

How to Recognize and Protect  
**Your Loved One**  
from Abuse and Neglect

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in a Nursing Home or Assisted Living  
Facility (and what to do about it)



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# How To Recognize and Protect Your Loved One from Abuse and Neglect in a Nursing Home or Assisted Living Facility (and what to do about it)



## INTRODUCTION

It is an emotional, challenging, and difficult decision to place a family member or any loved one into a long-term nursing home or assisted living facility. In too many cases, the move comes from an urgent medical need like hospitalization, injury or illness, conditions perhaps requiring a lifetime of care. For a few, the move was planned. Whatever the reason, putting someone into a nursing home is stressful on both the future resident and on the person deciding.

Long term care facilities like assisted living facilities, nursing homes, and skilled nursing facilities offer services to people who cannot live independently or take care of themselves. These services may provide both personal and/or medical care and offer services such as:

- **Nursing care**
- **24-hour supervision**
- **Three meals a day**
- **Assisted living** - support for daily activities

Depending on the nursing home, some facilities also offer rehabilitation services. According to 2017 figures, approximately 14 million individuals reside in nursing homes across the United States.



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# CHAPTER 1

## UNDERSTANDING TEMPORARY VS. ONGOING LONG-TERM CARE

### Understanding Long-Term Care

A person requires long-term care if they cannot take care of their physical and emotional needs on their own and over an extended period. People need long-term care for many reasons. These include:

- ✓ **Illness**

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- ✓ **Injury**

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- ✓ **Disability**

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- ✓ **Terminal condition**

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- ✓ **Old age**

Long-term care ensures a person gets support for daily activities or needs that healthy people do for themselves. These activities may include:

- ✓ **Bathing**

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- ✓ **Walking**

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- ✓ **Dressing**

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- ✓ **Going to and using the bathroom**

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- ✓ **Support with incontinence**



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- ✓ **Pain management**

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  - ✓ **Prevention of risky behavior**

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  - ✓ **Prevention of wandering**

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  - ✓ **Comfort and assurance support**

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  - ✓ **Physical or occupational therapy services**

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  - ✓ **Medical care and attention**

**Temporary "Long Term" Care** - This is also called short-term rehabilitative care. This visit typically lasts a few weeks or months to help the person recover from a hospitalization or an injury. People find it easier placing someone into this type of care over traditional long-term care. That's because the situation is clearly understandable: a person needs a recovery course recommended by a medical facility or a doctor. Temporary long-term care is usually recommended for the following:

- ✓ **Recovery from illness**

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- ✓ **Recovery from surgery**

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- ✓ **Rehabilitation from being hospitalized**

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- ✓ **Terminal medical condition**

**Ongoing Long-Term Care** - this stay puts a person in a long-term care facility for many months or years. This decision becomes obvious when family members or assisted living facilities can no longer meet an individual's daily care needs. Or the person may require extra attention or dedicated care. Long-term care is a choice for many suffering from the following:

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✓ **Chronic severe pain**

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✓ **Chronic medical conditions**

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✓ **Dementia**

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✓ **Permanent disabilities**

A person requires long-term care if they require constant supervision or help with their daily routine.

Here are some relevant statistics about long-term care:

✓ **In 2015, people 65 and over made up 15% of the total US population. By 2060, that number is expected to double.**

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✓ **1 in 3 people reaching 65 will require nursing home services at some point in their lives.**

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# CHAPTER 2

## HOW TO CHOOSE THE RIGHT LONG-TERM CARE FACILITY

As discussed, there are many reasons for placing a person into a nursing home or other type of long-term care facility. You may need to place a family member or someone you know into a facility because of a severe medical condition or due to an unexpected event. If so, you'll need to do careful, thorough research. Knowing your choices will help you decide what kind of nursing home care is the best for your situation. You should know, too, that there are alternative long-term care options to nursing homes.

Your options depend on your resources and your individual situation. Consult healthcare professionals and others on the long-term care best suited for your case. Those people may include doctors, social workers, counselors, hospital discharge planners, or healthcare providers.

The Centers for Medicare & Medicaid Services (CMS) recommends these steps for finding the right nursing home for your loved one:

### How to Find Nursing Homes in Your Area

Here are ways to learn about nursing homes in your area:

- ✓ **Ask friends, family, neighbors, or colleagues if they've helped someone with nursing home care. How did their loved one get on? Ask what worked at the home and what didn't.**
- ✓ **Ask your doctor which nursing homes he or she works with.**

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- ✓ **Look for specific resources offering relevant nursing care information. These include the Aging and Disability Resource Center and the Eldercare Locator.**
  - ✓ **Ask hospital discharge planning personnel or social workers for nursing home recommendations in your area.**

## **Evaluating the Quality of Nursing Homes on Your Checklist**

After determining which nursing homes to investigate, compare their quality against each other. There are two ways to do that:

- ✓ Visit this website:  
**<https://www.medicare.gov/nursinghomecompare/search.html>**

At this government website, the Centers for Medicare Service operates their “Nursing Home Compare” program, a 5-star quality rating system for nursing homes under Medicaid and Medicare. Information on the overall quality of every Medicaid or Medicare certified nursing home in the United States is included. You can also find individual facility ratings based on their nursing rating and their health inspection rating.

- ✓ Contact your state licensing agency or state health department to request any written information stating the quality of care of your region’s nursing homes. Always ask for a complete, full survey when requesting a copy from the responsible agency.

## **Visiting the Nursing Homes on Your Checklist**

Think about what might contribute to successfully transitioning a loved one to a nursing home. After doing this, schedule visits with facilities you are considering. A visit gives clues as to how each nursing home operates.

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A visit lets you clarify concerns by talking directly with nursing home staff. Talk to current residents about their experience with the nursing home. Visit the nursing home more than once. Drop in at different days and times, such as on weekends or evenings when staffing may be reduced. As always, ask questions, get answers.

To put matters into context, here are some important nursing home statistics:

Around 1.4 million people in 2015 were in nursing homes. Of these:

- ✓ **4 in 5 people are aged 65 and above**

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- ✓ **2 in 3 people are women**

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- ✓ **Nearly 4 in 5 people are white**

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- ✓ **3 in 5 people suffer from cognitive impairment**

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- ✓ **3 in 5 people require help with personal needs**

*Source: Medicaid's Role in Nursing Home Care, produced by The Henry Rose Family Foundation.*

## **Some things to consider when visiting a local nursing home:**

- ✓ **Can the nursing home provide the religious, recreational or social activities that are vital to the resident?**

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- ✓ **Does the nursing home allow residents to see the television programs they prefer? What about music? A nursing home should choose entertainment that residents will enjoy.**



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- ✓ Can the resident see their personal doctors? Who will be the doctors attending to them once in the nursing home?

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  - ✓ Will any transportation arrangements be made by the nursing home for a resident's medical appointments?

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  - ✓ Can the nursing home provide details on the number of Certified Nursing Assistants (CNA) that will be working with the residents per shift?

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  - ✓ What is the turn-over rate at the nursing home for skilled care providers? Is it high?

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  - ✓ Is the nursing staff prone to working double shifts or overtime? If the nursing home admits to this, it may suggest inadequate staffing.

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  - ✓ What types of meals do residents eat? Can you get a taste test?

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  - ✓ Do residents have access to the food and drinks they prefer? Can they ask for them at any time?

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  - ✓ What kind of interaction does the nursing home staff have with residents when they are not managing their activities or providing direct care? Are staff members friendly to them? Do they ignore them when they're not taking care of them? Observe this when you visit.

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  - ✓ How is the interaction between the employees of the nursing home facility? It is highly likely that if they are rude to each other, then they may treat the residents in just the same way.

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  - ✓ Is the nursing home equipped with the facilities and the staff to cater to residents with more specialized needs or medical conditions like dementia and Alzheimer's?

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## Picking the Right Nursing Home to Meet Your Individual Needs

Choosing the right nursing home requires finding a facility that can cater to the resident's happiness, safety, and quality of life. What happens after you do your research? If you find that potential residences have space available, choose a facility by considering the financial resources of the person being admitted, as well as their medical and personal needs. Make sure the facility closely matches that person's own preferences and values. No matter where the resident goes, plan to visit often. Studies show individuals who get many visits receive better care.



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# CHAPTER 3

## LEARNING ABOUT RESIDENT RIGHTS

The 1987 Nursing Home Reform Law states that a nursing home should meet the federal rights requirements of the residents if they participate in Medicaid or Medicare. There are also states with specific laws on the rights of nursing home residents. Florida is one of those states. Nursing homes, to summarize, should maintain the wellbeing of the resident in the best way possible, addressing their psychological, mental and physical needs. Likewise, they should provide activities and services supporting this goal.

There should be a written plan of care prepared as much as possible with the resident's legal representative or family. Simply put, the nursing home care should take care of the resident, preventing a decline in their well-being or health. The rights of residents are as follows:

- ✓ **Right to be fully informed**

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- ✓ **Right to complain**

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- ✓ **Right to participate in one's own care**

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- ✓ **Right to privacy and confidentiality**

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  - ✓ **Right during transfers and discharges**

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  - ✓ **Right to dignity, respect, and freedom**

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  - ✓ **Right to visits**

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  - ✓ **Right to make independent choices**

**The following sections provide more details on these just mentioned rights.**

### **Right to be Fully Informed**

The right to be fully informed includes giving a patient access to information on facility services, facility fees, local and state resources plus local and state surveys. More importantly, patients should be supported or aided with accessing such information if they understand it better in a different language (French, Italian, Braille, and so on) or if they suffer from a sensory impairment.

### **Right to Complain**

Patients have the right to report any complaint or grievances without fear of retribution concerning local and state agencies as well as nursing home facility staff.

### **Right to Participate in One's Care**

This right gives the patient the right to know about any changes in their medication, treatment or condition. He or she also has the right to refuse any medication, restraints or treatment. A patient should also be included in any health care evaluation including planning and any review of their medical records.

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## Right to Privacy and Confidentiality

The patient should have the right to get unrestricted but also private access to communicate with anyone they prefer. It must be established that any information or communication is held in confidence, whether the communication concerns financial matters, personal issues, or anything medically related.

## Rights During Transfers and Discharges

Patients must receive a 30 day notice if they are to be discharged or transferred. They should be informed about the reason, location and effective date to which the discharge or the transfer will take place.

They can appeal an adverse decision if they choose. Under this right, they must be granted access to the contact number, address, and name of the state's long-term care Ombudsman.

The following reasons are considered acceptable for a patient's discharge or transfer:

- ✓ **Vital to the welfare of the patient**

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- ✓ **Appropriate because the patient no longer requires care or his or her health has improved**

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- ✓ **Necessary to protect the welfare or health of the staff and other residents**

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- ✓ **Essential because the patient was not able to settle payment for a service or item requested by the patient from the nursing home. That first requires a notice giving a reasonable time to pay the facility.**

The patient also has the right to receive a safe discharge or transfer. The nursing home must take whatever steps are necessary to make that happen.



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## Right to Dignity, Respect, and Freedom

A patient has the right to be treated with respect, dignity, and consideration. They have the right to be free from restraints, abuse, involuntary seclusion, and corporal punishment. Treating the patient with respect, freedom and dignity also includes self-determination and the security of possessions.

## Right to Visits

The patient has the right to refuse and accept visitors. Besides friends and family, visitors can include people from the Ombudsman program, local and state agencies, organizations and his or her personal physician.

## Right to Make Independent Choices

The patient has the right to make personal decisions including:

- ✓ **Choosing what to wear**

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- ✓ **Deciding how to spend his or her free time**

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- ✓ **Choosing the attending physician**

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- ✓ **Managing their own financial affairs**

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- ✓ **Participating in community activities both inside and outside the nursing home**

The patient also has the right to organize and participate in a Resident Council.

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# CHAPTER 4

## ARBITRATION CLAUSES

Usually, friends and family of a person being admitted to a nursing home don't think much about looking into abuse, neglect, or mistreatment at a facility. It is often the last thing on their minds, however, it's top of mind for most nursing homes. So much so that even before a loved one is put in the nursing home facility, often management is already trying to gain a superior position should the resident become a victim while in their care. This imbalance of power begins when a person is first admitted.

During the admitting process, the nursing home facility may try limiting their potential liability by getting the prospective resident or their family member to enter into a pre-dispute binding arbitration agreement. Signing this contract precludes a trial by jury for all time. In a rush to get care, many lose this important right, guaranteed by the Seventh Amendment. The admission process is risky. That's because placing a person in a long-term care or a nursing home facility usually arises from an immediate, often critical event like a life changing accident. Once you sign the binding arbitration agreement, however, you won't be able to file a lawsuit against the facility regardless of how grave the situation is — wrongful death, sexual abuse, neglect, mismanaged medication, or anything else.

Many corporations choose this binding agreement method to resolve disputes without involving the courts. Any complaint instead will be subject to an arbitrator's determination. There won't be any participation from a jury or a judge. Arbitration clauses may be buried in densely worded nursing home admission contracts.

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Along with the huge amount of paperwork needed for admittance, and the urgency to get your loved one under care, you might miss the arbitration clause when you sign the required paperwork. There are also some instances when a person is aware of the clause, but they yield or agree to it because they are under a lot of stress, frustration and time pressure. They sign away their rights for the sake of admission. As an exception, residents admitted against their will don't need to think over a binding agreement, as they are already considered admitted when they enter a facility.

When going over the admitting paperwork, make sure to ask the nursing home to remove any arbitration clauses. If they refuse, consider another place you noted from your research. Seek a facility that doesn't require signing an arbitration agreement upon admission.

While nursing homes are meant to treat people well, there may be times when they may maltreat or abuse residents. Neglect is the most common nursing home abuse. Regardless of what form it takes, any nursing home resident may encounter abuse. This is especially tragic since most residents cannot protect themselves.



# CHAPTER 5

## ABUSE AND NEGLECT EXPLAINED

Protecting loved ones in a nursing home requires understanding the different types of abuse that can occur, noting any red flags and knowing how to respond to possible neglect or abuse. Just being aware goes a long way toward helping people suffering abuse. The adage that "knowledge is power" is especially applicable. The following statistics better explain the situation:

- ✓ **97% of nursing homes did not have enough people to meet one or several federal staffing regulations**

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- ✓ **44% of people in nursing homes have been victims of abuse**

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- ✓ **95% of people in nursing homes have been victims or witnesses to neglect**

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- ✓ **50% of nursing home staff were aware of or admitted to mistreating residents**

There are many situations and places in which elder neglect and abuse can happen. Unfortunately, nursing homes are not immune to these incidents. The situation is challenging since more than one million people in the United States in nursing care facilities are heavily reliant on nursing home staff to meet their needs. These residents are usually vulnerable and helpless and require constant help. While nursing homes are responsible for their residents, neglect and abuse in these facilities is more rampant than most realize.

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## Abuse

Abuse refers to intentional acts or infliction of injury, intimidation, and unreasonable confinement. Abuse also comes in the form of punishment or the withholding of services and care that can lead to mental suffering, pain, and physical harm. Nursing home abuse comes in several forms: emotional, physical and psychological. A resident showing signs of abuse, however, does not automatically mean that they were abused. Nonetheless, any repeated or constant manifestations of the following signs should put one on alert. Investigate and document any matter as soon as possible.

Physical abuse examples include:

- ✓ **Sexual abuse**

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- ✓ **Assault and battery**

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- ✓ **Unreasonably physical isolation or restrain**

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- ✓ **Improper administration of medications or psychotropics to subdue or control a patient**

Psychological and emotional abuse examples include:

- ✓ **Insults**

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- ✓ **Verbal assaults**

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- ✓ **Humiliation**

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- ✓ **Harassment**

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- ✓ **Intimidation and threats**

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- ✓ **Preventing the resident from participating in daily activities or seeing their friends, family or other people they know**



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Nursing home abuse presents itself in these and other ways:

- ✓ **Fractures or broken bones**

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- ✓ **Welts, cuts or bruises**

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- ✓ **Frequent infection and/or bed sores**

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- ✓ **Malnutrition or dehydration**

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- ✓ **Emotional outbursts or extreme mood changes**

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- ✓ **Refusal to speak or reclusiveness**

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- ✓ **Mental state changes**

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- ✓ **Refusal to drink medicine or eat**

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- ✓ **Unhygienic appearance**

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- ✓ **Poor or weak physical appearance**

A warning sign that nursing home personnel are not properly taking care of their residents may be when the staff is unhappy interacting with residents or if they dislike being left with them.

## Neglect

Neglect happens when a person cannot provide, fails to deliver, or refuses to provide the services and care required to keep another person free from pain or harm. For nursing homes, it becomes neglect when the staff fails to provide the residents with proper emotional, physical and medical care. Additionally, it can also be neglect if the staff fails to address or react to a potentially dangerous situation that can harm or unduly stress the resident. Neglect on the part of the nursing home facility and staff may lead to serious medical problems or even death.

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Nursing home neglect comes in a variety of forms. The common types include:

- ✓ **Medical negligence** - the main reason for placing people in nursing homes is because they can no longer take care of themselves. That's due to old age, a medical condition, or an injury. Medical attention is crucial. Nursing homes must attend to their patient's medical needs. Neglect happens when a facility's staff cannot provide enough medical attention, prevention, and medication to address a resident's health needs. Neglect also happens when the staff cannot solve other problems like mobility or mental impairments, infections, and bed sores.

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- ✓ **Basic needs neglect** - nursing home care becomes imperative if a person always needs assistance to carry out their daily activities. However, nursing homes and their staff can be guilty of basic needs neglect if they fail to provide a reasonably livable and clean environment including necessities like food and water.

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- ✓ **Personal hygiene need** - nursing home residents, as mentioned, require help to do their daily routines including keeping themselves clean and sanitary. If the resident does not receive adequate help or assistance with brushing teeth, bathing, cleaning or other similar types of tasks, then the nursing home can be found guilty of neglect.

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- ✓ **Emotional or social neglect** - nursing home residents have social and emotional needs that must be met. If they have been verbally assaulted, isolated, left on their own or ignored continually, then the nursing home staff can be charged with neglect.

There are many signs of neglect, and these can manifest themselves differently in every case. When you know the rights of the resident and the signs of neglect, then you can easily prevent it or address it to ensure the welfare of your loved one. As noted, one or two of these signs does not necessarily mean that your loved one is being neglected.

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Nonetheless, a combination of these signs and repeated occurrences may indicate otherwise, consequently, any such instances must be investigated.

Here are warning signs to look for that are related to nursing home neglect:

- ✓ **Pressure ulcers or bedsores**

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- ✓ **Sudden unexplained loss of weight**

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- ✓ **Malnutrition or dehydration**

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- ✓ **Injuries from fall or other types of fractures**

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- ✓ **Poor personal hygiene changes in the mental state or behavior of the resident**

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- ✓ **Dirty or poorly maintained living environment**

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- ✓ **Difficulty to contact or locate nursing staff during visits**

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- ✓ **Poorly maintained facility with several safety hazards like poor lighting, slippery floors and unsafe furniture in the room of the residents**

Unfortunately, the National Center on Elder Abuse or NCEA, still does not know the exact numbers of people suffering from elder neglect or abuse in nursing homes or other types of long-term care facilities. Professionals attending older adults may not see signs of neglect or abuse because they lack the training to detect such incidents. Likewise, older adults may not be as proactive in reporting abuse because they don't have the cognitive or physical ability to do so. Others may fear retaliation or have different reasons not to.

This is alarming because of the impact neglect and abuse has on people. Nonetheless, this can be a sign for the families or

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friends of residents to be more aware. Nursing home residents need people who will advocate for them and protect them. Friends and families are on top of that list. The best way to address such a potential problem is to know more about the neglect and abuse, including the signs and consequences of such acts. If you or someone you know suspects that your loved one may be suffering neglect or abuse, then you should contact an experienced nursing home lawyer.

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# CHAPTER 6

## FALLS

Residents fall in nursing homes for various reasons. Falls come from environmental factors like cluttered spaces or from problems residents face with their own condition. A nursing home may lack assistive tools, have missing safety bathroom equipment, slippery or wet floors, dimly lit hallways, or worn-out anti-slip mats. The following sections discuss more fully the factors causing nursing home residents to fall.

### Drugs

Nursing homes give residents a variety of medications to keep them calm. These might include tranquilizers, antipsychotics, and similar drugs. Calming substances can cause a resident to be confused and less steady, impairing their gait and balance. If these drugs can be reduced or minimized, it is possible to lessen the frequency of patient falls.

### Inadequate Staffing

Nursing homes may sometimes employ only one staff member for a wing with 30 residents. This situation may worsen at night when staffing is less. One nursing staff may not be able to address the needs of residents should more than one person require immediate help. One aid might be to install bed alarms to alert personnel when a resident leaves his or her bed. Be especially proactive about reductions in staffing during holidays. Many bad things can happen to residents on holidays because of call offs and short staffing.





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## Lack of Proper Equipment

Depending on the resident or the staff, nursing home beds may be set high off the ground. Sometimes, beds lack bed rails. If nursing homes add bed rails, they can prevent or at least reduce the number of fall incidents.

## Lack of A Good Fall Prevention Plan

Preventing falls in nursing homes requires a comprehensive plan to ensure the safety of the residents. A program should include using and installing better lighting, bed alarms, fall mats, and chair alarm systems. Nursing home spaces should be clean and organized to prevent people from tripping. Other things nursing homes can do include increasing staff numbers, allowing private resident sitters and routinely reviewing medications. As noted before, some medicines may negatively impact the awareness of residents.

The Centers for Diseases Control and Prevention (CDC) reveals the following alarming statistics on nursing home falls:

- ✔ **75% of people in elderly nursing homes had at least one fall every year. This is double the rate of incidents in older adults living in the outside the facility or in the local community**

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- ✔ **Around 200 to 300 falls per 100 beds occur annually in nursing homes**

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- ✔ **Approximately 20% of nursing home fall incidents lead to grave injury**

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- ✔ **About 1,800 people in nursing homes die from a fall-related injury annually**

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- ✔ **As much as 27% of falls in nursing homes happen because of environmental risks**

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Certain situations may make nursing homes liable for fall-related injuries among residents:

- ✓ **Inability to modify the nursing home environment to ensure safe mobility of patients who are at greater risk of falling**

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- ✓ **Failing to assess and evaluate the likelihood of new patients falling**

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- ✓ **Failing to clean and keep premises safe for people in the nursing home**

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- ✓ **Failing to educate staff and to train them in implementing plans that prevent fall incidents**



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# CHAPTER 7

## PRESSURE ULCERS

Pressure ulcers are a leading sign of neglect and abuse in a nursing home. Regardless of what they are called - decubitus ulcers, pressure sores or bed sores - they are painful and unsightly. They occur when prolonged pressure exists on a specific body part which in turn limits blood flow to it. Nursing home residents suffer pressure ulcers if they don't receive proper medical attention. If bedridden residents do not get assistance repositioning their body or if they remain immobile or unclean, then bed sores could arise. Eventually, these sores could pose a severe health risk. In the event that the person suffers from it, the nursing home must address it immediately. Here are some relevant statistics on the matter:

The CDC cites as many as 1 in every ten people in nursing homes suffer from bed sores.

The number of nursing home residents prone to developing pressure ulcers annually is over 150,000.

To avoid this problem or prevent the condition from getting worse, the following remedies should be administered:

- ✓ **Good skin care**

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- ✓ **Pressure reduction**

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- ✓ **Body repositioning: any resident who is not turned and repositioned every two hours runs the risk of developing skin breakdown and bed sores. Bed sores are almost always the result of poor nursing.**

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## Bed Sore Risks

Nursing home residents who are immobile or those finding it difficult to move are the ones at most risk. These people find changing positions while lying on the bed difficult, which puts more pressure on certain parts of the body. A person's immobility may be due to the following:

- ✓ **Paralysis**

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- ✓ **Weak or poor health**

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- ✓ **Illness or injury that requires the person to use the wheelchair or stay on the bed**

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- ✓ **Surgery recovery**

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- ✓ **Sedation**

## Preventing Pressure Ulcers

Pressure ulcers can be prevented, even at later stages. Nursing home personnel can help residents avoid it by taking these preventative steps:

- ✓ **Encouraging the person to sit or walk to get them out of bed**

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- ✓ **Changing their position on the bed every two hours**

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- ✓ **Ensuring enough water intake and proper nutrition**

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- ✓ **Ensuring that the bed, sheets, clothes, and skin of the resident stay clean and dry**

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- ✓ **Changing the adult pullup undergarment of the person at least every four hours**

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- ✓ **Doing regular skin audits and body checks to see whether pressure ulcers developed or worsened**

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## What A Pressure Ulcer Could Lead To

Lack of proper care and treatment may contribute to pressure ulcers quickly progressing. Once the condition advances, the person suffering from it becomes vulnerable to other medical problems, some potentially severe. These complications may endanger the resident's life:

- ✓ **Sepsis** - sepsis may develop if bacteria goes into a person's bloodstream, spreading then throughout their body. Open wounds or broken skin are entry points for the bacteria. Sepsis becomes life-threatening when it leads to organ failure.

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- ✓ **Cellulitis** - this soft tissue infection is accompanied by swelling, redness, and severe pain. As with sepsis, it can eventually become life-threatening if not treated.

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- ✓ **Bone and joint infections** - pressure sores can eventually infect the joints and bones. When the joints become infected, there could be tissue and cartilage damage. If a person is also suffering from a bone infection, they may not be able to use their limbs and joints in the same way. Progression becomes fatal.

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- ✓ **Cancer** - bed sores contribute to this disease, characterized by chronic, nonhealing wounds. If cancer becomes aggressive, the person may need surgery.

## Pressure ulcer severity progresses in four stages:

### Stage 1 - *Development*

People with lighter skin will see body parts turn red. Those with darker skin develop discoloration and their skin will fail to lighten as it should when a discolored area is touched. However, the skin is still not broken at this stage. The site, though, may feel different than the rest of the body. It might feel soft, cool, warm, painful, or tender.

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### ***Stage 2 - Damaged or Lost Outer Skin Layer***

The wound now appears like a ruptured blister or a fluid-filled one. It also looks red, pinkish, and sallow.

### ***Stage 3 - Deep Wound Ulcer***

The patient has lost their skin at this stage. The crater-like wounds expose some fat. This damage can go beyond the healthy parts of the skin and the original wound. The site may look yellowish with dead tissues.

### ***Stage 4 - Large-Scale Loss of Tissue***

The wound at this stage already shows part of the tendons, bone, and muscle. The wound's bottom will reveal crusty dark or yellowish dead tissues. The damage has already seeped into the healthy layers of the skin.

The development of the "Smart Phone" has given all of us the ability to take excellent quality photographs anywhere. If you see bed sores on the body of your loved one, gently lift up the sheet and take photographs of the wounds. A picture is truly worth a thousand words and photographs of bed sores are the surest way to hold nursing home and assisted living facilities responsible for the neglect of your family member.

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# CHAPTER 8

## CHOKING

Choking happens when food or medicine impairs the windpipe which leads to the esophagus. If a person chokes, they have a limited air supply. If choking isn't handled properly it can lead to brain damage or even death.

Studies show increasing numbers of choking cases in many health care settings including nursing homes. Additionally, choking incidents among the elderly are higher compared to young children and other age groups.

### **Choking Incidents Are Prevalent in Nursing Homes**

Some nursing home residents find eating and swallowing food difficult because of their condition. As dysphagia or choking is a continuing problem in nursing homes, these facilities need to monitor people in their care while their residents eat and take medications. Nursing home facilities unable to enforce a proper monitoring system or those failing to impose other steps to prevent choking, put their residents in danger of injury or even death.

Here are reasons why nursing home residents struggle with swallowing:

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- ✓ **Neurological conditions like dementia and Parkinson's**

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  - ✓ **Neurological damage due to stroke, brain or spine injuries**

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  - ✓ **Cancer and radiation treatment**

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  - ✓ **Osteophytes - these refer to bony protrusions in a person's spinal column that pushes against the esophagus**

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  - ✓ **Insufficient saliva production because of a medication or old age**

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  - ✓ **Muscle weakness due to aging**

If residents suffer any of these conditions or are prone to developing them, then the nursing home should closely monitor their activities. There should be qualified, trained staff monitoring a person when taking medication or eating. It is the nursing home's duty to prevent or minimize choking incidences. They should protect residents by:

- ✓ **Properly evaluating the person to be admitted with respect to choking dangers**

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  - ✓ **Noting any choking risks on a person's care plan and communicating any changes to that plan to those responsible**

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  - ✓ **Following the specialized diet recommended by the doctor and dietician for the resident. Any monitoring or modification orders should be followed.**

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  - ✓ **Keeping a list of choke-prone residents and making sure that all staff knows about it**

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  - ✓ **Monitoring at-risk residents whenever they take medicine or eat**
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- ✓ **Detailing choke prevention protocols to staff in charge of nutrition and diet - they should know procedures concerning meal consistency, diet, meal service and monitoring**

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  - ✓ **Hiring the right staff to handle choke-prone residents**

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  - ✓ **Training staff properly about choking risks and proper care**

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  - ✓ **Keeping sufficient number of staff to attend to residents for each shift**

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  - ✓ **Setting proper protocols for managing choking emergencies and training staff about it**

# CHAPTER 9

## DEHYDRATION

Nursing home neglect may manifest itself through dehydrated residents. Despite this being a common occurrence, many nursing home residents still suffer from complications related to it. Perhaps one-third of the total nursing home population suffers from it.

Dehydration happens when a person loses more body fluid to sweating, urination and other natural bodily processes than they can absorb. When a person is unable to replace lost fluids with a drink, then dehydration begins. When you have barely any water in your body, your system cannot function properly. This disrupts many internal processes, causing complications.

When dehydrated, a nursing home resident is prone to severe illnesses - especially those already suffering from another medical problem or old age. Severe consequences of dehydration include:

- ✓ **brain swelling**

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- ✓ **seizures**

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- ✓ **coma**

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- ✓ **kidney failure**

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Dehydration can be identified by the following symptoms:

- ✓ **Sticky and dry mouth**

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- ✓ **Feeling thirsty**

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- ✓ **Dry and papery skin - the skin also indents or folds in when you press on it**

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- ✓ **A decrease in urine output**

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- ✓ **Frequent urination**

Dehydration may be in its late stages if an elderly resident shows these signs:

- ✓ **Inability to sweat**

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- ✓ **Being irritable and confused**

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- ✓ **With sunken cheeks and eyes**

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- ✓ **Low blood pressure**

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- ✓ **Fast rate of breathing**

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- ✓ **Episodes of delirium**

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- ✓ **Being unconscious**

In grave cases, dehydration may contribute to increased levels of sodium in the blood or hypernatremia. The condition puts older adults at the risk of dying.

Elderly people may find staying hydrated challenging. Their medications can contribute to the problem. A British study suggests nursing home residents are at greater risk if they cannot drink properly on their own and if they need constant assistance to do so. That study investigated cases of dehydration in which people were admitted to hospitals. Data revealed that nursing home residents were more commonly dehydrated than those from private residences.

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According to geriatric experts, the nursing home dehydration problem stems from inadequate staffing and lack of training. If nursing homes can provide enough people with the proper training, then they can greatly reduce the number of incidents. However, despite the severity and the prevalence of the problem, many nursing home companies still operate without adequate staffing and proper care plans.



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# CHAPTER 10

## MALNUTRITION

Malnutrition is a common, widespread problem in nursing homes. A clinical nutrition study determined that 85% of nursing home residents may develop some form of malnutrition at one time or another.

A person suffers malnutrition if he or she does not eat enough nutritious food. Nursing home residents need food with enough vitamins and minerals and in sufficient amounts to support their natural bodily processes. Malnutrition reveals itself in the following ways:

- ✓ **Mental difficulty (irritability, confusion, listlessness)**

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- ✓ **Swollen corneas or glassy eyes**

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- ✓ **Mouth problems (sores or a red inflammation in the mouth from infection)**

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- ✓ **Changes in the skin (yellowing for people with light skin, dull appearance for people with darker skin or heavily wrinkled appearance)**

Malnutrition poses many health risks to elderly nursing home residents. Not enough nutrients can weaken a person's immune system, making them more susceptible to different illnesses and infections. Additionally, malnutrition increases a person's tendency to develop pressure ulcers which, as noted before, can be dangerous and painful.

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Preventing malnutrition should be easy. Problems develop if staff members fail to provide a resident proper nutrition. The reasons nursing homes have malnutrition cases include institutional carelessness, understaffing, and a lack of awareness or concern from the staff. Study after study shows that employing highly qualified staff results in better nursing home care. Despite that, many nursing homes don't hire the right people or the right amount of them. Many corporations continue managing their facilities without highly skilled staff like registered nurses (RN) and certified nursing assistants (CNA). Inadequate staff and a failure to provide high-quality care may be considered negligence at a minimum.



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# CHAPTER 11

## MEDICATION ERRORS

An alarming number of medication errors occur throughout the nursing home industry, but this problem is preventable. Medication errors threaten the very lives of nursing home residents. According to a study, as many as 800,000 medication errors occur annually in different long-term care facilities which include nursing homes.

A medication error occurs when a patient is under the care and supervision of a health professional and that person harms the resident in the course of tending to their medication needs. Factors impacting this type of error include anything relating to the dispensing, distributing, and administering of the medication. Lack of monitoring and poor training of staff can also contribute.

A U.S. Department of Health and Human Services inspector studied nursing home patients as a whole under the Medicare program. Approximately 37% of incidents that beneficiaries experienced related to medication errors. Other studies suggest that approximately 40% of such mistakes can be prevented. Additionally, some patients are at greater risk of medication errors if they take the following types of drugs:

- ✓ **Antipsychotic agents**

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- ✓ **Anticoagulants**

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- ✓ **Diuretics**

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- ✓ **Antiepileptic medications**

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Even though these residents are at particular risk, errors are still preventable. Among medication errors committed, the most common mistake is failing to give a person the right medication or failing to administer it at all. One study suggested that as many as 44% of total medical errors resulted from neglecting to administer a drug.

Human factors cause most medication errors. Some of these include:

✓ **Human error**

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✓ **Incorrect documentation and charting**

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✓ **Poor communication**

It is easy to imagine medication errors happening in nursing homes. When you combine human failings with nursing home facility problems like poor supervision, inadequate training and understaffing, incident numbers will be high. Corporations running nursing homes know that employing additional licensed nurses reduces medication errors but they continue to staff below resident's needs. Despite the risk to nursing home residents, and the nursing home's duty to care for them, many facilities operate without proper nurses and adequate staffing.





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# CHAPTER 12

## HOW TO ENSURE PROPER TREATMENT AND CARE

Here's how to ensure your loved one receives proper treatment and care:

- 1. Speak up if you are not satisfied with the attention your loved one is getting.** Talk to the Director of Nursing or the Administrator. Document your meeting and make sure there is a witness.

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- 2. Be friendly to the staff.** Bring them food and other things they like. Be helpful even to those who are not assigned to your loved one's wing or those not directly interacting with your patient. Word gets around about your kindness and concerns.

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- 3. Experiment with different visiting schedules.** Drop by at different days and times. Visit daily or weekly but mix up your schedule, so the nursing staff cannot anticipate your appearance. If they know you are coming, they may prep your loved one in an "ideal" condition but leave them as they were if no one visits.

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- 4. Make sure your visits are extended, at least two hours.** This lets staff know you are invested. Observe the staff while visiting. CNAs, for example, should check their patients every two hours.

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**5. If your loved one suffers from bedsores then you should make sure staff turns them at least every two hours.** If they are in a wheelchair, they should be lifted or adjusted during that time. Make sure the staff is doing this. Remind them if you don't see it being done.

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**6. Log your visits and document your observations.**

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**7. Record the time and date of your visits but also note the living and medical condition of your loved ones.** Take photos of their sores or any unsanitary elements in a room. These photos may prove your concerns. You cannot take pictures of other residents, however, as this may be a HIPAA violation. HIPAA is a generally accepted privacy act.



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# CHAPTER 13

## HOW TO HANDLE SUSPECTED CASES OF ABUSE OR NEGLECT

It may seem challenging to address suspected cases of abuse or neglect but the only way to prevent such things from happening is to be decisive. To help prevent the number of nursing home victims from increasing, action must be taken.

Trigger behaviors and verbal queues to watch out for:

- ✓ **The condition of the person rapidly declined.**

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- ✓ **The nursing home is unaware of what happened to the person: e.g. “We just found him on the floor.”**

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- ✓ **The nursing home refuses to tell or explain what happened to the person: e.g. “We can’t really explain or tell you why he needed to go out (in an ambulance).”**

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- ✓ **The person's dementia quickly progressed.**

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- ✓ **There is no clear explanation why the nursing home delayed or waited a long time before sending the resident to a hospital: e.g. “I wasn’t here when it happened but I can tell you that an ambulance should have come here sooner than four hours after it happened.”**

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Other less obvious symptoms that could be a warning sign of abuse or neglect:

- ✓ **Poor hygiene** - dirty or untrimmed fingernails, nasty teeth, bad body odor or stained clothes may all be signs of neglect. If the resident is not cleaned immediately and there is excrement or urine all over, you can find brown rings or dried feces on the bed. **Take photos if you find your loved one sitting in soiled garments. Otherwise, the facility may deny it and nothing ever be done about it.**

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- ✓ **Infection** - neglect leaves residents in frail health, susceptible to diseases like pneumonia and Urinary Tract Infection (UTI).

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- ✓ **Scabies** - small bugs or mites that can cause rashes when under the skin

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- ✓ **Contractures** - this condition means that muscles in the arms or legs shrink. When you see your loved one cramping into a fetal position, exerting greatly to straighten their arms or legs, a serious case of contractures may be the cause. Residents develop contractures if the nursing staff fails to assist them in doing basic motion exercises.

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- ✓ **Changes in mental status may also signal neglect.**

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- ✓ **Any other significant deterioration or change in your loved one's condition may indicate improper care.**

Anyone thinking that abuse or neglect has occurred should immediately document the incident and report it. If the person suspecting abuse or neglect happens to be a social worker, doctor or government employee, they need to report the abuse as required by law. Some states mandate that ordinary citizens report any suspected incident, regardless of their profession.

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People believing that a nursing home resident is in imminent danger because of abuse or neglect and that the risk also poses possible death or injury, should call local police or 911. If the person is not in imminent danger but who may be an abuse or neglect victim, do the following:

**Step 1 – Talk to the resident and turn to a third party if communicating is difficult.**

Identifying abuse or neglect can be difficult. Even if a person is of sound mind, they may not readily admit to being a victim. They may hesitate to say anything for fear of escalation, depression or embarrassment. You can turn to a third-party doctor to evaluate the case of your loved one. This should give you a better understanding into the person's condition without bias from the nursing home facility.

**Step 2 – Bring your concern to the nursing home staff or administration. These steps depend on the gravity of the situation.**

- ✓ **Talk to the unit supervisor**

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- ✓ **If your concern is not addressed, file a grievance or complaint with the nursing home**

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- ✓ **Wait 48 hours and if there is no action, talk to the facility administrator**

If the problem remains despite your efforts, consider another nursing home. Moving the resident to a different facility may be the best decision, even if that new placement is for a short time. A more permanent solution can eventually be found while your loved one stays safe. Never worry about the effects of moving a resident to a new nursing facility if you feel your loved one is the victim of abuse or neglect. The effects of the abuse and neglect will easily outweigh any short-term discomfort experienced by your loved one in changing facilities.

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**Step 3** – If the nursing home fails to adequately address your concerns, consider reporting them to the local authorities or government agencies.

Before bringing the matter to any responsible authorities, you should write out details of the suspected abuse or neglect. This strengthens your case. As much as possible, document the symptoms you see. Keep a log or journal of what happened, who you reported it to and what happened after reporting it. Take photographs. Monitor the resident's condition. These steps will help you better and more quickly address the matter.



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# CHAPTER 14

## SUING THE NURSING HOME FOR NEGLIGENCE

People usually entrust the care of their elderly or loved one to nursing homes and their professionals because that person can no longer care for themselves or their condition requires constant attention. If the assigned caregivers cannot do this and they become malicious or reckless, then there is a breach of trust. This is why any abuse or neglect in a nursing home should be addressed promptly. If you think your loved one has been neglected, you may be wondering what it takes to bring a lawsuit.

### Behavior That Can Result in a Civil Lawsuit

You may only file a nursing home negligence lawsuit if you can prove that your loved one suffered abuse or neglect while in the home. These are abuse and neglect examples:

- ✓ **Overmedication**

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- ✓ **Failing to prevent or assist residents from falling**

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- ✓ **Failing to maintain the facility in a hazard free and safe condition**

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- ✓ **Administering the wrong medication**

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- ✓ **Inability to turn and reposition the person to prevent bed sores**

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- ✓ **Physical abuse**

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  - ✓ **Verbal abuse**

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  - ✓ **Failing to provide the right nutritional and dietary assistance**

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  - ✓ **Failing to assist residents with their hygiene and daily routine**

## How to Prove Liability

If you suspect that your loved one is a victim of nursing home abuse or neglect in Florida, then liability must be proven. Here are tips to strengthen your claim or even get compensation:

1. Document what you observe. Photos, records and notes should be gathered and put together.

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2. Only talk to your attorney about your case. Don't talk informally to anyone about the matter and don't send messages about it in any form. Limit what you say to everyone. **Do not post comments on social media.** Do not make any formal statements to any party without first consulting your legal advisor.

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3. Don't take any offer from the nursing home without having an attorney review it. Never take a check unless you have consulted your attorney.

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4. **Refrain from putting your concerns on social media. Posting on social media may damage your case. Anything you state there may be used against you by the other side.**



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# CONTACT

## THE SCHOFNER LAW FIRM

Nursing home claims can lead to medical and complex corporate issues and procedures that are difficult to understand, manage, and navigate.

If you have suspicions that your spouse, sibling, parent, grandparent, or disabled family member is being harmed in a Florida Nursing Home or Assisted Living Facility, don't delay, call us at The Schofner Law Firm.



Attorney Ted Schofner has been trusted by Tampa Bay area families for more than two decades now. His extensive experience and in-depth knowledge in the Elder Law arena and Nursing Home litigation is only matched by his compassionate treatment of every single family he serves.

Call The Schofner Law Firm today toll-free at **1-800-891-9996** for a free consultation.