

Ten Tips

You *need* to know about nursing homes

by Jim Schuster Certified Elder Law Attorney



1. **An Assisted Living Facility Is Not a Nursing Home**

It used to be that if an elder moved out of the home for health reasons, the move was to a nursing home. Not any more. Many families find very nice “assisted living” facilities that charge almost as much per month as a nursing home. While these may be appropriate placements for some people, they are not nursing homes. Assisted living means a room in a secure environment with basic living services provided, such as meal preparation, cleaning and supervision. No medical treatment is provided since the facility is not medical care facilities. For the same reason there is no payment support from Medicare or Medicaid.

2. **A Nursing Home Is a Comprehensively Regulated *Medical* Facility**

Every aspect of the nursing home resident relationship, from admission to discharge, is regulated by law. All phases of the medical care are regulated from physical plant to staffing. All of the following services are provided and covered by regulation: (a) Admission, discharge, and transfer of patients; (b) Clinical records; (c) Physician and Nursing services; (d) Dietary services; (e) Rehabilitative services; (f) Pharmaceutical services; (g) Dental services; (h) Podiatry services; (i) Social services.

3. **Watch What You Sign**

An admission agreement is a contract. Michigan law allows a “responsible party” to sign the contract for the patient *without* incurring personal financial liability, but some contracts are written to impose legal obligations on the signor. While the law forbids the requiring of a personal guarantee of payment, the signor may be vindicated only after an expensive trial in court. If a person is already admitted, he may not be discharged for failure to sign a contract. If you are pressured into signing, have your elder law attorney review the contract.

4. **Evaluate!**

Not all nursing homes are the same. Visit and observe how residents are treated. It is best to visit at least twice and one of those should be either on the weekend or in the evening when staffing is lower. Take a checklist with you. Visit the www.Medicare.gov “nursing home compare” section. Review the annual state inspection report. Hire a Geriatric Care Manager to help in the decision.

5. Patients Have Rights

Under the Nursing Home Reform Law residents have extensive rights, under the law the facility is their *home*. Included in their rights are the right to: control their plan of care including choice of doctor, to accept or refuse treatment; accommodation to their preferences in food, activities and daily schedule; to privacy, dignity, and to be free from abuse and restraint.

6. A Resident Must Have a Patient Advocate

A resident has a list of rights as long as his arm, but the resident needs a patient advocate to protect and enforce those rights to good care. A patient advocate must be authorized in writing by a designation or healthcare power of attorney.

7. Medicare Does Not Pay for Long Term Care

Medicare only pays for a maximum of 100 days post-hospital *skilled* care. Skilled means services over and above the basic medical provisions of the nursing home.

8. Medicaid Will Pay for Long Term Care - If You Qualify

Medicaid has its own unique rules of eligibility that are as complicated and confusing as any tax law. The rule of thumb is that the applicant may have a home, car and \$2,000. That does not mean that all other assets must be used to pay the nursing home bills. Get professional advice to take advantage of credits, allowances and exemptions to save your dollars.

9. Medicaid Does Not Mean Inferior Care

Contrary to some opinions expressed in national magazine or newspaper articles, almost all nursing homes participate in Medicaid. It is illegal to discriminate between residents who paying out of their own funds and those for whom Medicaid pays. Treatment staff is not informed who is a Medicaid patient. However, some families notice a big difference in the transition from Medicare coverage to long term care – whether private pay or Medicaid. The reason is that Medicare pays for additional skilled service.

10. Get Professional Advice

Have a question about a medical decision or the quality of care? Hire a professional such as a nurse or social worker to review and evaluate. Have a question about patient rights, Medicare or Medicaid? Hire an elder law attorney.

Want More Information?

Call for a copy of our Patient Advocate Guide to good care in a nursing home. It has 75 pages of information the patient advocate needs to know about patient/resident rights, Medicare, Medicaid and a listing of all nursing homes in Southeast Michigan.