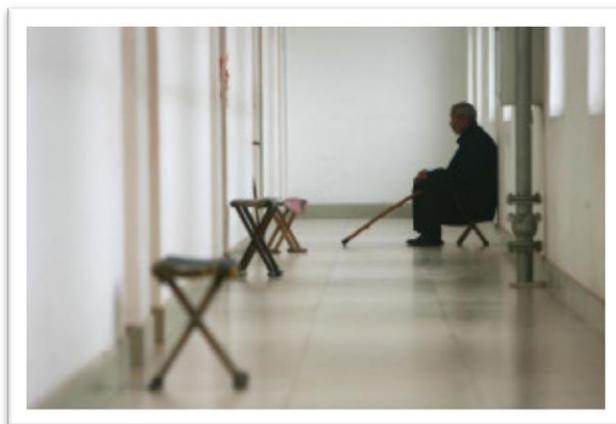
While negligent facilities can clean up their acts to appease state inspectors, they can't prepare for an unexpected visit from a resident's family member. When your loved one resides in a nursing home, it's your right to make regular, random visits to ensure they're safe and being cared for properly.

You should never feel nervous about asking questions about your loved one's care or addressing abnormalities in your loved one's physical or mental health. You have the right to inquire about anything related to their care - from the cleanliness of their room to questionable marks on their arms.

### Addressing Concerns Directly With the Nursing Home

If at any time you have concerns about your loved one's care you should bring them to the attention of a staff member. The staff member should either immediately address the issue or alert a superior.

If you don't receive satisfactory answers, escalate the issue(s) to the next person in command. Every facility has supervisory professionals who are responsible for the residents' care. These employees should be willing to meet with you and discuss your loved one's care in detail.



Typically, issues related to the direct care of your loved one will go to the Director of Nursing ("D.O.N."). The D.O.N. is above the nurses actually providing care to the residents. The D.O.N. should be the person able to address concerns and help you understand what is going on. If

the D.O.N. is not helpful, or avoids discussing your loved one's care, alarm bells should go off. For long-term health concerns, the Medical Director – a licensed medical doctor – may need to be consulted.

The Medical Director is a physician responsible for ensuring the nursing home is in compliance with all federal and state regulations. Often, the Medical Director has a medical practice completely separate from the nursing home. In effect, only part of his professional attention is given to the nursing home residents.

At some nursing homes, the Medical Director will directly treat residents, while others will serve as a supervisor of medical care and leave direct care to the residents' primary physician. The Medical Director may also be called to evaluate a resident's sudden health concerns,



though they don't replace the resident's primary doctor. You can request to meet with the facility's Medical Director outside of the nursing home when you have concerns about your loved one's care and health.

A nursing home's administrator is the number one authority at the facility. This person supervises all of the people employed by the facility on a day-to-day basis. You can request to speak with the facility's administrator when you

have concerns about a particular staff member, or when you're not getting answers from other staff members.

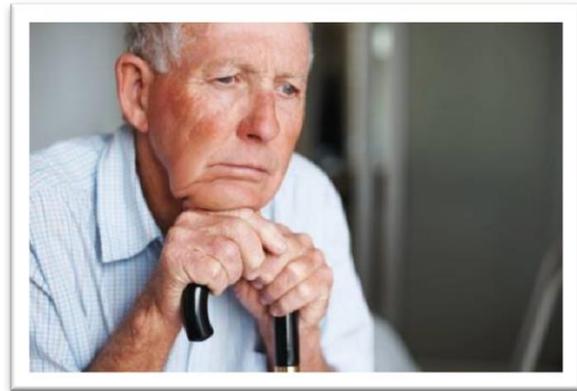
When meeting with any nursing home staff, don't let the person you're meeting confuse you with medical jargon. If you don't understand what they're saying, ask them to be clearer. And, continue asking questions until you fully understand the issue(s).

If you are meeting with a staff member to discuss a particular injury or accident, you have the right to review the Incident Report and any accompanying forms. The report should indicate the type of injury, how the injury occurred, what could have been done to prevent the injury, and the names of any witnesses.

## Bringing Your Complaint to State Authorities

When you have gone up the chain of command at the nursing home and are still experiencing issues with your loved one's care, you may need to file a formal complaint against the facility through the state department of health or contact your state ombudsman for help.

If you have a situation that requires special attention, do your best to understand your loved one's condition and the exact nature of the problem. Make a list of your concerns and/or questions before meeting with an outside official. Doing so will ensure they're all addressed. Keep records of all correspondence with the nursing home, including which staff members you spoke with and the dates and times of your meetings.



Unfortunately, the governmental authorities are not always able to address a problem to the family's satisfaction. In fact, I have seen several severely neglected people who were the subject of a state investigation and the investigation provided no benefit to the patient at all. I have seen situations in which an employee of the nursing home was fired for refusing to falsify documents to mislead state inspectors. In situations like this, you probably need a lawyer who will investigate the situation more thoroughly than some state inspectors are willing to do.

DID YOU  
KNOW



In 2010, **failure** to inform of **accidents** or significant changes in **patients' health** was the 11th most **commonly filed complaint** against **Tennessee nursing homes**.

## **Special Considerations for Certain Cases of Abuse or Neglect**

Certain types of nursing home abuse or neglect require a thorough investigation in order to determine if you should file a claim against the facility.

Prior to reporting an injury, gather the following four pieces of important information:

- The nature of the accident that caused the injury;
- Safety measures being taken by the nursing home to prevent future incidents from occurring;
- The type of injury your loved one sustained and whether or not a doctor was notified.
- All documentation related to the incident including medical treatments, witnesses, and any disciplinary action taken against responsible staff members.

### **Special Case: Sexual Abuse**

Sexual abuse of a resident can occur when a nursing home's staff members are negligent in monitoring the interaction between visitors and other residents. In most cases, residents are sexually abused by the very people who are supposed to care for them - the nursing home's staff. It's not uncommon for the abuse to take place on a resident who is alone and unable to fend off sexual advances or call for help.

Without proper evidence, sexual abuse can be mistaken for a regular injury claim. Witness statements, medical examinations, and video surveillance may be necessary to substantiate a resident's claim of sexual abuse.

### **Special Case: Abuse or Neglect by a Non-Employee of the Facility**

Complaints against a third-party vendor who provides services to a nursing home and its residents may have to be filed with his or her direct employer. The complaint should first be brought to the attention of the nursing home. If it's not addressed by the administration, the person filing the complaint could then take the matter to the external company.

## Chapter 6: When to Hire a Nursing Home Abuse Attorney

If you feel you need further assistance with pursuing a claim for nursing home abuse or neglect, you have the right to consult a nursing home abuse attorney in your area.

Personal injury attorneys who have successfully handled nursing home abuse and neglect cases will be familiar with the resident's bill of rights, federal elder care laws, state nursing home regulations, and how to bring a lawsuit against a facility that is suspected of abuse or neglect of a resident.

Choosing the right lawyer requires research, diligence, and asking the right questions. You need to determine basics such as his or her experience level, how your case will be handled, and most importantly, whether you are comfortable with your lawyer.

DID YOU  
KNOW



Your loved one's **admission contract** may contain a clause that **requires** you to resolve **disputes** through arbitration rather than in court. We recommend **never** agreeing to an arbitration clause and **striking** this provision from the admission agreement.

Since you'll be discussing extremely personal and sensitive matters with your lawyer, it's important you feel comfortable with him or her, experience and track record aside. If a lawyer doesn't treat you with respect, it's likely your relationship will not be a good one.

## 10 Crucial Questions to Ask a Nursing Home Abuse Attorney

These “10 Crucial Questions” address important points related to the handling of your case and should be asked of anyone you’re considering seeking justice for your loved one and protecting his or her rights.

**1. How long have you practiced nursing home negligence law? How many clients do you represent each year?**

Experience makes a difference. Your nursing home abuse attorney is your advocate. He or she should be an expert in this field and nursing home cases should make up at least a large part of his or her practice. You should ask them to furnish any testimonials to validate his or her success or satisfaction rate.

**2. How many nursing home abuse cases have you handled for those with injuries similar to the one involved in my case?**

Nursing home abuse attorneys are not doctors, but most experienced elder abuse lawyers will be familiar with common types of nursing home injuries as described earlier in this book. If they are not familiar with your particular issue, they should be willing to learn about it.

**3. Can you explain the process a nursing home abuse case follows in your office? How long does it take on average?**

Make sure that your nursing home abuse attorney gives you a specific reply or an estimated timeframe. If they beat around the bush or give unrealistic times it may be a sign that they are not qualified to handle your case.

**4. As a client, what are your expectations of me?**

A client should be involved in the case. As such, the client’s participation is vital. Ask your attorney what guidelines are in place to help keep your case on track. If the attorney has a plan for winning your case, he or she should be able to explain what your role will be.

**5. Who in your office (attorneys and other staff) will handle my case? What experience do these individuals have?**

If the nursing home abuse attorney has the experience and knowledge you want, you can bet that he or she is in court often and won't always be available at the office.

Most effective attorneys will use highly-trained paralegals as case managers to help you in their absence and handle client communication and record development. Find out the individual(s) in the office who will be handling your issues, should the attorney not be immediately available.

**6. Tell me about your client services policies.**

You will want to find out what policies are in place to protect you as a client. Keeping you informed and educated as a client, professional and ethical conduct, and client privacy protection are examples of client services you want from your lawyer.

In the event you are dissatisfied with your lawyer you will also want to know details such as whether they have a limited-time money back guarantee.

**7. How will you keep me updated on the status of my case?**

During your case you'll want to know what is going on every step of the way. Will your law firm call you with updates or copy you on correspondence concerning your case? Now is the time to find out how informed of a client you will be.

**8. If I call your office, will someone be available to talk to me?**

Most legal offices have junior partners or paralegals that are knowledgeable and can assist you with your case should your attorney be unavailable.

**9. Will my case require a lawsuit or do you expect to settle it without filing suit?**

You should make sure that your nursing home abuse attorney is willing to take your case all the way. As the saying goes, "Prepare a case for settlement, and you will get a bad trial. Prepare your case for trial, and you will get a good settlement." An attorney with no trial history may be a sign that he or she is not willing to take cases to trial, which may result in an unfavorable out-of-court settlement.

**10. Have you ever been disciplined by the State Bar Association?**

If they answer “yes”, then you’ll want to know what was the reason, what was the outcome (for instance, were they found innocent or guilty), and decide if this is still the person you want to represent you.

## Chapter 7: Other Helpful Resources

Aside from the advice and guidance my law firm offers, I have also compiled a list of helpful resources available to your family when evaluating nursing homes or reporting incidents of abuse or neglect.

🔗 [Medicare Ratings](#) - This site allows you to put in your location and then lists the facilities in your area along with their ratings based on government inspections. You can also search for facilities by name.

[www.medicare.gov/NursingHomeCompare](http://www.medicare.gov/NursingHomeCompare)

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🔗 [Centers for Medicare & Medicaid Services](#) - This site is primarily for nursing homes to review certification requirements, laws, regulations and compliance information. It may be useful when researching the types of certifications and compliance requirements a nursing home must have to take Medicare patients.

[www.goo.gl/Yzknpt](http://www.goo.gl/Yzknpt)

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🔗 [Elder Care Locator](#) - This branch of the Department of Health and Human Services (HHS) provides a search feature for several elder care needs including housing options, long-term care, nursing home facilities, elder abuse prevention, and legal assistance.

[www.eldercare.gov/Eldercare.NET/Public/Index.aspx](http://www.eldercare.gov/Eldercare.NET/Public/Index.aspx) or **800-677-1116**

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🔗 [National Long-Term Care Ombudsman](#) - This site will provide you with the contact information for your state ombudsman. Your state ombudsman for long term care acts as an advocate for residents. He or she will have a record of complaints lodged against a facility and how they were handled.

[www.ltombudsman.org](http://www.ltombudsman.org) or **202-332-2275**

🔗 [National Center on Elder Abuse, Administration on Aging](#) - This site from the HHS has the latest news about legislation concerning elder care laws and resources for state-specific elder care information.

[www.ncea.aoa.gov](http://www.ncea.aoa.gov)

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🔗 [Southeast Tennessee Area Agency on Aging and Disability](#) - This is the site for southeast Tennessee including Bledsoe, Bradley, Grundy, Hamilton, Marion, McMinn, Meigs, Polk, Rhea and Sequatchie counties. Other regions will have their own agencies to help people choose the best nursing facilities.

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

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🔗 [National Association for Home Care & Hospice](#) - This site helps families locate local home care services and hospice resources. It provides information on facilities' Medicare certification, state licensing, and other important accreditations and certifications.

[www.nahcagencylocator.com](http://www.nahcagencylocator.com)

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🔗 [National Center for Assisted Living](#) - This site provides useful resources and publications regarding elder care, assisted living options, and state long-term care resources. The Residents & Families area has guides, webinars, and links to other resources for assisted living care.

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

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🔗 [U.S. News Nursing Home Evaluations](#) - This feature of the U.S. News Health section evaluates and ranks nursing homes in each state based upon several factors. The rankings are based on performance in health inspections, nurse staffing, and quality of medical care and lets users search based on distance from home, Medicare/Medicaid acceptance, and specific facility name.

[health.usnews.com/senior-housing/nursing-homes/tn](http://health.usnews.com/senior-housing/nursing-homes/tn)

## Bonus: Nursing Home Admission Day Checklist

This checklist is designed to help your family prepare for the day your elderly loved one is admitted into a nursing home facility.

### What to Bring

Every nursing home has its own policies on what residents can and can't bring into the facility. Therefore, it's important to obtain a copy of the facility's rules prior to collecting your loved one's belongings. At the very least, nursing homes should allow residents to bring the following necessary items:

- 2-3 weeks' worth of daily clothing appropriate for the seasons.
- 2-3 weeks' worth of nighttime clothing.
- 2-3 weeks' worth of undergarments.
- Comfortable shoes or slippers.
- Extra clothing for hot or cold weather (jackets, sweaters, gloves, hats, sunglasses, etc.)
- A few nice outfits for special occasions.
- Personal toiletries (shampoo, toothpaste, razors, etc.)
- Favorite blankets, pillows or towels (the facility should provide these items, but residents can bring their own).
- Books, magazines, puzzle books and other personal entertainment items.
- Basic electronics not provided by the nursing home (TVs, phones, radios, reading lights, etc.)
- Small decorations such as artwork or framed photographs.
- Personal ambulatory equipment.

The nursing home should provide you with lists of items that are necessary to bring, items that are prohibited, and items that are suggested but not necessary. It should also have a policy for how items are to be marked for ownership, such as whether a resident's name needs to be sewn onto his or her clothing or if it can be written with permanent marker.

It's best to avoid bringing valuables or items that can be easily lost or damaged to avoid risk of theft or misplacement. Some nursing homes provide secure storage of jewelry or other valuables.

## Bonus: Nursing Home Evaluation Checklist

This checklist is designed to help you identify if a facility meets the desired qualities of a nursing home and keep note of any issues you may come across during your initial tour.

### General Considerations

- Is the facility close enough for frequent visits?
- Do the visiting hours and policies accommodate frequent visitation?
- Is the facility equipped to handle any special needs (specialists, ability to keep pets, etc)?
- Is the facility certified and accredited by respected elder care organizations?
- Is the facility recommended by local people and other health care providers?
- Does the facility make it easy for family members to check their loved ones in and out of the facility for outside visits?
- Is there a sign-in or identification system in place to identify visitors to the facility?

### Staff and Administration

- Is the staff-to-resident ratio acceptable?
- Is there a supervisor on duty on weekends and holidays?
- Is there a no-overtime policy for nurses and nursing assistants?
- Are 16-hour shifts permitted?
- Were you able to meet the Director of Nursing?
- Does the facility conduct full background checks on their staff? How often?
- Are all staff members direct employees of the facility?
- Is the staffing information displayed in a visible area?
- Were staff members seen attending to residents during the visit?

- Does the facility employ prisoners?
- Is a registered nurse on duty at all times?
- Are volunteers screened prior to assisting in the facility?
- Does the facility use outside contractors such as staffing agencies?
- Can family members or residents request care from specific staff members?
- Can family members or residents request that they do not receive care from specific staff members?

### **Inspection Records**

- Does the facility have good results on annual state inspections?
- Are there only a small number of complaints and investigations with no major problems?
- Are the inspection records made readily available upon request?

### **Facility Amenities & Appearance**

- Is the facility free from noticeable maintenance issues, odors, spills, and hazards?
- Are the rooms spacious and inviting?
- Is the exterior of the building well maintained?
- Are there adequate accommodations for wheelchair accessibility?
- Does the facility allow residents to bring their own décor for their room?
- Does the facility have proper heating and cooling equipment?
- Does the facility have services to take residents to and from doctor appointments?
- Are there vehicles equipped to transport residents with wheelchairs or other special needs?

- Does the facility have alarm systems to prevent residents from leaving without notice?
- Are there designated smoking areas and policies in place?
- Do residents have private or shared bathrooms?

### **Resident Life**

- Are Alzheimer's patients in a secured or locked unit?
- Are residents awakened and settled for the night at appropriate times?
- Are there several residents up and about around the facility?
- Does the facility have a varied schedule of activities for the day?
- Do the current residents seem happy and at ease?
- Do residents have the option of taking meals in a dining room rather than their own room?
- Can residents have their own telephone or access to a telephone?
- Do residents have a private area to meet with visitors?
- Are secured storage areas available for residents' valuables and belongings?
- Are special events held during the year where residents' families are encouraged to attend?
- If residents share rooms, how are roommates chosen?
- Can residents request room changes if they cannot live with their current roommate?
- Are residents allowed to bring in their own personal comfort items (room decorations, quilts, books, etc.)?
- Are family members allowed to bring in outside food for their loved ones?

## Medical Care

- Are residents able to administer their own medications if they are deemed fit to do so?
- Are medications kept in a secure location?
- Are residents allowed to continue care with their primary physician?
- Are residents given regular baths and the ability to request additional care?
- Can a resident request same-sex bathing assistance?
- Are alternative meals provided if a resident does not like what is served?
- Does the facility furnish special assistance or utensils for those with difficulty eating?
- Do residents have access to a dentist, eye doctor, podiatrist, and dermatologist?
- Is the Medical Director's information readily available to residents' families?
- Does the facility provide annual flu vaccinations for residents?