LONG TERM CARE SETTINGS

Long term care facilities assist aged, ill or disabled persons who can no longer live independently. In this section, we will briefly examine the history of long term care facilities in the U.S., as well as the characteristics, staffing, services, ownership, funding and regulation of nursing homes and assisted living facilities.

NURSING HOMES

Nursing Home Care -- Medicare covers skilled services (physical therapy, occupational therapy, skilled nursing services) following a qualifying hospital stay. Medicare pays for up to 20 days at full coverage and an additional 80 days at a set co-pay. One must meet the criteria for continued coverage. A beneficiary has the right to appeal the denial of skilled care.

Nursing Home Reimbursement

Who pays for long term care? The increasing number of very old and frail persons, the rising costs of health care, and the availability of fewer family members to provide home care combine to make this question a major national concern.

Many of the people you encounter in nursing homes will be on Medicaid. Other sources of payment will include private pay, Medicare, Veterans Administration, and private long-term care insurance.

Veterans Administration Benefits

The Veterans Administration (VA) Paid Community Nursing Home Care Program will pay for skilled/intermediate nursing home care following hospitalization for those veterans who qualify. For qualifying criteria, contact the local VA office. Eligibility depends on individual circumstances.

Regulation of Nursing Homes
It is important for Ombudsmen to understand the standards, process and agencies involved in licensing, certifying and regulating nursing homes. Nursing homes are regulated at several levels: federal, state, and local. As you will see, the federal and state levels are intricately tied together.

**Licensing of Nursing Homes**

A nursing home must obtain a license from the state in order to operate. When complaints come to the Ombudsman Program, the standards contained in state law tell the consumer and the Ombudsman what kind of services, care, and physical surroundings to expect. If the Program needs to intervene because a home fails to meet those standards, the standards are a guide to the residents, Ombudsmen and the home as to how to comply with the law.

**Selected Departments and Staff of Nursing Homes**

Most nursing homes are relatively large institutions with fairly complex structures and equally large staff. While there may be differences between long-term care facilities, we will briefly review the structure and staff responsibilities of a "typical" nursing home.

Overseeing the total functioning of the facility is usually a governing body of some sort. The Governing Body has the overall responsibility for the operation of the facility, supervises the administrator, and sets facility policy and procedure for the health care and safety of residents.

The staff in a long term care facility are assigned to various departments that are responsible for contributing to the overall functioning of the facility. It is important that the Ombudsman become familiar with the nursing home’s policies and organizational chart in order to understand the administrative lines of authority, responsibility, and supervision. This will enable you to identify the appropriate persons when you need information from staff at a particular facility.

**Administration:**

The administrative unit of a home may include the nursing home administrator, secretarial staff, accounting, and admissions.
- **Nursing Home Administrator** - responsible for overall (fiscal, legal, medical, and social) management and operation of the facility. This individual is ultimately responsible for all nursing home activities, and must be licensed by the state.

**Medical Staff:**
Medical staff is responsible for attending to the physical needs of the residents. A variety of health care personnel are part of the staffing.

Examples of these positions are:

- **Medical Director** - the physician who formulates and directs overall policy for medical care in the nursing home. This is often only a part-time position.

- **Attending Physicians** - directly responsible for the care of the residents. Each resident must either choose his/her own physician or have one assigned by their provider to supervise his/her care. This physician is not an employee of the facility but visits the resident as needed.

- **Podiatrist** - specializes in the diagnosis and treatment of diseases, defects and injuries of the foot. The podiatrist may visit the facility, usually on a monthly basis.

**Nursing Services:**
The nursing services department generally includes RNs, LPNs, and nursing assistants. These are the people who provide most of the direct care to the residents.

**Therapeutic Services**
Physical Therapists, Occupational Therapists, and Speech Therapists are located in a Rehabilitative Services Department.

**Selected Requirements for Nursing Facilities:** Some of the more important federal requirements under OBRA '87 are included here:

1. **Physician Services:** The health care of every resident must be provided under the supervision of a physician. The resident's attending physician must participate in preparing the written plan of care. Physicians, or physician assistants or nurse practitioners, must visit residents at least once every 30 days during the first 90 days. Thereafter, under Medicare and Medicaid, a physician must visit every 60
days. The visit may occur up to ten days after the required date. Although residents have the right to choose their own physicians, facilities must have a physician available to supervise a resident's medical care when the resident's attending physician, or one who is covering for him/her, is unavailable. This responsibility usually falls on the Medical Director, who is also responsible for the implementation of resident care policies and the coordination of medical care in the facility.

2. **Nursing Services:** Facilities must have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

Facilities must provide 24-hour service by licensed nurses, including the services of a registered nurse (RN) at least eight consecutive hours per day, seven days a week. Waivers are allowed under certain circumstances. If a waiver is granted, the State Ombudsman must be notified, and the facility must notify its residents and their immediate families.

**Consumer Information Sheet**

Each and every person in a nursing home has a right to good care under the 1987 Federal Nursing Home Reform Law. The law, which is part of the Social Security Act, says that a nursing home must help each resident “attain or maintain” his or her highest level of well-being (physically, mentally, and emotionally). To give good care, staff must assess and plan care to support each resident’s life-long patterns, current interests, strengths, and needs. Care planning conferences are a valuable forum for residents and families to voice concerns, ask questions, give suggestions, learn nursing home strategies, and give staff information (such as resident background and daily routine). This requirement in the law is vital to making sure residents get good care.

**Resident Assessment**

Assessments gather information about the health and physical condition of a resident and how well a resident can take care of themselves. This includes assessing when help may be needed in activities of daily living (ADLs) or “functional abilities” such as walking, eating, dressing, bathing, seeing, hearing, communicating, understanding, and remembering. Assessments also should examine a residents’ habits, activities, and relationships in order to help him or her live more comfortably and feel at home in the
Assessments must be done within 14 days of the resident’s admission to a nursing home (or 7 days for Medicare residents) and at least once a year after that. Reviews are held every three months and when a resident’s condition changes.

**Plan of Care**
After the assessment is completed, the information is analyzed and a care plan is developed to address all the needs and concerns of the resident. The initial care plan must be completed within seven days after the assessment. The care plan is a strategy for how the staff will help a resident every day. This care plan says what each staff person will do and when it will happen (for example, a nursing assistant will help Mrs. Jones walk to each meal to build her strength). Care plans must be reviewed regularly to make sure they work and must be revised as needed. For care plans to work, residents must feel they meet their needs and must be comfortable with them.

**Good Care Plans Should**

- Be specific to that resident;
- Be followed as an important guideline for providing good care for the resident.
- Be written so that everyone can understand it and know what to do.
- Reflect the resident’s concerns and support his or her well-being.
- Use a team approach involving a wide variety of staff and outside referrals as needed.
- Assign tasks to specific staff members.
- Be re-evaluated and revised routinely.

3. **Administration of Medications:** Medications can be administered only by physicians, licensed nursing personnel, or by the resident if the interdisciplinary team determines that this is safe.

4. **Pharmacy Services:** Pharmacy services must be under the supervision of a qualified pharmacist who is responsible to the administrative staff for developing,
coordinating, and supervising all pharmaceutical services. The pharmacist consultant must review the drug regimen of each patient at least monthly and report any irregularities to the Director of Nursing and/or the attending physician. These reports must be acted upon.

5. **Personal Care Services:** In addition to professional nursing services, facilities are required to provide necessary personal care services to all residents in a licensed health facility. Some of these personal care services include:

- Proper hydration for health
- Dressing in clean garments
- Bathing as frequently as necessary but at least twice weekly
- Oral care, at least daily, including denture care
- Hair care and grooming, including shampoo at least once a week, more often if necessary, shaving and beard trimming if desired
- Toileting
- Incontinency care, including checking the resident frequently, bathing the resident as required, and changing soiled or wet bed linen or clothing immediately
- Changing the body position of each resident who is bedfast/chair fast in accordance with the resident's need as stated in the plan of care
- Maintaining proper body alignment in accordance with the capabilities of each resident
- Movement/exercise of all major joints of the body at least twice daily for each bedfast or non ambulatory resident
- Skin care to prevent the development of pressure sores and other skin breakdown
- Lip care to prevent dryness and cracking
- Cleaning and cutting of the fingernails and toenails
- Laundry services, including personal laundry

6. **Dietary Services:** The food service of each facility must meet the daily nutritional needs of residents including special dietary needs. Meals must be palatable, attractive, and served at the proper temperature. The facility must provide special eating utensils (adaptive equipment) for residents who need them.
If the director or supervisor of food services is not a qualified dietitian, a qualified dietitian must be employed to consult on a frequent basis. Facilities must have sufficient personnel to provide dietary services.

7. Specialized Rehabilitative Services: Nursing facilities must either provide or arrange for specialized rehabilitative services from qualified personnel such as physical therapists, occupational therapists, audiologists and speech therapists as needed by residents to improve or maintain physical capabilities. Specialized services must be required in the resident's plan of care and provided under the written order of a physician.

8. Social Services: Medically-related social services must be provided to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. An assessment of each resident's needs should be found in his/her record and needed services should be incorporated into the care plan. Each facility with more than 120 beds must have at least one full-time social worker, with at least a bachelor's degree in social work or similar professional qualifications, to provide or assure the provision of social services. A facility with less than 120 beds must either have a qualified social worker as director of social services or receive consultation from a qualified social worker.

9. Dental Services: Nursing facilities must provide or make arrangements for routine dental services, as covered in the state Medicaid plan for Medicaid recipients, and for emergency dental services to meet the needs of each resident. Facilities do not have to provide dental services directly or pay the cost of these services.
10. **Resident Activities:** Nursing facilities must provide an ongoing activities program designed to meet the individual interests and the physical, mental, and psychosocial well-being of each resident. "Activities" is an umbrella term that includes crafts, artwork, social gatherings, discussion groups, outside events, and many other forms of recreational and intellectual activities. The activities program is to have a planned schedule of purposeful individual and group activities. The activities program must be under the direction of a qualified professional.

According to federal regulations, an activities director must:

a. Be a qualified therapeutic recreation specialist, OR
b. Be an activities professional who is:
   - Licensed or registered, OR
   - Is eligible for certification as a therapeutic recreation specialist or activities professional; OR

c. Have two years experience in social or recreational programs; OR
d. Be a qualified occupational therapist or occupational therapist assistant; OR

e. Have completed a training course approved by the state.

11. **Staff Training:** Facilities must provide regular in-service education to ensure that nurse aides are competent to perform services. In-service education must include training for individuals providing nursing and nursing-related services to residents with cognitive impairments.

12. **Medical Records:** Facilities must maintain clinical records on all residents. For each resident the record must include identification information, the resident's comprehensive assessment, plan of care, services provided, and the results of any pre-admission screening conducted by the State and progress notes.

The facility must safeguard clinical record information against loss, destruction, or unauthorized use. Records must be kept in accordance with accepted professional standards and practice and be: complete, accurately documented, readily accessible, and systematically organized.
13. **Physical Environment**: Nursing facilities must care for their residents in such an environment as will promote maintenance or enhancement of the quality of life of each resident. Federal regulations contain numerous physical specifications that are too extensive to be described here. Examples of types of specifications include compliance with the Life Safety Code (fire prevention standards), emergency power, accessibility for handicapped persons, sanitation standards, minimum size of residents’ rooms, and maximum numbers of residents per room. Certain specifications can be waived for buildings that were built prior to the establishment of the specifications.

14. **Disaster Preparedness**: Facilities must have a written plan describing procedures to be followed in the event of a fire, explosion or other disaster. All employees must be trained in all aspects of preparedness for any disaster, internal or external. This training must be on-going and include periodic drills.

15. **Hospital Transfer Agreement**: Each facility must have in effect a transfer agreement with one or more hospitals under which inpatient hospital care or other hospital services are available promptly to the facility’s residents when needed.

16. **Discharge Planning**: When a facility anticipates discharge, a resident must have a discharge summary that includes:

   - a summary of the resident's stay,
   - a final summary of the resident's status, and
   - a post-discharge plan of care that is developed with the participation of the resident and his/her family that will assist the resident in adjusting to his/her new living environment.

Discharge planning ideally begins on admission, with the resident’s prognosis, expectations and prior living arrangements taken into account. As the resident progresses, or declines, discharge plans may change.

17. **Other Services**: Many other services may be provided, but are optional. Among these services are:
• Transportation services
• Beautician and barber services
• Spiritual or pastoral services
• Recreational opportunities (beyond what is included in the facility's activity program)

Prohibited Practices: Nursing homes have many duties and responsibilities. However, there are also certain actions and practices that facilities cannot do if they accept Medicare or Medicaid reimbursement. Examples of some of these prohibited actions and practices are:

• Facilities cannot solicit or accept payment in excess of the per diem rate paid by Medicare or Medicaid for Medicare or Medicaid recipients. However, facilities can charge for services that are provided if they are not covered by Medicare or Medicaid and they are requested by the resident.

• Facilities cannot restrict residents in the use of their personal funds.

ASSISTED LIVING FACILITIES

What is Assisted Living?
Assisted living facilities offer housing alternatives for older adults who may need help with dressing, bathing, eating, and toileting, but do not require the intensive medical and nursing care provided in nursing homes.

Assisted living facilities may be part of a retirement community, nursing home, senior housing complex, or may stand alone. Licensing requirements for assisted living facilities vary by state and can be known by as many as 26 different names including: residential care, board and care, congregate care, and personal care.

What services are provided?
Residents of assisted living facilities usually have their own units or apartment. In addition to having a support staff and providing meals, most assisted living facilities also offer at least some of the following services:

• Health care management and monitoring
- Help with activities of daily living such as bathing, dressing, and eating
- Housekeeping and laundry
- Medication reminders and/or help with medications
- Recreational activities
- Security
- Transportation

**What is the cost for assisted living?**

Although assisted living costs less than nursing home care, it is still fairly expensive. Depending on the kind of assisted living facility and type of services an older person chooses, the price costs can range from less than $10,000 a year to more than $50,000 a year. Across the U.S., monthly rates average $1,800 per month.

Because there can be extra fees for additional services, it is very important for older persons to find out what is included in the basic rate and how much other services will cost.

Primarily, older persons or their families pay the cost of assisted living. Some health and long term care insurance policies may cover some of the costs associated with assisted living. In addition, some residences have their own financial assistance programs.

The federal Medicare program does not cover the costs of assisted living facilities or the care they provide. In some states, Medicaid may pay for the service component of assisted living. Medicaid is the joint federal and state program that helps older people and those with disabilities pay for health care when they are not able to afford the expenses themselves.

**Assisted Living Staff Definitions**

"**Assistant Caregiver**"

An individual who assists in providing supervisory care services, personal care services, or directed care services under the direct supervision of a manager or caregiver.

"**Caregiver**"
An individual who provides supervisory care services, personal care services, or directed care services to residents.

"Manager"
An individual designated by the licensee to act on the licensee's behalf in the onsite management of the assisted living facility.

“Nurse"
An individual licensed and in good standing as a registered nurse or a practical nurse.

"Nurse Practitioner"
An individual licensed as a registered nurse practitioner.

More about Assisted Living Facilities

The average assisted living resident is more than 80 years old and needs assistance to take medication or accomplish certain basic activities of daily living. Because of advance age, many residents have several chronic ailments and take a number of medications. They are likely to be susceptible to infections, dehydration, loss of appetite, and depression, all of which can lead to system imbalances. They can rapidly develop life threatening conditions that require prompt recognition and treatment by medical professionals.

Risk factors can be reasonably controlled if a facility operator both understands the need to address these risk factors, and commits the resources to doing so. A facility must have competent professional nurse involvement in resident care, and appropriate numbers of well trained supervised personal assistance staff. But reports from around the country indicate that assisted living facilities often do not anticipate or respond to these risk factors as they should.

The problems facing the assisted living industry, and those trying to safeguard the interests of assisted living consumers, are serious and complex. Among the factors that
make solving these problems difficult are the following:

- The management and staff of assisted living facilities often do not have adequate experience or expertise in providing health care, even for relatively routine health care such as the management and administration of medication.
- Assisted living facilities tend to rely excessively on minimally supervised direct care workers who, in the absence of professional nursing guidance, are inadequately prepared to assess residents’ health status and care needs, or to perform complex tasks of care.
- Residents are sicker and require more care, as compared to assisted living residents five or ten years ago. The increased acuity level is the result of, among other things, shortened hospital stays, and in-home care options and health care technologies that delay long term care entry.
- Assisted living facilities increasingly are used as residences for individuals with mental illness or developmental disability, but without recognition of those individuals’ particular needs, and without adequate social service or mental health support.
- There is a need to more closely monitor health status changes and incidents involving residents, but assisted living facilities often are not prepared to do such monitoring.

**ADULT FAMILY-CARE HOMES**

An Adult Family-Care Home is a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives.

It is unlawful to own, operate, or maintain an AFCH without obtaining/maintaining a current AFCH license. Any person who owns, operates, or maintains an unlicensed AFCH commits a felony of the third degree. AFCH licenses are required to be posted in a common area.

Although the maximum number of residents is limited to five (5) disabled adults or frail elders who are not relatives of the provider, the actual licensed capacity of each adult family care home shall be based on the service needs of the residents and the
capability of the provider to meet the needs of the residents. Adult relatives of the provider who require personal care and supervision and reside in the home for more than 30 days shall be considered residents only for the purposes of determining capacity.

CONCLUSION

The Long Term Care Ombudsman Program has NO enforcement authority over facilities. Ombudsmen are to represent RESIDENTS, not to see that facilities comply with requirements. In representing residents, Ombudsmen must understand the regulatory system, work with facility personnel and enforcement personnel, and advocate for the needs of residents in the system.