

**STOP ELDER ABUSE!**

**CONSUMER GUIDE TO STOPPING  
NURSING HOME NEGLECT**

**best ways to protect Nursing Home Elders**

**Hamill Law Group  
(617) 479-4300**

Learn the

# STOP ELDER ABUSE!

## A CONSUMER GUIDE TO STOPPING NURSING HOME ABUSE/NEGLECT

In this [free Guide](#) you will learn:

- *Learn the best ways to approach the problem of abuse or neglect that is occurring while your loved one is still in the Nursing Home*
- *Learn the best “in-house” methods for stopping neglect*
- *Learn powerful and immediate tools to stop abuse.*
- *The Five best ways to report neglect.*
- *The “Magic Number” to call in an emergency.*
- *Nine ways to deal with poor treatment.*

WRITTEN FOR MASSACHUSETTS RESIDENTS BY  
MASSACHUSETTS NURSING HOME  
ATTORNEY BERNARD J. HAMILL

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FREE Consultation

## Problem Resolution

### First Rule: Document, Document, Document!!!!!!

Record times, dates and locations of all communications with staff. Get their names and positions. Take pictures. Verify events and all witnesses. Ask to see treatment and or incident reports. In addition, **document the complaint process**. Keep a journal of your conversations (including who you spoke to, when, and what was said) for all parties that you speak with regarding the complaint. This information may be important if you do not receive a satisfactory or timely response

(A) First try to resolve issues **in house** – do whatever you can to resolve the problem directly with staff. If this is not successful, bring the issue to the next level in the nursing home. Each facility has a defined protocol for handling problem issues.

(1) Empower yourself: **Get a copy of your Care Plan**. You are entitled to it. It is a multidisciplinary roadmap or plan of treatment signed by all members of the Nursing Home treatment staff: i.e., dietary, nursing, rehab, your Doctor, nursing etc. You may be surprised by what is in your plan. It may reveal many treatments that are not being given to your loved one.

(2) **Request a care plan conference**.

A care plan conference is a meeting where staff and residents talk about your care in the facility. You can bring up problems, and ask questions to staff who provide your care. Staff members who work with your loved one should be involved. This includes nursing assistants, nurses, physicians, social worker, activities staff, dietician, occupational and physical therapists. Care planning meetings are required whenever there is a *significant change* in physical or mental health that might require a change in care.

(3) **Talk with your Doctor**. That's right: the doctor "assigned" to you or your loved one is YOUR Doctor not the Nursing Home's Doctor. He/She works for you. He is paid by your insurance. He is NOT a member of the nursing home staff nor does he answer to or take directions from the nursing home. Many residents are not aware of this. Have him contact the Director of Nurses on your behalf to accomplish your objectives and to follow through with your plan of care.

(4) Talk with Director of Nursing and the administrator.

(5) If a "**Family Council**" exists, tell the Council of your complaint. Others in the facility may be experiencing the same issues. The function of a Family Council is to address problematic issues with the nursing home administration. The Council can also **file a complaint** with the agencies mentioned in this report if problems exist with other residents. Note that **Family-Run Councils differ from Facility-Run Councils**. Sometimes, nursing homes organize **Facility Run** Family Councils will be chaired by a staff member. Nursing home run Family Councils frequently do not provide members with a venue for expressing serious concerns in private. Only a true **Family-Run** council provides members with confidentiality.

Facilities sometimes run a quarterly or semi-annual event to update the families/friends of residents on various educational topics and nursing home news. These gatherings would more appropriately be called a Family "Forum", not a Family "Council".

## **Rule 2: "The Squeaky Wheel gets the grease"**

(6) Contact your regional or local **State Long Term Care Ombudsman**

### **State Long Term Care Ombudsman**

Mary McKenna  
State LTC Ombudsman  
Massachusetts Exec Office of Elder Affairs  
State LTC Ombudsman  
1 Ashburton Place  
5th Floor  
Boston, MA 02108-1518  
Work: (617) 727-7750  
Fax: (617) 727-7750

The Long Term Care Ombudsman Program was developed to assist residents of nursing and rest homes. Services include: complaint investigation and resolution; The program works closely with the Department of Public Health's Division of Health Care Quality in resolving issues and concerns. Contact your Ombudsman

Your nursing home ombudsman is an advocate for nursing home residents and has the power, based on federal law, to intervene on your behalf. Complaints are treated confidentially, and you will control the complaint process. Ombudsmen will *not* act without consulting you. Your ombudsman can also refer you to other agencies in the state that can also assist with your complaints.

(B) If In house attempts at resolving your issues try these *outside strategies*:

**(1) File a formal complaint with the State DPH - Department of Public Health . Here's how:**

**Where/How to File Complaints** <http://www.masspro.org/forms.php>

**(a) Telephone:** Call the Abuse/Neglect State Hotline:

**(617) 753-8000 ext 2** or Toll free **1-800-462-5531 x 2**

also 800-462-5540 or 617-753-8150 (Health Care Quality)

**(b) Write** a formal complaint with the **Massachusetts Department of Public Health ("DPH"), Division of Health Care Quality ("DHCQ")**. This is the state agency that enforces nursing home laws and regulations through regular inspections and complaint investigations. This is the primary agency handling serious complaints which cannot be resolved through standard channels.

### **Division of Health Care Quality (DHCQ)**

Bureau of Health Quality Management  
Department of Public Health  
99 Chauncy Street  
Boston, MA 02111

(2) Contact the **Massachusetts Peer Review Organization** (“MassPro”) at  
Masspro  
245 Winter Street  
Waltham, MA 02451-1231  
Phone 781-890-0011  
Fax 781-487-0083  
<http://www.masspro.org/>  
Attn: Karen Marchant  
[kmarchant@masspro.org](mailto:kmarchant@masspro.org)  
781-419-2586

(3) Contact The [Massachusetts Attorney General’s Office](#)  
“Consumer Protection Division”  
**Attorney General’s Office**  
**One Ashburton Place**  
**Boston, MA 02114**  
**Telephone: 617-727-2200**  
**Jesse Caplan, Chief**

You can file a complaint directly with the Attorney General’s Office about an emergency situation in a nursing home. An example would include any immediate danger to a nursing home resident.

(4) Contact the Massachusetts Advocates for Nursing Home Reform (MANHR)  
[http://www.manhr.org/contact\\_info.aspx](http://www.manhr.org/contact_info.aspx)  
P.O. Box 560224  
Medford, MA 02156  
Toll Free: (800) 988-4450  
[info@manhr.org](mailto:info@manhr.org)

(5) **Contact the Massachusetts Office on Aging**  
Jennifer Davis Carey  
MA Executive Office of Elder Affairs  
One Ashburton Place  
5th Floor  
Boston, MA 02108  
Work: (617)727-7750  
Fax: (617)727-7750

(6) **Call the police** if there has been an assault or abuse.

(C) Other Options:

- a - Hire an Elder Care Attorney
- b - Hire a private Nurse Advocate – Highly Recommended!!!!
- c - Go Public: Contact the Media
- d - Contact your State Legislator

Your state legislators make laws governing long-term care facilities and the DHCQ. If you are not satisfied with the response from the DHCQ or other agencies, tell your state legislators about your experience and ask them to take action.

Links :

<http://www.manhr.org>

Find Your ombudsman <http://www.theconsumervoice.org/ombudsman/massachusetts>

## LAWSUIT AS A REMEDY

If your loved one has been abused and or neglected and suffered emotional distress, wrongful death or any harm you may want to consider bringing a tort action for damages.

**Hamill Law Group Clients have the two largest Jury Verdicts in the History of Massachusetts: \$2,500,000 in December of 2013 and \$14,000,000.00 in July of 2014.**

They are the ONLY multi million dollar verdicts in State History.

In order to start the process you need to obtain all medical and nursing home records. You are entitled to complete records upon request for a "reasonable copy fee". If your loved one has died you will most likely need to have an estate representative appointed to request the records. Our office can refer you to an inexpensive way to obtain that probate appointment.

## Getting Records: YOUR LEGAL RIGHT TO RECORDS

Facilities **Residents Rights:** Your facility is required to Post Residents Rights which include the guarantee/right for you access to your records.

**Federal Law:** 42 CFR Sec. 483.10(b)(2)(i) requires that a nursing home is to produce on request for inspection of a resident the nursing home records within 24 hours. **Persons must receive copy of their records w/in 48 hours** under Section 483.10(b)(2)

**State Law:** 940 CMR 4.08(6), (10) requires that a nursing home is to produce on request of a resident the nursing home records

**File a complaint if they refuse:** The Massachusetts [Division of Health Care Quality](#) within the Department of Public Health can also assist when a facility refuses to turn over Nursing Home Records.

[Division of Health Care Quality](#)

99 Chauncy Street, Boston, MA 02111

(617) 753-8000

To Download a **Medical Release (Hippa) Form:** for requesting records  
<http://malpractice.blogspot.com/2011/02/hippa-form.html>

**To make a complaint with DPH (Department of Public Health)**

Call the DPH **Complaint Hotline** DPH (a) *Telephone:*

**(617) 753-8000 ext 2** or Toll free **1-800-462-5531 x 2**

**FREE Guide to Nursing Home Care: Frequent Questions**

<http://malpractice.blogspot.com/2011/02/guide-to-nursing-home-care.html>

Visit our Site for Nursing Home Resources: <http://malpractice.blogspot.com/>

Massachusetts Executive Office of Elder Affairs  
General Information & Referral Assistance (9am-5pm)  
Telephone: (617) 727-7750 or 1-800-882-2003  
(24 hours) 1-800-882-2275  
Web Site: <http://www.mass.gov/elder>

**Federal Law:** The resident has the right to:

- Personal privacy and confidentiality of his or her personal and clinical records. (42 C.F.R. §483.10(e))
- **Review all records pertaining to the resident upon oral or written request within 24 hours, and to purchase photocopies of these records with two days advance notice. (42 C.F.R. §483.10(b)(2))**
- Approve or refuse release of records to any individual or agency outside the facility except when transferred or required by law. (42 C.F.R. §483.10(e)(2) and (3))