

Residents' Rights

A Guide for Kentucky's Assisted Living,
Personal Care, & Family Care Home
Residents



Provided to you by the Kentucky State
Long-Term Care Ombudsman Program

3138 Custer Drive, Suite 110
Lexington, KY 40517

859.277.9215

800.372.2991

nhoa@ombuddy.org

www.ombuddy.org



About Us

The Kentucky State Long-Term Care Ombudsman Program prepared this guide to help you and your loved ones be aware of your rights. Your rights are in Kentucky Revised Statute 216.515 to 216.530 and Kentucky Administrative Regulations 900 2:050.

This guide is for residents of assisted living communities, personal care homes, and family care homes. These homes are commonly called Residential Care Communities. For more information, or to review the rights guide for nursing home residents, please visit our website www.ombuddy.org or talk to your ombudsman.

In long-term care, there are many factors that affect your sense of empowerment. New residents find themselves thrust into an unfamiliar environment with new rules and social codes. It is common to have questions about what you are allowed to do and what your rights are. The Ombudsman Program is here to provide you information, support, and encouragement as you exercise your rights.

The Ombudsman addresses your concerns while living in a facility setting, including your care, your rights, abuse, neglect, dietary services, and transfers or discharges. The Ombudsman works at the direction of YOU, the resident! If you have a concern you would like to talk about with the Ombudsman, you have the right to make a confidential call to our offices listed here.

What does a long-term care ombudsman do?

- Resolves complaints made by or for residents of long-term care facilities.
- Educates consumers and long-term care providers about residents' rights and good care practices.
- Promotes community involvement through volunteer opportunities.
- Provides information to the public on long-term care facilities and services, residents' rights, and legislative issues.
- Advocates for residents' rights and quality care in long-term care facilities.
- Promotes the development of citizen organizations, family councils, and resident councils.



Nursing Home Ombudsman Agency
of the Bluegrass

Kentucky State Long-Term Care Ombudsman Program

3138 Custer Drive, Suite 110, Lexington, KY 40517
859.277.9215 800.372.2991 nhoa@ombuddy.org
www.ombuddy.org

Find Your Ombudsman

Barren River District Ombudsman

Kentucky Legal Aid, 1700 Destiny Lane,
Bowling Green, KY 42104
(270) 780-8835, 1-800-355-7580
Counties: Allen, Barren, Butler, Edmonson, Hart,
Logan, Metcalfe, Monroe, Simpson, & Warren

Big Sandy District Ombudsman

Big Sandy Area Development District, 110
Resource Drive, Prestonsburg, KY 41653
(606) 886-2374, ext. 335,
1-800-737-2723
Counties: Floyd, Johnson, Magoffin, Martin,
& Pike

Bluegrass District Ombudsman

Nursing Home Ombudsman Agency of the
Bluegrass, Inc., 3138 Custer Drive, Suite 110,
Lexington, KY 40517
(859) 277-9215, 1-800-372-2991
Counties: Anderson, Bourbon, Boyle, Clark, Estill,
Fayette, Franklin, Garrard, Harrison, Jessamine,
Lincoln, Madison, Mercer, Nicholas, Powell, Scott,
& Woodford

Buffalo Trace District Ombudsman

Buffalo Trace Area Development District,
P.O. Box 460, Maysville, KY 41056
(606) 564-6894, 1-800-998-4347
Counties: Bracken, Fleming, Lewis, Mason,
& Robertson

Cumberland Valley District Ombudsman

Cumberland Valley Area Development District, P.O.
Box 1740, London, KY 40743
(606) 864-7391, 1-800-795-7654
Counties: Bell, Clay, Harlan, Jackson, Knox, Laurel,
Rockcastle, & Whitley

FIVCO District Ombudsman

Legal Aid of the Bluegrass, 1616 Greenup Ave.,
Suite 1, Ashland, KY 41101
(606) 780-2258
Counties: Boyd, Carter, Elliott, Greenup,
& Lawrence

Gateway District Ombudsman

Legal Aid of the Bluegrass, 546 East Main Street,
Suite 1, Morehead, KY 40351
(606) 755-0006, 1-800-274-5863
Counties: Bath, Menifee, Montgomery, Morgan,
& Rowan

Green River District Ombudsman

Green River Area Development District, 300
GRADD Way, Owensboro, KY 42301
(270) 926-4433, 1-800-928-9094
Counties: Daviess, Hancock, Henderson,
McLean, Ohio, Union, & Webster

Kentucky River District Ombudsman

Kentucky River Area Development District,
941 North Main Street, Hazard, KY 41701
(606) 436-3158, 1-800-928-5723
Counties: Breathitt, Knott, Lee, Leslie, Letcher,
Owsley, Perry, & Wolfe

KIPDA District Ombudsman

Catholic Charities, 435 E. Broadway
Louisville, KY 40202
(502) 637-9786, 1-800-854-3233
Counties: Bullitt, Henry, Jefferson, Oldham,
Shelby, Spencer, & Trimble

Lake Cumberland District Ombudsman

Lake Cumberland Area Development District,
P.O. Box 1570, Russell Springs, KY 42642
(270) 866-4200, 1-800-264-7093
Counties: Adair, Casey, Clinton, Cumberland,
Green, McCreary, Pulaski, Russell, Taylor, &
Wayne counties

Lincoln Trail District Ombudsman

Catholic Charities, 2911 South Fourth Street,
Louisville, KY 40208
(502) 637-9786, 1-800-854-3233
Counties: Breckinridge, Grayson, Hardin, Larue,
Marion, Meade, Nelson, & Washington

Northern Kentucky District Ombudsman

Northern KY Area Development District,
22 Spiral Drive, Florence, KY 41042
(859) 283-8185, 1-866-766-2372
Counties: Boone, Campbell, Carroll, Gallatin,
Grant, Kenton, Owen, & Pendleton

Pennyrile District Ombudsman

Pennyrile Area Development District,
300 Hammond Drive, Hopkinsville, KY 42240
(270) 886-9484, 1-800-928-7233
Counties: Caldwell, Christian, Crittenden, Hopkins,
Livingston, Lyon, Muhlenberg, Todd, & Trigg

Purchase District Ombudsman

Purchase Area Development District,
P.O. Box 588, Mayfield, KY 42066
(270) 251-6120, 1-877-352-5183
Counties: Ballard, Calloway, Carlisle, Fulton, Hickman,
Graves, Marshall, & McCracken

Rules and Procedures

In all homes, there are rules and procedures to keep things running smoothly. However, you have specific legal rights as a resident of an assisted living community, personal care home, or family care home. This booklet is a summary of your rights taken from Kentucky statute and regulations.

These rights place a strong emphasis on individual dignity and self-determination. You have the right to be treated with consideration, respect, and full recognition of your dignity and individuality!

Please read this booklet carefully and keep it for your future reference. If you have any questions about your rights, please ask that they be explained to you. The home must conspicuously post a listing of your rights and responsibilities under Kentucky Law.

Your Rights

All rights stated in this guide shall apply in all cases unless medically contraindicated and documented by a physician in the medical record.

If you have been adjudicated as mentally disabled in accordance with state law, your guardian should act on your behalf to ensure your rights are exercised.

If your rights as specified in Kentucky Law are deprived or infringed upon, you shall have the right to take legal action against the home responsible for the violation. The action may be brought by you or your guardian. You may be entitled to recover actual and punitive damages, reasonable attorney's fees, costs of the action and other relief as determined by the court.

You shall be encouraged and helped to exercise your rights as a resident and a citizen.

The home must have written procedures for the submission and resolution of grievances and recommendations made by you and your responsible party/family member/guardian and shall publicly display these policies.

Your Rights

The Right to Dignity, Respect, and Freedom:

- Treated with consideration, respect, and dignity.
- Encouraged and helped to exercise your rights as a resident and a citizen.
- Free from mental and physical abuse,
- Free from chemical and physical restraints, except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in your medical record.
- Self-determination.
- Encouraged to go outdoors and leave the premises as you wish, unless a legitimate reason is documented.
- You may retain the use of your personal clothing unless it would infringe upon the rights of others.

The Right to Complain:

- You may voice grievances and recommend changes in policies and services to staff of the home and to outside representatives of your choice while being free from restraint, interference, coercion, discrimination or reprisal.
- To make confidential calls and visits with the Long-Term Care Ombudsman program.
- To file complaints with the state survey and certification agencies. Complaints regarding a long-term care home may be filed with the Cabinet for Health and Family Services. You do not have to give your name when filing a complaint.

Report abuse to Adult Protective Services at (800) 752-6200 or prd.webapps.chfs.ky.gov/report_abuse/home.aspx and notify law enforcement.

Abuse is the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury.

Abuse may be:

- Physical (hitting, slapping, pinching, corporal punishment, and kicking).
- Sexual (rape, coercion to perform sexual acts, unnecessary medical procedures around the genitals, and vulgar or offensive comments or conversations which make a resident uncomfortable).
- Verbal (oral, written, or gestured language that willfully includes disparaging and derogatory terms towards residents or their families, or within their hearing).
- Mental (humiliation, harassment, and threats of punishment or deprivation).

Neglect is the deprivation of goods and services that are necessary to attain or maintain physical, mental, and psychosocial wellbeing.

Exploitation is using another person's resources for reasons outside of the person's care and needs.

Your Rights

The Right To Be Fully Informed:

- Address and telephone number of the State Ombudsman and state survey agency.
- Available services and related charges.
- Facility regulations, with a written copy of resident rights provided.
- Receive information in a language you understand.
- Access to all inspection reports on the facility.
- Your responsible party/family member/guardian shall be notified IMMEDIATELY of any accident, sudden illness, disease, unexplained absence or anything unusual involving you.
- Before you are admitted to the home, you and your responsible party or guardian shall be fully informed in writing of all services available at the home and of your responsibilities and rights as evidenced by your written acknowledgment. The home must keep the written acknowledgment in your file.
- Prior to or at the time of admission and quarterly during your stay at home, you must be fully informed in writing of all service charges that you are responsible for paying, as evidenced by you and your responsible party/family member/guardian's written acknowledgment. The home must keep the written acknowledgment in your file.
- You have the right to file complaints concerning charges you deem unjustified to local and state consumer protection agencies.

The Right To Make Informed Decisions:

- Choose a physician.
- Manage your own financial affairs.
- You may manage the use of your personal funds.
- You are not required to deposit your personal funds with the home. If the home accepts responsibility for managing your funds, proper accounting and monitoring of your funds shall be made. The home is to give a quarterly itemized statement to you and your responsible party/guardian detailing any transactions in which your funds have been received or disbursed.
- Participate in social, religious, and community groups and activities.

Your Rights

The Right To Participate in Your Own Care:

- Be free from charge for services covered by insurance (Medicaid or Medicare).
- Be informed of all changes in medical condition(s).
- Participate in your assessments, care planning, treatment, and discharge.
- Be suitably dressed and given assistance with body hygiene and grooming.
- Receive adequate and appropriate care.
- Refuse chemical and physical restraints.
- Cannot be required to perform services for the facility that are not included for therapeutic purposes in your plan of care.

The Right to Privacy and Confidentiality:

- Assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.
- Privacy in treatment and care.
- If married and both consent, married couples may share rooms in a long-term care home unless they are in different levels of care or unless it is medically contraindicated and documented by a physician in your medical record.
- If married, privacy must be assured for you and your spouse during visits.
- Private and unrestricted communication with any person of your choice by mail and telephone.
- Protection regarding your financial, medical, and personal affairs and information.
- Reasonable access to the use of a telephone without being overheard.
- Receive and send unopened mail.
- Your medical and personal records shall be treated confidentially. The release of your records outside of the home must be approved by you or your responsible family member or guardian, except as otherwise specified by regulations.

The Right to Visits:

- By your personal physician and representatives from the Long-Term Care Ombudsman Programs and state survey agency.
- By your friends, relatives, and others of the residents' choosing.
- By the individuals and organizations providing health, legal, social, or other services.
- Refuse visitors.

Your Rights

Transfers and Discharges:

Except in a family care home, you may be transferred or discharged by the home ONLY for medical reasons, your own welfare, the welfare of other residents, or for nonpayment. Reasonable notice of your transfer or discharge shall be given to you and your responsible party/responsible family member/guardian.

If a Facility Wishes to Transfer or Discharge You:

- Notice should be given 30 days in advance unless:
 - You have urgent medical needs.
 - Your health has improved and you no longer need care.
 - The safety of residents in the facility would be endangered.
 - The health of residents in the facility would be endangered.
 - You have not resided in the home for at least 30 days.
- You have the right to appeal to the Cabinet for Health and Family Services within 15 days of receiving notice of transfer or involuntary discharge notice.
- The home must return your valuables, personal possessions, and any balance of money from your account to you at the time of your transfer or discharge from the home. In case of your death, these items shall be promptly returned to your responsible party/family member/guardian.

If you receive a discharge notice from your residential care community, call your ombudsman!

Other Agencies

Office of Inspector General (OIG)

The OIG regulates and licenses long-term care facilities and investigates complaints. When facilities violate resident rights, provide poor care, fail to provide care, or fail to protect residents from predators, OIG can investigate and sometimes impose sanctions.

(502) 564-7963

www.chfs.ky.gov/agencies/os/oig/dhc

Aging & Disability Resource Center (ADRC)

The Aging and Disability Resource Center provides information about and referrals to aging and disability information, programs and services.

(877) 925-0037

chfs.ky.gov/agencies/dail/Pages/adrc

State Health Insurance Assistance Program (SHIP)

SHIP provides free, non-biased information about health insurance coverage, benefits, and consumer rights. SHIP empowers consumers to make informed insurance choices and protects consumers from fraud.

(877) 293-7447 - Option 2

chfs.ky.gov/agencies/dail/Pages/ship

Adult Protective Services (APS)

APS is the government agency that investigates complaints concerning abuse, neglect, and exploitation of vulnerable adults as defined in Kentucky law KRS 209.

Central Office – (502) 564-7043

Abuse Hotline – (800) 752-6200

chfs.ky.gov/agencies/dcbs/dpp/apb

Office of the Attorney General (OAG)

The OAG houses Kentucky's Medicaid Fraud and Abuse Control Unit, which prosecutes fraud perpetrated by providers against the Medicaid program. In addition to Medicaid fraud, the unit also prosecutes crimes of abuse, neglect, and exploitation of long-term care residents.

(877) 228-7384

ag.ky.gov

Protection & Advocacy (P&A)

P&A protects and promotes the rights of Kentuckians with disabilities through legally based individual and systemic advocacy, and education.

(800) 372-2988

kypa.net

Open Records

Kentucky Open Records law provides you access to records retained by the government. You may ask to review complaints, investigations, reports, complaint resolutions, statements of deficiencies, plans of correction, Type A or B citations, allegations of compliance, continuous quality assessments and any and all other records pertaining to the facility.

How to obtain open records

Records requests must be made in writing to the office which maintains the record. For example, if you wish to get a copy of all records related to a complaint you filed with the Office of Inspector General, you must file the request with OIG. If you also submitted a report to Adult Protective Services, an additional records request must be made to APS.

Please note that you may face some limitations when submitting an open records request due to the confidentiality of the information such as medical information, financial information, time limitations, etc.

If you do not receive the information you requested, you may file an appeal with the Office of the Attorney General by calling 502-696-5664.

Office of Inspector General (OIG)

Records may be requested online from the Open Records Center at https://chfsky.govqa.us/WEBAPP/_rs/ or by mail at:

Attn: Public Records Custodian
Division of Health Care
Office of Inspector General
Cabinet for Health and Family Services
275 East Main Street, 5 E-A
Frankfort, KY 40621

Adult Protective Services (APS)

Records may be requested online from the Open Records Center at https://chfsky.govqa.us/WEBAPP/_rs/ or by mail at:

DCBS Records Custodian
275 E Main St 3EG
Frankfort, KY 40621

Office of the Attorney General (OAG)

Open Records Requests may be sent to:
Records Custodian
700 Capital Avenue, Suite 57
Frankfort, Kentucky 40601
KYOAGOR@ky.gov

Do You Need an Attorney?

There are many avenues for problem resolution in long-term care, but some situations may call for legal assistance. Pursuing legal action against a facility is a major decision. It's intense, emotional, time-consuming, and expensive.

How do I find an attorney?

Look for an attorney with experience with long-term care issues and trial experience. Visit the Kentucky Bar Association's website at www.kybar.org to use their Lawyer Locator tool.

How do I choose an attorney?

The first time you meet with an attorney you will be asked about what happened so that the attorney can begin to evaluate your case. Prepare records of events, concerns, and conversations you have had with facility staff.

As the client, you should be asking the attorney questions to evaluate whether he or she is the best attorney to represent you. Your discussion should include: What you've done to address your complaints. What you want the attorney to do and other options you may have. How you'll be charged. Number of cases similar to yours that the attorney has handled and outcomes of those cases. Attorney's case load. Chances for success and hurdles that could arise. Description of the litigation process, if you're considering filing a lawsuit. What you'll be required to do if you sue.

How do I keep records?

If you've brought a concern to a facility staff person and it hasn't been addressed, write it in a journal. State facts and be objective. Include staff names, full dates, times, conditions, surroundings, and as many other details as possible. Be specific. Broad, general statements aren't helpful.

- What happened? When did it happen? Where did it happen? Were there any witnesses? Does anyone else know about the problem? How did the facility staff respond?
- Does the facility have a policy or procedure to address this issue?
- What have you done to try and resolve the problem? Who have you talked to? When? What were the results? Maintain a file of all correspondence to and from the facility.
- Maintain a file of other types of documentation, such as photographs, video or audio files, medical records, and facility insurance documents.



Kentucky State Long-Term Care Ombudsman Program



This information is made possible by state and/or federal funding provided by the Department for Aging and Independent Living.

NHOA gratefully acknowledges the Kentucky Bar Foundation and the Fayette County Bar Foundation for their support in producing this booklet.