

Chapter 20

Assisted Living and Nursing Home Issues

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20-1. Introduction

The purpose of this chapter is to provide information to help you select an appropriate assisted living residence or nursing home for yourself or your loved one. In this chapter, we provide:

- ◆ A description of the Ombudsman Program;
- ◆ An overview of the long-term care options in Colorado;
- ◆ A description of the type of care that is provided at assisted living residences and nursing homes;
- ◆ Factors you should consider when evaluating and selecting an assisted living residence or nursing home; and
- ◆ Resources to help you select an appropriate resident-centered care setting.

Selecting an appropriate long-term care community for yourself or a loved one can be confusing and stressful. The selection process is challenging because it often occurs at a time of crisis, sometimes without time to prepare. Additionally, most people are not familiar with the available long-term care options, the services that are provided, or the rights and legal protections that are available to residents of assisted living communities or nursing homes. We will refer to the people who live in assisted living residences or nursing homes as “residents” to reflect that for most individuals the long-term care community is their home.

The Ombudsman Program is an important resource as you choose the long-term care community that best meets your needs. It is a free, nationwide advocacy program for residents of assisted livings

and nursing homes who might feel powerless and vulnerable. Every long-term care community in Colorado has an ombudsman assigned to visit and investigate complaints from family and residents. Ombudsmen are required to visit assisted living residences and nursing homes at least once every three months. Long-term care ombudsmen are responsible for educating residents, family members, and care providers about the rights that residents have been granted under federal and Colorado law. (A complete list of residents' rights appears at the end of this chapter as Exhibit 20A.) Ombudsmen are resident advocates who take the perspective of residents when resolving issues. Their work is funded by federal grants under the Older Americans Act. They are frequent visitors to assisted living residences and nursing homes and are trained to identify issues affecting resident rights. Ombudsmen are ideally suited to provide information to consumers when selecting long-term care communities. Here are the links to locate your local Ombudsman and Area Agency on Aging:

- ◆ www.coombudsman.org
- ◆ <https://drive.google.com/file/d/1GWBiy3VyhDp3qQZv9k1vRsbvXZbRP9cu/view>

20-2. Long-Term Care Communities

Long-term care communities are broadly divided into two groups: assisted living residences and nursing homes. Smaller assisted living residences are also referred to as personal care boarding homes or simply PCBHs. In this chapter, we will use the term “assisted living residences” or “assisted livings” to include personal care boarding homes and assisted living residences.

Assisted Living Residences

An assisted living residence is a residential community that provides room, board, and at least the following services: personal care services, protective oversight, social care, and regular supervision available on a 24-hour basis. Personal care services include a physically safe environment, supervision, and assistance with activities of daily living (often referred to as ADLs) such as medication administration, bathing, dressing, and toileting. Protective oversight includes monitoring the needs of residents to ensure that they receive the services and care necessary to protect their health, safety, and well-being. At a minimum, staff at assisted livings must be present at all times. Some assisted living residences, known as secured communities, also have locked doors to prevent residents with dementia from leaving the building. Some assisted living communities specialize in providing care to residents with dementia, who tend to wander. These communities may identify themselves as secured or locked environments.

There are over 600 assisted living residences in Colorado. There are approximately 380 assisted living residences in the Denver metro area alone. Assisted living residences range in size from three to 274 residents. The smaller assisted living residence may have a home-like aspect, whereas the large assisted livings have amenities such as common areas, dining rooms, theaters, libraries, and spa-like services. The most common reasons for admission to assisted living residences are medication management; eating, bathing, and dressing assistance; and the need for supervision without requiring the skilled nursing care available at nursing homes.

Assisted living residences with more than three residents who are not related to the owner of the community are required to be licensed by the Colorado Department of Public Health and Environment (CDPHE). Communities that accept Medicaid payments must also be certified by the

Colorado Department of Health Care Policy and Financing. Assisted living residences are inspected or surveyed by the CDPHE. Department inspectors may enter the community at any time to investigate complaints made by residents, ombudsmen, families, members of the public, or any other concerned citizens. The CDPHE survey results and complaint investigations should be posted or easily accessible within the community.

Staffing

Staffing at assisted living residences and nursing homes differs in relationship to the needs of the residents. Assisted livings often try to provide a home-like environment while providing 24-hour non-medical supervision. In smaller homes, it is common for the owner to be directly involved with resident care. Larger communities, by contrast, have an administrator who is responsible for the overall management and daily operations of the community, and various staff members provide direct resident care.

Assisted living residences are required to have at least one staff member on-site whenever residents are present, 24 hours a day. There are no state-mandated staffing requirements or staff-to-resident ratios for assisted living residences. Rather, an assisted living residence must employ the type and number of care providers necessary to operate the home in compliance with CDPHE regulations. However, if the community accepts Medicaid, the federal government requires a staffing ratio of 1 staff member to every 10 residents during the day, and 1 staff member to every 16 residents at night. The staffing ratio for a secured environment is one staff member to every six residents. Staffing at assisted living residences generally includes Qualified Medication Administration Persons (QMAPs), whose responsibility it is to distribute medication to residents. There has been an increase in assisted living residences having either a Licensed Practical Nurse (LPN) or Registered Nurse (RN) on staff. They typically are given the title “wellness coordinator.” They oversee the medication program and the QMAPs. As of November 1, 2008, all assisted living communities are required to have on-site at all times at least one staff member who has been trained in cardiopulmonary resuscitation (CPR) and first aid. They are also required to have training in lift assistance.

Nursing Homes

Nursing homes, sometimes called skilled nursing facilities, provide skilled nursing care, rehabilitative services, or health-related care and services to chronically ill individuals, including those with chronic mental illnesses. Many nursing homes also offer short-term care (often called respite care), extended care rehabilitative services, and special locked units or neighborhoods for people with Alzheimer’s disease or other types of dementia. Some nursing homes have expertise in caring for individuals with brain injuries, behaviors that occur after a stroke or as a result of dementia, wound care, drug and alcohol addictions, or specific diseases such as multiple sclerosis or various mental illnesses. Many people mistakenly think that nursing homes only provide care to elderly adults, but nursing homes serve people, regardless of age, who have chronic illness and need long-term care. It is not unusual to have young residents who have suffered brain injuries, or who are morbidly obese, living in the same community with elderly residents who have dementia, chronic obstructive pulmonary disease, or who are mentally ill.

There are approximately 230 nursing homes in Colorado, 90 of which are located in the Denver metro area. They range in size from 30 to 240 residents. Nursing homes are inspected or

surveyed annually by the CDPHE. Additionally, the CDPHE may enter the community at any time to investigate complaints that are made by residents, families, ombudsmen, members of the public, or anyone concerned about the care residents are receiving at the nursing home. The CDPHE survey results and complaint investigations are required to be posted within the nursing home and available for public inspection at any time.

Like assisted living residences, nursing homes vary in size and type of amenities available. Some nursing homes have large common areas, private dining rooms appropriate for family gatherings, recreational areas, libraries, gardens, and small general stores.

Communities may also offer use of their transportation vehicles to take residents to medical treatments and social outings. Nursing homes are required to meet all the care needs of the resident, including health, social, and recreational needs. The social worker should be an internal advocate for residents living in nursing homes. Loved ones should know the administrator, director of nursing, social worker, and the resident's certified nurse aides (CNAs) by name and by face.

The Centers for Medicare and Medicaid Services offer ratings for nursing homes nationwide on the Nursing Home Compare website. This can be a useful tool during the process of selecting a nursing home. *See* 20-6, "Resources." The rating system gives each nursing home a rating between one and five stars. Nursing homes with five stars are considered to have above-average quality, while nursing homes with one star are considered to have quality that is below average. The ratings are based on the health department inspections, staffing, and quality indicators such as the prevalence of pressure sores on residents' bodies or changes to residents' mobility.

Staffing

Staffing at nursing homes is more standardized to meet the regulatory requirements of the state and federal governments. Staff are divided into departments that are responsible for meeting the needs of the residents. Nursing homes are required to have a nursing home administrator who is responsible for the overall operations of the community. The nursing home administrator must be licensed by the State of Colorado and identified by the initials "NHA" after his or her name. The name of the administrator and medical director are available at the CDPHE's website. (*See* 20-6, "Resources").

All medical care at the nursing home must be provided under the supervision of a physician. Each community is required to have a medical director, a physician who formulates and directs overall policy for medical care in the nursing home. The director of nursing (DON) supervises nursing services and must be a registered nurse; he or she is responsible for supervising the entire nursing staff, including nursing supervisors and certified nurse aides. Nursing supervisors are either registered nurses or licensed practical nurses. Their responsibility is to supervise the care that is provided during the shifts for one section or unit of the nursing home.

Certified nurse aides (CNAs) provide most of the personal care for residents, including assistance with bathing, eating, dressing, and assisting the resident in and out of bed. CNAs comprise about 80 to 90 percent of the nursing staff and perform some of the most difficult and strenuous work done in nursing homes. They must complete a state-approved training and competency evaluation program. Colorado requires certified nurse aides to have at least 75 hours of training. It is not unusual to see temporary or agency-certified nurse aides or licensed practical nurses at nursing homes. Nursing

homes should strive to have consistent staffing with minimal use of agency or temporary staff. CNAs provide the majority of direct care to the resident; thus, it is important that residents and their families become familiar and comfortable with their care providers.

20-3. Six Key Steps to Selecting a Good Assisted Living Residence or Nursing Home

In this section, we discuss how to select the right community that will be the best fit for you or your loved one. These issues include identifying the individual's needs, knowing what to look for in a community, observing and talking with residents and staff, becoming informed about the community's management, understanding the payment schedule, and reviewing the contract or admission agreement.

We suggest that you contact your local Ombudsman Program when starting your community search; contact information is provided at the end of this chapter. Ombudsmen are required to visit assisted living residences quarterly and nursing homes monthly, so your local ombudsman will be able to assist you in finding a community that best fits your or your loved one's needs.

Step 1: Identify your needs or the needs of your loved one.

How old are you or your loved one?

When contacting communities, it is important to ask up front if they have an age requirement. Some assisted living residences only accept people who are 65 or older. However, there are communities that serve a younger disabled population as well. Most nursing homes accept residents regardless of age if the community can meet their care needs.

What size community is appropriate for you or your loved one?

Assisted living residences can range from three to 274 residents. Nursing homes range from 30 to 240 residents. Generally, larger communities offer more amenities and services to the resident.

What geographical area would you or your loved one prefer?

For some individuals, the location can be the determining factor when selecting a long-term care community.

What level of care do you or your loved one require?

This is vital in determining whether a person is appropriate for an assisted living residence or nursing home. Ask yourself the following questions: Are you or your loved one incontinent of bladder or bowel? Can you get in and out of bed without assistance (transfer)? Are you able to walk without assistance (ambulate)? Do you require a special or therapeutic diet (usually ordered by a doctor)? Does your loved one have a history of wandering or become physically or verbally combative?

Do you or your loved one have special needs?

Ask yourself: Is your loved one in a motorized wheelchair? Does your loved one have a gastric feeding tube (G-tube)? Does your loved one require bariatric care (obesity)? Nursing homes typically provide a special/therapeutic diet; however, assisted livings are not required by regulation to provide this service. Similarly, some nursing homes do not have the wide door openings, lifts, or beds required to care for morbidly obese residents. If your loved one is

insulin dependent, verify that the assisted living community will manage and administer the insulin injections.

What community is going to be the best fit for you or your loved one?

Some communities specialize in caring for a specific population, such as individuals with Alzheimer's disease or dementia, multiple sclerosis, mental illness, or brain injury. If a person has been diagnosed with Alzheimer's disease or dementia, it sometimes is necessary to place the individual in a secured assisted living residence or a secured unit in a nursing home. This is determined with the guidance of a physician.

How will you or your loved one pay for the long-term care needs?

Both assisted livings and nursing homes accept a variety of payment sources, including Medicaid, Medicare, long-term care insurance, and private pay. It is important to note that Medicare pays for long-term care only under specific circumstances. (See Chapter 2, "Medicare.") Medicaid assisted livings are referred to as alternative care facilities (ACF).

Step 2: Know what to look for when you visit the prospective community.

We advise that you visit prospective communities at least twice. The first visit should be scheduled with the admissions office. The second visit should be unannounced, perhaps in the evening. You need to know what to look for when you make your visits. Here are a few things to consider:

Is the community clean?

Does the community appear to be clean? Do you smell any odors? You should not smell urine in any long-term care community. This indicates a lack of attentiveness from the staff.

Get permission to view a resident's room, bathroom, and shower.

Is the room clean, comfortable, and home-like? Do you observe personal photos, mementos, or furniture? Are the closets adequate? Will you or your loved one share a room? Is there space for toiletries and personal items? Does the bathroom have grab bars and an easily accessible shower?

Do the residents have privacy?

Is there access to a telephone in a private area? Is there space to meet with family and friends?

Can you easily find posted instructions on how to contact the local ombudsman, the state health department, adult protection services, and the Medicaid office (if applicable)?

Step 3: Observe and talk with residents and staff members.

Are the residents clean and well groomed?

Are the residents up and active during the day?

Are residents engaged in activities and interacting with one another? Ask to see the activities scheduled for the month. Pay attention to the number of activities that are offered during the weekends. Residents often comment that there is not enough to keep them busy over the weekend.

How is transportation provided?

Does the community provide transportation to and from medical appointments? Does the community provide transportation to outside activities?

Visit with the residents.

Ask the residents about the care they receive. Ask if they would recommend the community to others.

Try to visit during a meal and look at the dining area.

Does the posted menu reflect what the residents are eating? Are the residents served their meals promptly? Are staff attentive and offering residents assistance?

Observe interaction between residents and staff.

Do residents respond well to the staff members? Do staff members seem to respect and enjoy the residents? Are staff members wearing their identification badges?

Ask if the nursing home or assisted living community participates in culture change principles of resident-centered care. This should be reflected in resident-staff interaction. Do staff members appear hurried or rushed? Does the nursing home appear to have adequate staffing? Nursing homes are required to post in a public place the number of certified nurse aides, licensed practical nurses, and registered nurses on duty for every shift. During your visit, verify that the posting is accurate.

How do the staff members address the residents?

Does the staff address the residents with respect? It is usually not appropriate to address adults as “honey” or “sweetie.”

Do staff members respect the residents’ privacy?

Are the staff members knocking on the resident’s door and waiting for a response before entering? Are privacy curtains pulled and/or doors closed when providing personal care to the resident?

Is water available at the residents’ bedsides?

Are cups available and can residents easily get a drink of water?

Does the staff respond promptly to requests for assistance?

A request for assistance should be responded to within a few minutes. Are call lights within the resident’s reach? Some assisted livings do not have a call light system; however, staff must respond promptly to residents’ needs.

Ask about the staff training.

How much training does each staff member receive? Who provides the training? Does the staff receive training specific to the needs of the community it serves, such as multiple sclerosis, Alzheimer’s disease or dementia, or mentally ill residents? Ask about the staff turnover rate. Ask if the community utilizes a consistent staffing method. Consistent staffing is a scheduling practice where the same care providers work with the same residents so that the staff can anticipate the residents’ needs. If an assisted living community, ask if the staff is up to date on their CPR and first aid training.

Do the staff members acknowledge your presence?

If you are visiting without a tour guide, someone should tactfully inquire about your presence at the community. This is an informal, yet effective, security measure.

What does the community do to promote resident-directed care or culture change?

Do residents get up and go to bed when they want to? Are residents involved in their own care planning? Are there open dining hours? Is the facility Eden-certified?

Step 4: Become informed about the community's management and administration.

Is the long-term care community licensed?

If you are considering an assisted living, it is important to know if the community is licensed. Any community providing care to three or more unrelated adults must be licensed by the state. All nursing homes are licensed by the state and federal government. Licensing information is available on the CDPHE website (*see* 20-6, "Resources").

Read the most recent state survey.

The comprehensive inspection is known as a survey and is conducted by the CDPHE. Communities are required to make the survey available to residents and visitors, and it is also available online at the CDPHE's website (*see* 20-6, "Resources"). Contact your local Ombudsman Program to help explain the community's survey.

Is the community locally owned or part of a large national organization?

It is useful to understand the ownership of the community. This could reflect how responsive the community will be to your concerns or complaints.

How long has the administrator been at the community?

Beware of frequent changes in key administrative positions or ownership, including the administrator or executive director, director of nursing, and social worker.

Contact your local ombudsman for information regarding staff changes.

Step 5: Understand the payment system.

Understand the daily rate.

Some assisted livings offer a "menu" of services that detail costs associated with each service provided. Other assisted living residences will assess residents and assign them a "rating" and base the cost of services on where they fall in a spectrum. For nursing homes, ask to see an itemized list of the daily charges and clarify the billing procedures for additional items such as incontinence pads, toothpaste, rubber gloves, and tissues.

What types of payments are accepted?

The most common types of payment are Medicaid, Medicare, long-term care insurance, and private pay. It is crucial to know that Medicare will cover rehabilitation only. (*See* Chapter 2, "Medicare.")

Can you use your own pharmacy?

Some assisted living residences will charge an extra monthly fee if the resident chooses to use a different pharmacy. This should be explained at the resident's admission. Nursing home residents have the right to purchase pharmaceuticals from the pharmacy of their choice, but they must ensure that they are delivered in a timely manner.

Step 6: Read the contract or admission agreement completely and thoroughly.

Remember: this is a binding legal document. Arbitration clauses are becoming more common in admission agreements. By signing an arbitration agreement, you are waiving your right to sue the community if you are not satisfied with the care your loved one receives. Consult with an attorney if you have questions.

Review the community admission policy.

It is very important to review the community's admission criteria/policy. This policy should include what resident care a community can and cannot accommodate. Prior to admission, the community should conduct an admission assessment to identify the care needs of the future resident.

Understand the community discharge policy.

Just like the admission policy, it is vital to understand the community discharge policy. Discharge practices are regulated by state and federal regulations. This policy should explain how and why discharge notices are issued and clearly state that the notice must be in writing. Ask the question: Under what circumstances could my loved one be asked to leave?

Read and understand all community policies and procedures.

These may include a bed-hold policy, termination clause, the type of transportation that will be provided and at what rate, therapeutic diets that are offered and at what rate, emergency protocols, and evacuation plans. Some communities will ask relatives of potential residents to assume responsibility for expenses that are not paid in full by the resident. Before agreeing to be held financially liable, you should consult an elder law attorney.

20-4. Conclusion

Selecting a long-term care community is a challenging process. In conjunction with the steps outlined here, the Ombudsman Program is an important resource available to assist you and your loved one in the selection process. The service is free to residents and their families. Ombudsmen help ensure the health, safety, welfare, and rights of residents living in long-term care communities, and all complaints are kept confidential. If a problem does develop after admission, you can contact your local ombudsman for assistance and information.

20-5. Common Acronyms

AAA. Area Agency on Aging.

ACF. Alternative Care Facility.

ADL. Activities of Daily Living.

ALR. Assisted Living Residence.

CNA. Certified Nurse Aide.

DON. Director of Nursing.

LPN. Licensed Practical Nurse.

PCBH. Personal Care Boarding Home.

QMAP. Qualified Medication Administration Persons.

RN. Registered Nurse.

SNF. Skilled Nursing Facility.

20-6. Resources

State Ombudsman

Colorado Department of Human Services
1575 Sherman St.
Denver, CO 80203
(303) 862-3524
cdhs_ltcmbudsman@state.co.us

Denver Regional Council of Governments — Area Agency on Aging (DRCOG): *See* section 22-6, “Resources”

Colorado Department of Public Health and Environment (CDPHE)

Health Facilities and Emergency Medical Services Divisions
4300 Cherry Creek Dr. S.
Denver, CO 80246-1530
(303) 692-2000
(800) 866-7689
(303) 691-7700 (TDD)
cdphe.healthfacilities@state.co.us
<https://cdphe.colorado.gov/health-facilities>

The Pioneer Network

(585) 287-6436
www.pioneernetwork.org

Nursing Home Compare

www.medicare.gov/care-compare/?redirect=true&providerType=NursingHome

Alzheimer’s Association — Colorado Chapter

3773 Cherry Creek N. Dr., Ste. 700
Denver, CO 80209
(303) 813-1669
(800) 272-3900 (24-hour Helpline)
(866) 403-3073 (TDD)
www.alz.org/co

The National Consumer Voice for Quality Long-Term Care

1025 Connecticut Ave. NW, Ste. 1000
Washington, DC 20036
(202) 332-2275
info@theconsumervoice.org
www.theconsumervoice.org

Exhibit 20A. Resident Rights

When it becomes necessary for a person to enter a long-term care facility, it shall be the responsibility of all the staff at the facility to promote and protect the following rights of the person.

(A) The right to privacy and confidentiality, including:

- (1) The right to have private and unrestricted communications with any person of choice;
- (2) The right to private telephone calls or use of electronic communication;
- (3) The right to receive mail unopened;
- (4) The right to have visitors at any time; and
- (5) The right to private, consensual sexual activity.

(B) The right to civil and religious liberties, including:

- (1) The right to be treated with dignity and respect;
- (2) The right to be free from sexual, verbal, physical or emotional abuse, humiliation, intimidation, or punishment;
- (3) The right to be free from neglect;
- (4) The right to live free from financial exploitation, restraint as defined in this chapter, and involuntary confinement except as allowed by the secure environment requirements of this chapter;
- (5) The right to vote;
- (6) The right to exercise choice in attending and participating in religious activities;
- (7) The right to wear clothing of choice unless otherwise indicated in the care plan; and
- (8) The right to care and services that are not conditioned or limited because of a resident's disability, sexual orientation, ethnicity, and/or personal preferences.

(C) The right to personal and community engagement, including:

- (1) The right to socialize with other residents and participate in assisted living residence activities, in accordance with the applicable care plan;
- (2) The right to full use of the assisted living residence common areas in compliance with written house rules;
- (3) The right to participate in resident meetings, voice grievances, and recommend changes in policies and services without fear of reprisal;
- (4) The right to participate in activities outside the assisted living residence and request assistance with transportation; and
- (5) The right to use of the telephone including access to operator assistance for placing collect telephone calls.
 - (a) At least one telephone accessible to residents utilizing an auxiliary aid shall be available if the assisted living residence is occupied by one or more residents utilizing such an aid.

(D) The right to choice and personal involvement regarding care and services, including:

- (1) The right to be informed and participate in decision making regarding care and services, in coordination with family members who may have different opinions;
- (2) The right to be informed about and formulate advance directives;

- (3) The right to freedom of choice in selecting a health care service or provider;
 - (4) The right to expect the cooperation of the assisted living residence in achieving the maximum degree of benefit from those services which are made available by the assisted living residence;
 - (a) For residents with limited English proficiency or impairments that inhibit communication, the assisted living residence shall find a way to facilitate communication of care needs.
 - (5) The right to make decisions and choices in the management of personal affairs, funds, and property in accordance with resident ability;
 - (6) The right to refuse to perform tasks requested by the assisted living residence or staff in exchange for room, board, other goods or services;
 - (7) The right to have advocates, including members of community organizations whose purposes include rendering assistance to the residents;
 - (8) The right to receive services in accordance with the resident agreement and the care plan; and
 - (9) The right to thirty (30) calendar days' written notice of changes in services provided by the assisted living residence including, but not limited to, involuntary change of room or changes in charges for a service. Exceptions to this notice are:
 - (a) Changes in the resident's medical acuity that result in a documented decline in condition and that constitute an increase in care necessary to protect the health and safety of the resident; and
 - (b) Requests by the resident or the family for additional services to be added to the care plan.
 - (10) The right to designate the individuals to be notified in cases of emergency or involuntary discharge.
- (E) The right to visitation in compliance with facility policy as set forth in Part 9.2.

6 C.C.R. 1011-1, ch. 7, § 13.