

## How To File a Nursing Home Complaint

### Stage 1 - Filing the Complaint

#### Who Can File a Complaint?

Any person (not just residents or their family members) or organization can file a complaint about a nursing home with the Licensing and Certification Division of the California Department of Public Health (DPH). DPH is the state agency that enforces nursing home laws and regulations through regular inspections and complaint investigations. File a complaint with DPH when problems are serious and/or other steps to resolve your concerns have not been effective.

#### What Can I File a Complaint About?

You can file a complaint about abuse, neglect and any other matter protected by law. For example, you can file a complaint about violations of your rights, poor care, lack of staffing, unsafe conditions, mistreatment, improper charges, transfer and discharge concerns, and a failure to readmit you after a hospital stay.

#### In Addition to Filing a Complaint with DPH

Although you are not required to try other dispute remedies first, it is usually best to do so.

Start by communicating with staff of the facility or a [family council](#) if one exists. Another option is contacting the [long term care ombudsman office](#) in your county for assistance. The ombudsman program helps residents resolve concerns about their care and rights. The program does not have power or authority over the nursing home, however, an ombudsman can address the complaint with the nursing home, advocate on a resident's behalf and express concerns with outside officials.

If your concerns are not resolved, file a complaint with DPH.

#### Where Do I File a Complaint?

File your complaint with the DPH District Office that oversees the nursing home in question. Consult [DPH's online directory of district offices](#) to identify the office that is responsible for investigating your complaint.

You can also file a complaint online through the DPH [Cal Health Find website](#). When you do so, DPH will direct your complaint to the District Office that is responsible for investigating it. It is best to keep a written record of your online complaint by printing a copy when you submit it.

#### How Do I File a Complaint?

Complaints may be made orally or in writing. If you phone in a complaint, it is best to follow up with a written complaint to ensure that there is a paper trail. You can write your own complaint letter or use the attached complaint form CANHR has prepared.

Written complaints can be submitted to DPH District Offices by mail, fax, email or, as noted above, through the [Cal Health Find website](#).

DPH should confirm receipt of your complaint within two days of receipt, inform you of the complaint number for your complaint and give you the name of the assigned complaint investigator and the investigator's contact information. Contact DPH immediately if you do not receive this information.

#### What Information Should I Include in My Complaint?

Give facts on what happened, such as when and how often it occurred, who was involved, and how the resident was harmed or affected by mistreatment or other types of violations. Be brief, concise and complete.

Taking notes or keeping a written log will help you to retrieve specifics later.

Identify each issue separately in your complaint if you want more than one concern to be investigated.

Include the following information in your complaint when applicable.

- Name and address of the facility
- Your name, address, phone number, and relation to the resident
- Name of the resident on whose behalf the complaint is made
- Date(s) and time(s) of incidents
- Specific complaints
- Names of witnesses (including other health care providers, such as hospital personnel or paramedics)
- Names of staff, if relevant to the complaint
- Records that should be examined

## **Stage 2 - Notifying Other Authorities of Your Complaint**

### **Should I Notify Other Agencies or People About My Complaint?**

Yes, other organizations may have authority to investigate your complaint or be able to give you advocacy support or information. Also, DPH may give your complaint better attention if it knows you have alerted other authorities. Send a copy of your complaint to CANHR, the local ombudsman office, and to:

- **Your California Assembly Member and Senator:** Your elected officials need to know what is happening in California's licensed facilities. They make the laws governing nursing homes and DPH. If DPH does not respond properly to your complaint, tell your legislators about your experience and urge them to take action. [Click here](#) to identify the Assembly Member and Senator for your district.
- **The Division of Medi-Cal Fraud & Elder Abuse (DMFEA):** Send DMFEA a copy of your complaint if it involves serious neglect, abuse or Medi-Cal fraud. The DMFEA is a division of the California Attorney General's office. It investigates and prosecutes those who abuse and neglect elders and persons with disabilities in long-term care facilities such as nursing homes and assisted living facilities. Learn more about its role at the [DMFEA website](#). There are three ways to file your complaint: (1) Call it in at 800-722-0432; (2) [File your complaint on-line](#); or (3) Mail a copy of your complaint to the California Department of Justice, Office of the Attorney General, Division of Medi-Cal Fraud and Elder Abuse, P.O. Box 944255, Sacramento, CA, 94244-2550.

## **Stage 3 - Investigation**

### **After You Have Made a Complaint - What Happens Next?**

DPH must notify you of the name of the assigned investigator within two (2) working days of receipt of your complaint. California Health & Safety Code §1420(a)(1). It is a good idea to call the assigned investigator prior to the onsite investigation to ensure the investigator is familiar with the details of your complaint and to discuss the planned investigation.

Under California law, DPH must begin an onsite investigation of your complaint within ten (10) working days of receipt. If the complaint involves a threat of imminent danger of death or serious bodily harm, DPH must investigate onsite within 24 hours of receipt of the complaint. California Health & Safety Code §1420(a)(1).

There are also deadlines for completing complaint investigations. Investigations of all types of nursing home complaints filed on or after July 1, 2018 must be completed within 60 days of receipt. In extenuating circumstances, the deadline can be extended by up to 60 days upon written notification to the complainant and facility. California Health & Safety Code §1420(a)(5).

DPH must issue any citations resulting from its investigative findings within 30 days of completion of the complaint investigation. California Health & Safety Code §1420(f). Citations are state fines that DPH can impose for certain types of violations.

### **What Are My Rights as a Complainant?**

- You must be notified of the name of the assigned investigator within two working days of your complaint. California Health & Safety Code §1420(a)(1).
- You have the right to be free from retaliation for a complaint. California law prohibits a facility from discriminating or retaliating against a resident or employee who cooperates in an investigation. Any type of discriminatory treatment within 180 days after a complaint is filed is presumed to be retaliatory and is punishable by a civil fine of up to \$10,000. California Health & Safety Code §1432.
- You have the right to remain anonymous. California Health & Safety Code §1432(h). California law requires that DPH keep your identity (and that of any other person named in the complaint) anonymous to the facility. California Health & Safety Code §1419(e). In your complaint, you can also specifically request to remain anonymous. Please note that anonymity can sometimes make it difficult to substantiate a complaint.
- You have the right to accompany the investigator to the facility. If you wish to do so, include this request in your complaint. DPH should give you up to one-half working day notice of their scheduled, unannounced visit to the facility. Requests to accompany the investigator may not be granted if DPH determines that doing so would violate residents' privacy. California Health & Safety Code §1420(a).
- You have the right to a response. At the completion of its investigation, DPH must notify you in writing of its findings and of your right to appeal. California Health & Safety Code §1420(a)&(b).

## **Stage 4 - The Appeals Process**

### **What If I'm Dissatisfied with DPH's Findings?**

If you are dissatisfied with DPH's findings, you have the right to an informal conference. To request the informal conference, write to the DPH district office manager within 30 calendar days of from receipt of the findings ("Results of Complaint Investigation" letter). Center for Health Care Quality Policy & Procedure 19-03.

The conference should be scheduled within 30 days of your appeal; you will meet with the DPH district manager (or designee) and possibly the nursing home administrator. Within 10 working days after the informal conference, DPH should notify both you and the facility of its determinations. You have the right to have an attorney with you.

### **What If I'm Dissatisfied with the Results of the Informal Conference?**

If you are dissatisfied with the results of the informal conference, you may appeal to the Deputy Director at: California Department of Public Health, Center for Healthcare Quality, P.O. Box 997377, Sacramento, CA 95899-7377. To file this appeal, you have 15 days from receipt of the findings of the informal conference. A representative from the Complainant Appeals Unit will review the findings from the initial investigation and the informal conference. You have the right to request an interview with this representative. Based on the Appeals Unit review, the Deputy Director must make a final determination and notify you and the facility within 30 days. No further appeals are available through DPH.

Despite your legal right to appeal, DPH often ignores complainant appeals. If it does not respond to your appeal in a timely manner, call CANHR for advice.

## **Stage 5 - Ensuring Proper Investigation**

### **Help! DPH Hasn't Gotten Back to Me in a While - What Do I Do?**

If DPH does not keep you notified as detailed above, contact it to check on the status of your complaint. Know your complaint number, as well as the name and direct phone number of the investigator. Keep a timeline of all correspondence and communications with DPH.

If the assigned investigator is not responsive, work the DPH chain of command. Contact the investigator's supervisor, then the district manager if necessary. Advise the legislators for your district and the ombudsman office if they do not take appropriate action to address your concerns.

Call CANHR at 800-474-1116 to discuss additional advocacy steps if your complaint is not addressed to your satisfaction.

You can find your complaint and appeal rights in the California Health & Safety Code, Sections 1419 and 1420.

# Nursing Home Complaint Form

Date Completed \_\_\_\_\_

Name of Complainant \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone 1 \_\_\_\_\_ Phone 2 \_\_\_\_\_ Email \_\_\_\_\_

Name of Facility \_\_\_\_\_

Facility Address \_\_\_\_\_ City \_\_\_\_\_

Name of resident on whose behalf the complaint is made: \_\_\_\_\_

Complaint (attach additional pages if necessary): \_\_\_\_\_

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Date(s) of Incident(s) \_\_\_\_\_

Shift(s) when incident(s) occurred, if known:

Witnesses (including health care professionals): \_\_\_\_\_

\_\_\_\_\_

Name(s) of Staff Person(s) (if incident involves action or lack of action by staff person(s)) \_\_\_\_\_

\_\_\_\_\_

Records that should be examined \_\_\_\_\_

\_\_\_\_\_

Mark all that apply:

- I have sent a copy of my complaint to the appropriate Licensing and Certification District Office of the Department of Public Health (see back of this form for a listing of these offices).
- I am sending CANHR a copy of this complaint.
- I am sending my California State Legislator a copy of this complaint.
- I have sent the Ombudsman Program a copy of this complaint.
- I am sending a copy to the Attorney General.
- I want to know the name of the investigator assigned to this complaint.
- I want to talk with the investigator before s/he visits the facility.
- I want to accompany the investigator during the complaint investigation.
- I want to remain anonymous. I do not want my name or identity known to the nursing facility.
- I want a copy of the complaint findings, and notice of my rights if I am not satisfied with the results.