

HOW TO CHOOSE

THE RIGHT NURSING HOME



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The Purpose of this Guide

If you're in the process of finding a nursing home for a loved one, it's important to ask the right questions and make an informed decision. Ideally, every family would like to plan ahead for long-term care after careful research and deliberation. Yet many families find themselves in the position of having to make a quick decision after a loved one's sudden health crisis or other life-changing event. Even so, a quick decision can still be a fact-based decision.

Ideally, every family would like to plan ahead for long-term care after careful research and deliberation.

This eBook is intended to provide facts and information to help you evaluate the nursing home and long-term care facilities that you are considering. You may find it helpful to print the checklist in **chapter 3, page 8** and take it with you when you visit.

We wish you and your family the peace of mind that a well-informed decision brings as you seek to provide the best care for your loved one.

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Choosing a Kentucky Nursing Home

The decision to place a loved one in the care of a nursing home facility is one that many Kentucky families eventually face. Approximately one out of every 200 Kentucky residents lives in a nursing home. Once you've decided that a nursing home is the best option for an aging parent or loved one, the next decision is selecting the best facility to fit his or her needs.

Many families are initially overwhelmed by the choices and financial decisions facing them. In fact, the daily needs of nursing home patients vary considerably. Nearly 60% of residents have Alzheimer's or another form of dementia, although many residents maintain a relatively high degree of independence. It's normal to have many questions.

Consider the Patient's Needs

The Kentucky Association of Health Care Facilities (KAHCF) recommends researching nursing home options based on the following patient needs:

- ✓ **Medical care:** Physicians are responsible for a home's overall plan of care and also for evaluating residents' acute medical conditions. An elder with poor health may benefit from a nursing home that employs more on-site physicians.

- ✓ **Nursing and rehabilitative care:** Nurses perform administrative as well as clinical nursing home tasks and are at the front line of resident care. Research shows that nursing homes with high nurse-to-resident staffing ratios provide better care.
- ✓ **Personal care:** If a loved one requires help with day-to-day activities, a facility with high staffing ratios takes on even greater importance.
- ✓ **Residential care:** Quality nursing homes provide a variety of activities to meet the physical, social and spiritual needs of residents.

Find out How Local Facilities Rank

Once you've figured out the types of care a loved one needs at a nursing home and narrowed down your list of potential facilities, you may wish to compare facilities.

Nursing home rankings can be found at:

- ✓ Find the Nursing Home Compare tool by clicking on the **Government Nursing Home Report** on the Becker Law website. Search nursing homes by name, zip code, city or state.
- ✓ U.S. News annually compiles its list of **Best Nursing Homes**. Search all Kentucky nursing homes **here** or search by zip code **here**.
- ✓ More generalized elder care resources can be found at the Department of Health and Human Service's website **LongTermCare.gov**.

Online research is a good starting point in your search for the ideal long-term care facility. But there is no substitute for an in-person visit.

Perform Legwork

To get the most out of your visit, keep these points in mind:

- ✓ **Location:** The facility should allow for regular visits from family and friends, who are a patient's best advocate and support system.
- ✓ **Atmosphere:** First impressions matter. Facilities should be clean and free from unpleasant odors, welcoming and attractive.
- ✓ **Staff:** It's not just staffing levels that matter. Pay close attention to whether staff treat residents with a positive attitude and respect. Observe how staff interact with each other.
- ✓ **Dining:** Sit down for a meal or two with the residents to check the quality and preparation of the meals.
- ✓ **Tour:** Tour the entire facility, not just what they want to show you. If you can make a second visit, show up unannounced at a mealtime when activity can be at its peak.
- ✓ **Ask about security measures.** What's to stop a dementia patient from wandering off site. Are there alarms on the exit doors? How do they handle overnight security?

These are just a few of the many points you should bear in mind when evaluating potential nursing homes. Costs, licensure and certification, patient rights, and a host of other criteria may also influence your final decision. See [page 8](#) for a handy checklist of things you might forget.

For More Information:

Families for Better Care: **State Report Cards—Kentucky**

AARP: **Choosing the Right Nursing Home**

Alzheimer's Association: **Special Care Units**

Kentucky Association of Health Care Facilities: **How to Choose a Nursing Facility that is Right for You or Your Loved One**

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Checklist:

Making the Right Nursing Home Choice for Your Loved One

All nursing homes in Kentucky must provide certain basic services to residents. But some facilities offer additional services and amenities that enhance a resident's stay and quality of life. As you research nursing home care for your loved one, it's a good idea to visit each prospective long-term care facility more than once, ask questions and do a side by side comparison of the services and amenities of the facilities. Does the nursing home's services match your needs?

To help you make the comparison, we've compiled a list of questions based on years of experience assisting families who have placed loved ones in nursing homes and long-term care facilities. You can print out this checklist and take it with you as you visit each facility. A well-run facility should welcome your questions.

Living Arrangements

- Is there a choice of room sizes and styles?
- Is there an entry fee? Is the fee refundable or non-refundable?
- Does the facility offer different levels of care?
- Is my loved one guaranteed a place for life?
- Does the facility appear clean and free of odor? Are housekeeping staffers present?
- What services are covered by daily room and board?
- Is the rate all-inclusive, or are their separate charges for certain services?
- Can residents provide their own furnishings?
- Are all telephone, cable TV, wi-fi and utility costs included in the monthly fees?
- Is the facility secure? Does the facility have staff present around the clock? What precautions are in place to keep dementia residents from wandering on or off site?
- Is the facility locked at night?
- Do the rooms have emergency call systems?
- Does the nursing home have smoke detectors and a fire protection sprinkler system?
- Ask to review the most recent state inspection report when you visit a facility.
- Inspection reports identify whether a nursing home has complied with minimum standards.
- Is a bed available now? If not, how long is the waiting list?
- Are there different levels of care at the facility or on the campus so that at a later date if your loved one needs a higher level of care, they don't have to go through the trauma of relocating to a completely different facility?

Medical Care

- Is a medical assessment required for admission?
- What medical services are covered in the basic room and board charge?
- Is there an extra charge for a staff member to see that residents take their medications on a daily schedule?

- How often are nursing home residents seen by physicians?
- Can my loved one continue to be treated by his or her personal physician after admission?
- Are medical specialists such as eye doctors and dentists available to see patients regularly?
- Who will help arrange transportation for office appointments with a personal physician?
- Does the ratio of nurses to residents exceed the Kentucky minimum standard of one licensed staff for every 60 occupied beds?
- Does the nursing home post information about the number of certified nursing assistants?
- What types of therapy services are available at the facility? Are they on or off site?
- Does the nursing home have a memory care unit for residents with Alzheimer's disease?
- Does the nursing home have a procedure in place with a nearby hospital to handle medical emergencies?

Food and Dining

- Is the dining area comfortable and inviting?
- Do residents have a choice of foods at each meal?
- Does the facility have a registered dietitian who plans the meals?
- Is the food tasty and nutritious?
- Can the nursing home meet the needs of residents with special dietary needs, such as low-salt diets or no sugar diets?
- May residents have guests join them in the dining room for meals?
- Is there a separate room available for family events like birthday parties for small groups?
- Are residents required to come to the dining room for meals?
- Are snacks available upon request?

Activities

- Is there a published schedule of weekly activities for residents?
- Does the nursing home have an activities director?

- Are residents actively participating in activities? Are residents urged to participate?
- Does the nursing home offer religious services?
- Does the facility have a designated recreation area?
- Does the nursing home have a volunteer group that assists with activities?
- Does the facility have a family council or resident council to offer input on care?
- Is transportation provided to outside activities?
- Is there a beauty shop on site? What services are available and are there fees?
- Are there outside areas for residents to get fresh air and sunshine? How are they kept secure?

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Choosing the Right Type of Care for a Loved One

When a parent or loved one reaches the point they can no longer care for themselves at home, whether because of illness or age, the feelings related to moving them can be overwhelming. It may mean they have to be separated from a home they've lived in for decades. It may mean they've just lost a spouse and no longer feel comfortable living alone. Or, it may mean that for their own personal safety they need more care or supervision. It's normal to feel stress during this period of transition, but that shouldn't get in the way of making important decisions. With that in mind, it is important to be aware of the types of care available for your elderly loved ones.

Independent Living Communities

These provide fully equipped, private apartments designed for seniors who are still independent and don't suffer from many medical problems. Apartments can range in size from studios to two-bedroom units, and dining services are usually available with meal packages designed specifically for the resident's needs. Residents may be able to pay for a certain number of meals each day. Because those seniors staying in these types of facilities remain active, social activities and events are fairly common to provide them with entertainment opportunities.

Independent living facilities are also known as retirement communities, congregate care, retirement villages, 55+ communities, senior apartments or continuing care retirement communities.

Assisted Living

Assisted living facilities are designed for seniors who no longer can live by themselves safely but don't need the extensive care that nursing homes provide. They receive routine assistance each day with medications, daily living activities, meals and housekeeping. Seniors live in private apartments, typically with a limited kitchen area, and they are provided with three meals daily in a main dining area. For extra safety, in case of falls or other emergencies, staff members are available around the clock. Licensed nurses are often provided in assisted living communities to attend to the medical needs of residents. Since residents still maintain some independence, social activities and transportation are likely to be available. Some assisted living communities provide a special memory care unit for residents with Alzheimer's or other forms of dementia. The units are typically secure to prevent patients from wandering away. Make sure memory care is available if your parent needs that service. Assisted living facilities also are known as assisted care communities and personal care homes.

Nursing Homes

Skilled nursing is provided at these facilities 24 hours a day, seven days a week for seniors who need a high level of medical care and help. Licensed nurses provide care because most long-term residents in nursing homes suffer from complex medical problems that require close attention and ongoing nursing services. Many nursing homes now offer short-term rehabilitation services, as well, for people recovering from injuries, sickness and surgical procedures, and not limited to seniors. Often, residents share a room and eat meals in a dining area, though they can be fed in their rooms if they are extremely ill.

Nursing homes may also be known as convalescent care facilities, nursing centers, skilled nursing centers and long-term care facilities.

Memory Assistance Care

Also known as Alzheimer's care or dementia care, these senior living facilities offer an option for memory-impaired seniors. One of their most important services is offering 24-hour support and structured activities that provide residents with a higher quality of life and the safety they need to avoid injuries. These housing options can relieve family members of the burden of caring for memory-impaired parents at home and provide around the clock skilled personnel for this often times difficult task.

Alzheimer's or dementia care also can be provided in assisted living communities, in addition to nursing homes and in personal care homes. Residents typically live in semi-private apartments, and trained staff set up activities each day to give them structure in their lives. The living areas are secured to keep residents from wandering away, but many times outdoor walking paths and gardens are available within the confined areas to provide time outdoors.

Residential Care Homes

These private homes usually offer live-in caretakers who provide daily services to residents who want to stay in a private, home-like community. Help with daily living, including taking baths and getting dressed, is typically offered. But the amenities and nursing services usually differ between residential care homes, so make sure you ask specific questions when you visit. These are also sometimes referred to as board and care homes, group homes and adult family homes.

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Understanding

How Nursing Homes are Rated

Families place an aging loved one in a nursing home with the expectation that a long-term care facility will provide the best-possible care. While it's a good idea to visit a nursing home when choosing a residence for your loved one, there also are objective measures that can make it easier to compare facilities.

As we all know, nursing homes vary in the quality of care and the services they provide. Consumers may compare nursing homes that are certified by the Centers of Medicare & Medicaid Services (CMS) through the star ratings assigned by the government. This is a useful tool.

You can reach the Nursing Home Compare tool by clicking on the **Government Nursing Home Report** on the Becker Law website. The compare tool assigns each nursing home an overall rating of one star (far below average) to five stars (far above average) based on three criteria:

- **Health inspections by state agencies** - the only source of objective information from trained inspectors
- **Staffing** - the overall number of staff compared to residents, and how many of the staff are trained nurses.
- **Quality measures** - how well each nursing home performs on each aspect of care.

An overall rating is given for each facility, as well as a rating for health inspections, staffing and quality measures. You may find a Kentucky nursing home by zip code, by city or by name.

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state inspectors in Kentucky carry out the health and fire safety investigations in nursing homes as part of an agreement between the states and the federal government. The inspection process takes into account all major aspects of care in a nursing home. The inspections also identify safety requirement deficiencies, such as protection from fire hazards.

Surveys are undertaken approximately once a year and look at quality measures that include the percent of residents:

- Who self-report pain
- With bed sores or urinary tract infections
- Experiencing one or more falls with injury
- Given seasonal vaccinations
- Whose need for help with daily living activities has increased

When an inspector finds that a nursing home doesn’t comply with a specific standard, the inspector issues the nursing home a deficiency citation. Every nursing home that cares for residents receiving Medicare and Medicaid is required to make available the results of the last full inspection for the public to review.

You may request to review the inspection report when you visit a facility. Inspection reports identify whether a nursing home has complied with minimum standards.

To view survey inspection findings at nursing homes in Kentucky, visit the [Kentucky Cabinet for Health and Family Services website](#).

How Many Deficiencies are Too Many?

Whether you're comparing prospective Kentucky nursing homes or assessing the quality of care of a nursing home where your loved one resides, you may notice that a nursing home has received deficiencies in a recent inspection. You should understand that deficiencies are not unusual.

According to CMS and senior care provider resource Elder Branch, six to seven deficiencies per nursing home is average. In 2012, all nursing home facilities nationwide averaged 5.9 deficiencies. Kentucky averaged 4.8. In fact, the state recorded fewer deficiencies than the national average from 2008-2012. Out of 284 Kentucky nursing homes, 97 have an overall rating of "much below average" or "below average" and 133 have an overall rating of "above average" or "much above average."

Long-Term Care Ombudsman Complaints

Ombudsmen are advocates for residents of nursing homes and other care homes. They investigate and resolve complaints made by or on behalf of residents. Kentucky has more than 80 ombudsmen operating in all of the state's 120 counties.

The most common Kentucky ombudsman complaints were related to:

- Resident care (2,065 complaints)
- Quality of life (1,677 complaints)
- Residents rights (1,482 complaints)

Unfortunately, ombudsman complaint data is not available for individual facilities.

You may, however, be able to find out more by contacting your **local Kentucky long-term care ombudsman**. Resources are also available at the National Long-Term Care Ombudsman Resource Center **website** and the Kentucky state profile at the Administration on Aging **website**.

For More Information:

- Centers for Medicare & Medicaid Services:
 - **Special Focus Facility Initiative**
 - **Special Focus Facility Initiative—Background**
 - **Nursing Home Data Compendium—2013 Edition**
 - **Quality Measures**
- Administration on Aging:
 - **National Ombudsman Reporting System—Aging Integrated Database**
- Families for Better Care: **State Report Cards—Kentucky**

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Your Loved One's Rights as a Nursing Home Resident

Nursing home residents in Kentucky have certain important legal rights. These legal protections provide that residents are entitled to care and services that promote and enhance their quality of life and well-being. Residents should not decline in health as a result of the treatment they receive at a long-term care facility. The Nursing Homes Residents Bill of Rights emphasizes the importance of treatment with dignity and residents' involvement in decisions about their care to the extent possible.

The Nursing Home Residents Bill of Rights is part of the Nursing Home Reform Act passed by Congress in 1987. Kentucky has incorporated the Nursing Home Reform Act Residents' Rights into state statutes. In accordance with Kentucky and United States law, residents and their responsible guardian have the right:

- To be informed in writing before admission of all services available at the long-term care facility;
- To be informed in writing before admission and quarterly after admission of all service charges for which the resident will be financially responsible;
- To file complaints to appropriate agencies about any service charges viewed as unjustified without fear of reprisal;

- To exercise their rights as a citizen, and to recommend changes in policies and services and express grievances to outside representatives of their own choosing;
- To participate in their own care;
- To choose their own physician;
- To have medical and personal records kept confidential;
- To be free of mental and physical abuse;
- To be free of physical and chemical restraints except in emergencies or as justified by a doctor for a limited period of time;
- To associate privately with people of their own choice and to send and receive personal mail unopened;
- To choose whether to participate in social and religious activities;
- To manage their personal funds and receive a quarterly statement accounting for the funds and any expenditures from their account;
- To have privacy in bathrooms and visual privacy in multi-bed rooms;
- To remain in the nursing home unless notified in advance of a discharge or transfer

It's important to be familiar with the rights of nursing home residents when you are selecting a nursing home and when you visit your loved one in a facility. You can observe generally whether the management and staff at a prospective facility appear to be caring for residents in accordance with their rights. Are the residents being treated with respect and dignity?

It's important to be familiar with the rights of nursing home residents when you are selecting a nursing home and when you visit your loved one in a facility.

More than 25 years after the Nursing Home Reform Act became law, there is still much room for improvement in resident care. A recent report by the non-profit Families for Better Care uncovered deficiencies in 90% of nursing homes. Many deficiencies are minor and easily corrected. Some deficiencies can result in harm to residents.

The protections afforded in the Nursing Homes Residents Bills of Right are legally enforceable. Nursing homes that fail to respect the rights of residents and act negligently can be held liable. You and a loved one have the right to take legal action against a nursing home that provides negligent care.

For More Information:

- AARP: **The 1987 Nursing Home Reform Act**
- Families for Better Care: **State Report Cards—Kentucky**
- Kentucky Cabinet for Health and Family Services: **Residents' Rights: For Residents in Kentucky Long-Term Care Facilities**
- The National Long-Term Care Ombudsman Resource Center: **Residents' Rights**

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What is Nursing Home Neglect and Abuse?

The National Center of Elder Abuse (NCEA) defines elder abuse as actions by a caregiver or person in a trust relationship with a vulnerable elder that cause harm or create a serious risk of harm (intended or not). It also includes failure by a caregiver to satisfy the basic needs of an elder or protect him or her from harm.

The five major categories of abuse recognized by NCEA and other elder advocates are:

- Neglect
- Physical abuse
- Emotional/Psychological abuse
- Sexual abuse
- Financial exploitation

According to statistics gathered by the National Ombudsman Reporting System (NORS), physical abuse is the most-commonly reported type of abuse at nursing homes. It accounts for 29 percent of cases, followed by psychological abuse (21 percent), neglect (14 percent), sexual abuse (7 percent) and financial exploitation (7 percent).

Red Flags of Nursing Home Neglect and Abuse

While some elders may lack the cognitive ability to report abuse, others feel shame about reporting mistreatment, particularly sexual abuse. It's important for family

members of nursing home residents to be alert to the signs of mistreatment and abuse and know how to recognize them:

Physical Abuse

- Unexplained and/or frequent bruises, burns, black eyes, broken bones and other injuries.
- Grip marks around the arms or neck
- Dismissive attitude about injuries
- Appears sleepy or sedated
- Confined to a bed, chair or room

Sexual Abuse

- Unexplained genital bleeding
- Bruised breasts or buttocks
- Torn, stained or bloody undergarments
- Evidence of unexplained sexually transmitted disease
- Acts upset when bathed or changed

Emotional/Psychological Abuse

- Appears isolated, withdrawn, depressed or non-communicative
- Dramatic swings in mood/behavior
- Lack of eye contact
- Confusion or disorientation
- Victim not permitted by caregiver to speak for him or herself

Financial exploitation

- Large bank account withdrawals or ATM activity not consistent with financial history
- Sudden, unexplained transfer of assets
- Disappearance of valuables

- Names added to an elder's bank card
- Evidence of an elder's signature being forged on checks, titles and other financial documents

Neglect

- Malnutrition or dehydration
- Lack of basic personal hygiene
- Untreated medical problems/lack of medical aids
- Unclean living conditions
- Bedsores, sometimes referred to as pressure sores

Reporting Elder Abuse

Kentucky is a mandatory reporting state. If you suspect that a loved one is being abused, neglected or exploited you should report the situation to the local Adult Protective Services. From 2009 to 2013, Kentucky Adult Protective Services (APS) received an average of 7,709 reports per year for the population aged 60-plus that met criteria for abuse and neglect. Over this period, an average of 1,811 abuse and neglect cases approximately 23% of cases were substantiated.

There are a number of organizations you can report elder mistreatment to:

- **Adult Protective Services** (800-752-6200)
- **Office of the Inspector General** (502-564-7963)
- **Office of the Attorney General** (877-228-7384)
- **Long-Term Care Ombudsman** (800-372-2991)
- Your local police department, sheriff's department, or Kentucky state police
- The nursing home facility administrator, director of nursing, or other management staff

You can also speak to a knowledgeable lawyer who assists families that are trying to protect a loved one from neglect or abuse in a nursing home. An attorney at Becker Law Office can review your loved one's situation and work with you to ensure that your loved one is receiving the dignified care that he or she deserves.

For More Information:

- Cabinet for health and Family Services:
 - **Elder Abuse in Kentucky (2018)**
 - **Elder Abuse Annual Report (2013)**
 - **Signs of Abuse**
- National Center on Elder Abuse:
 - **Abuse of Residents of Long-Term Care Facilities**
 - **Types of Abuse**
- American Psychological Association: **Elder Abuse and Neglect—Cues that may Signal Elder Abuse**
- courier-journal.com: **Quality of Kentucky Nursing Home Care Decried**
- Commonwealth of Kentucky, Office of the Attorney General: **How to Protect Nursing Home Residents**

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Common Causes of Nursing Home Neglect and Abuse

There are certain factors that increase the potential for neglect or abuse of residents in a nursing home. The National Center on Elder Abuse recognizes three major types of risk factors: facility factors, resident factors and relationship factors.

Nursing Home Risk Factors

- **Management:** Nursing home culture starts at the top. Strong leadership by directors and administrators who are in touch with daily nursing home life is a predictor of quality care. The facility should have a policy in place for recognizing and reporting abuse (both to management and state authorities).
- **Staff training:** Nursing home staff should undergo continual training to improve skills such as conflict resolution, empathy and abuse recognition.
- **Staff screening:** Staff not suited to elder care should not be hired. Criminal background checks, reference-checking and interview screening should be conducted.
- **Inadequate staff:** Numerous studies have demonstrated the link between low staff levels and poor resident care. A high staff turnover rate can also be a red flag.
- **Staff stress:** Nursing home work can be stressful, and burnout can lead to abuse. Specific risk factors include low pay, too much work caused by lack of sufficient staff and lack of supervisor support.

- **History of abuse and deficiencies:** Nursing homes with a history of abuse, resident complaints and licensure problems are more likely to be deficient.
- **Home conditions:** The physical location of a nursing home, as well as the home's design, play a role in resident safety. Overcrowded and outdated buildings are of particular concern.

Resident-Visitor Risk Factors

Patients with dementia, Alzheimer's and other conditions that affect their behavior and cognition are among the most challenging to handle. Studies have found that patients with dementia are more likely to be abused. Resident behaviors such as cursing, kicking and attempting to escape (whether caused by a dementia or not) correlate with higher incidences of abuse. Another risk factor is the relative dependence of residents on caregivers.

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Abuse and neglect are more likely to occur in homes that have a high percentage of residents with dementia in addition to low staff levels. It further illustrates the importance of adequate staffing.

Resident-Visitor Frequency

Family and friends are an important line of defense for vulnerable elders. Nursing home residents who don't regularly have visitors are isolated and are at greater risk of being abused/neglected.

Protecting Your Loved Ones

Speak with a home's management and staff to get a sense of policy, working conditions and complaint/deficiency incidence. You can also get a feel for the home's daily operations simply by spending some time there.

Sometimes, though, it's the smallest steps that make the biggest difference. Just by visiting a loved one in a nursing home you're helping to ensure a better quality of care.

Sources:

- National Center on Elder Abuse:
 - **Statistics/Data**
 - **Nursing Home Abuse Risk Prevention Profile and Checklist**
- National Council on Aging: **Elder Abuse Fact Sheet**
- Kentucky Cabinet for Health and Family Services: **Elder Abuse Annual Report 2013**
- Administration on Aging: **Aging Integrated Database**

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What is Involved in Nursing Home Abuse, Neglect Investigation in Kentucky

Anyone who suspects elder abuse in Kentucky is legally required to report it. If you believe your loved one is in immediate danger, call the police or sheriff's department.

If you suspect that abuse has occurred or is ongoing, it's important to report it to someone. Here's how the reporting process works for injury, abuse or death of a nursing home resident in a Kentucky nursinghome:

1. When there is a resident "change in status," the nursing home by law must notify the physician and the resident's family. A family may be notified of a resident's death, but there may be little explanation of the cause.
2. Suspected abuse or neglect (including cases of resident death) must be reported to the Office of Inspector General(OIG).
3. The Office of Inspector General investigates the report and, if it finds violations, issues a citation to the nursing home. A citation, however, is different than a criminal prosecution.
4. When a citation is issued to a nursing home by the OIG, it is also sent to the Attorney General's (AG's)Office of Medicaid Fraud and Abuse Control. The OIG may also refer

the case directly to local law enforcement, but it isn't required to do so. Local law enforcement makes the decision to investigate and refer the case to local prosecutors.

5. The AG may choose to contact local prosecutors or law enforcement, which have jurisdiction in abuse cases. With permission from local prosecutors, the AG may prosecute.

Prosecutions of elder abuse cases in Kentucky are rare. The Lexington Herald-Leader, which focused attention on the issue through its investigative series "Voiceless and Vulnerable: Nursing Home Abuse," found that only 7 of more than 100 of the most serious types of citations issued over a three-year period were taken up by prosecutors.

What You Can Do If You Suspect Abuse

Family members who notice something amiss with a nursing home resident are permitted to request an investigation by the Office of Inspector General, county coroner or state police rather than letting the case go solely through state channels. Be prepared to give your loved one's name, address, contact information and a description of the suspected abuse.

The Kentucky Attorney General recommends that any family member who suspects elder abuse or neglect keep detailed records (including a journal and photographs or video) of anything out of the ordinary, as well as of complaints made and letters written to the home's administration. Review the chapter in this guide on recognizing warning signs of nursing home abuse and neglect. The AG notes that any documentation of abuse will be invaluable should you decide to pursue legal action against a nursing home.

Nursing home incident criminal prosecutions are difficult because many elders are unable to testify. And because police investigations are rarely, if ever, immediate, physical evidence is often lacking. It can therefore be difficult to determine exactly what happened.

For a quicker response, you may wish to contact an attorney who investigates nursing home neglect and abuse cases on behalf of families. Our nursing home abuse lawyers can help you report the case to the proper authorities and act quickly to secure evidence and records from a nursing home before they are lost.

The lawyers of the Becker Law Office are dedicated to assisting nursing home residents and their families. Many families who find themselves in this situation are unsure whom to call first. You can rely on our many years of legal experience representing numerous families facing issues of elder mistreatment, abuse and neglect. Initial consultations with our nursing home abuse attorneys are free.

Sources:

- The Lexington Herald-Leader:
 - **Nursing home prosecutions rare**
 - **Light sentences for elder abuse convictions**
 - **Reporting nursing home deaths and abuse**
 - **Abuse investigations tend to languish**
- Kentucky Commonwealth Office of the Attorney General: **How To Protect Nursing Home Residents**

10

Kentucky

Adult Abuse Registry

While most residents of nursing homes receive excellent care, it only takes one bad employee to cause harm.

Kentucky elders and other vulnerable adults should now receive better protection thanks to the recently created Adult Protective Services Caregiver Misconduct Registry. The registry became law in July 2014.

The registry lists individuals with a record of vulnerable adult abuse, neglect or exploitation occurring on or after July 15, 2014. The Kentucky Department of Community Based Services (DCBS) maintains the registry. Adult services providers such as long-term care facilities, assisted living facilities and home-health agencies can access the registry. Providers may also submit queries for current employees and volunteers and job applicants who are seeking employment. Individuals are permitted to self-query the registry.

How the Registry Works

Key provisions of the law that enacted the Kentucky Adult Caregiver Misconduct Registry (available [here](#)) include the following:

- Validated findings of abuse, neglect or exploitation occurring on or after July 15, 2014 are listed. Records of elder mistreatment occurring before July 15, 2014 are not listed on the registry. The law is not retroactive.

- Individuals listed in the registry may or may not have been convicted of criminal charges.
- Queries are based on an individual's social security number.
- Employees that show up on the registry will have been found by a Community Based Services investigation to have committed adult mistreatment.
- Individuals investigated by DCBS for mistreatment are entitled to due process that includes an administrative hearing and an appeal to the Circuit Court of the county where the alleged mistreatment occurred.
- An individual will only appear on the registry after due process has been exhausted and the cabinet has entered a final order based on a preponderance of evidence that mistreatment was committed.
- Validated findings of adult mistreatment will be removed from the registry after seven years, unless the finding pertains to a fatality, near-fatality, criminal conviction or civil judicial determination.
- The Kentucky Cabinet for Health and Family Services (CHFS) Office of Inspector General may penalize a facility that hires somebody with a record of adult abuse.

Substantiated DCBS Complaints (2013)

In 2013 there were 18,459 reports of adult abuse for Kentuckians 60 years and older. Of these, 1,860 reports were substantiated.

Kentucky law requires state criminal background checks for nursing home workers who provide direct care to residents. But nursing home employees are rarely convicted of elder abuse or similar crimes.

The Kentucky adult abuse registry provides a way to have a listing of people who have adult protective services histories of abuse or neglect, even if they haven't been convicted of a criminal offense. This is an important distinction.

Criminal Background Checks for Kentucky Long-Term Care Workers

A multi-state background check program for workers in long-term care settings known as the Kentucky Applicant Registry and Employment Screening Program (KARES) was signed into law in 2013. The fingerprint-supported state and FBI background check program is a way to ensure that prospective nursing home employees will not be able to hide criminal actions committed in other states.

Sources:

- Cabinet for Health and Family Services:
 - **Kentucky Elder Abuse Annual Report (2013)**
 - **Kentucky Adult Protective Services Caregiver Misconduct Registry**
- Kentucky Legislative Research Commission:
 - **Statutes—209.032**
 - **HB 277**
- Lexington Herald-Leader:
 - **Light sentences for elder abuse convictions**
 - **Kentucky legislators seek to make mandatory new background checks for long-term care workers**
 - **Bill would require background checks for all nursing home employees**
- The Lane Report: **Governor signs law creating caregiver misconduct registry**

11

How a Lawsuit

Can Prevent Nursing Home Neglect and Abuse

If your mom, dad or other loved one lives in a nursing home, you may wonder about the quality of care he or she is receiving. You may have had a positive impression of the nursing home initially but made some observations over time that left you with an unsettled feeling. The administrator of the nursing home may have dismissed your concerns outright or not provided thoughtful answers that satisfied your questions. If you suspect abuse or neglect, you need to know what you can do to protect your loved one and whether an attorney can help.

The federal government, in conjunction with individual states, regulates nursing home care and may assess penalties for inadequate care. In a recent year, for instance, money penalties were only assessed for 2% of nursing home deficiencies.

The state of Kentucky can bring criminal charges against nursing home staff who abuse or neglect a resident. These charges may result in the abuser being found guilty of a misdemeanor or felony. Any abuser found guilty of nursing home abuse or neglect would lose their professional license, which would prevent them from working in a care facility in the future.

A family member can request an elder abuse or death investigation by the Kentucky Office of the Inspector General, the county coroner or local police. But it is ultimately up to law enforcement to investigate and refer the case to local prosecutors for criminal proceedings. Nursing home criminal prosecutions, however, are uncommon. An investigation by the Lexington Herald-Leader found that over a 3-year period, only 7 of 107 serious nursing home violations led to prosecution.

There is another way to protect your loved one and call attention to a problem at a nursing home facility. The family of a nursing home resident may file a civil lawsuit against the nursing home or responsible party. A lawsuit can deliver justice to an abused nursing home resident and protect other residents from similar harm. It can shine a light on the problem of nursing home abuse.

Civil Cases

Civil proceedings may be filed by an attorney on behalf of a nursing home resident or their family. If successful, damages (or money awards) are provided to the victim.

Damages cover things like:

- Medical treatment costs
- Physical pain
- Mental anguish
- Attorney's fees

A nursing home abuse/neglect lawsuit can also result in punitive damages, or damages meant to punish the wrongdoer. Compared to other types of personal injury cases, nursing home cases more often result in punitive damages.

The Challenges of a Nursing Home Lawsuit

More and more nursing homes across the nation are corporate-owned chains that use Big Business tactics to thwart the attempts of nursing home abuse victims to file lawsuits. Many nursing homes now require residents to sign away their right to sue. Buried in the fine print of many contracts is language stating that claims against the home or its employees must be brought in private arbitration (rather than a court of law).

Private arbitration strongly favors the nursing home. A report by the nursing home industry shows that as disputes are settled in arbitration rather than court, the money recovered by abuse victims has decreased.

An arbitration clause doesn't mean that you can't hold responsible a nursing home or staff member for resident abuse, but it does mean that you may require legal assistance. A reputable attorney who handles nursing home neglect and abuse cases will meet with a family of a nursing home resident at no charge and review their concerns and advise them whether they have a legal case. In some instances, a civil lawsuit may be the best way to achieve a positive outcome.

Sources:

- ProPublica: **Nursing Home Inspect**
- The Gerontologist: **Variation in the Use of Federal and State Civil Money Penalties for Nursing Homes**
- The Courier-Journal: **Nursing Home Bill Should Be Killed**
- The Lexington Herald-Leader: **Nursing Home Prosecutions Rare**
- Take Justice Back:
 - **Nursing Homes**
 - **Vulnerable Nursing Home Patients Need Ability to Sue in Court as Government Agencies Fail to Protect Them**
- Marquette University: **Nursing Home Litigation: An Overview**

12

Introduction to the Becker Law Office

We understand the stressful transition that your family is facing. We want the relocation of your loved one to a long-term care facility to proceed as smoothly as possible. We have prepared this information about selecting a nursing home based on our years of experience working with families of nursing home residents. It's part of our commitment to the families we serve.

Our elderly loved ones deserve the highest level of care. Federal law requires all nursing homes to provide services and activities that ensure the highest practicable physical, mental and psychosocial well-being of each resident.

Unfortunately, there are times when even highly rated nursing homes fail to meet their legal obligations. A change in ownership or management may affect staffing and morale and lead to deterioration in the quality of care at a nursing home. Understandably, families have to take steps to protect their loved one.

The attorneys
at Becker
Law Office
are available
to meet with
your family for
a free initial
consultation.

The attorneys at Becker Law Office are available to meet with your family for a free initial consultation. We bring to the table years of experience investigating cases of nursing home neglect and abuse. We can move quickly to protect your loved one. As we've observed, nursing home abuse and neglect cases frequently do not end in criminal prosecution because evidence is often lacking and abuse victims may have trouble testifying.

Many nursing homes are now for-profit, and this is affecting quality of care. Homes often insert language in the fine print of care agreements that prevent allegations of abuse or neglect from being heard in a court of law. Instead, cases are heard in private arbitration, a proceeding that strongly favors nursing homes.

The Becker Law Office can help you overcome the limitations of an arbitration clause in a nursing home case. We'll assemble the evidence you need to show that abuse or neglect occurred.

A civil lawsuit against an abusive nursing home can provide money for a victim's hospital bills and suffering. It also frequently leads to operational changes at the facility that prevent other residents from suffering similar injury.

Institutions and individuals that mistreat elders should be held accountable. If you have reason to believe that a loved one in a Kentucky nursing home has been abused or neglected, let the Becker Law Office help you obtain justice.

To discuss your case for free with an experienced attorney, call **(888) 753-7162** or **send us a message**.



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