

# Introduction

**D**O YOU KNOW anything about nursing homes? If your answer is *no* or *not much*, you are not alone. Most people typically know very little about nursing homes until an urgent need arises. Perhaps you or a family member will have a stroke or, due to Alzheimer's disease, will be no longer able to stay safely at home. All of a sudden, there will be much to learn and almost no time in which to learn it.

This guide explains the many laws protecting nursing home residents and gives practical advice on how residents and their families can obtain the best nursing home care possible. Here are some examples of the important protections discussed in this guide:

- A nursing home has an obligation to meet resident preferences (p. 107).
- A resident and the resident's family have a right to participate in preparing a written plan for the resident's care (pp. 112–14).
- Ownership of a home generally does not affect a resident's eligibility for Medicaid payment of nursing home expenses, as long as equity in the home does not exceed \$500,000 (pp. 65–68).
- A Medicaid-eligible resident has a right to be readmitted to the nursing home following a hospital stay of any length (pp. 160–63).

- The spouse of a nursing home resident automatically is entitled to keep from \$19,908 to \$99,540 of the couple's savings, depending on the state, without affecting the resident's eligibility for Medicaid coverage of nursing home expenses (pp. 56–58).
- A nursing home cannot require a friend or family member to take on financial responsibility for a resident's nursing home care (pp. 78–83).

The federal Nursing Home Reform Law became effective in 1990. Nursing home quality of care has improved since that time, but much improvement still is needed. A well-informed resident or family member can assist a nursing home in taking legal responsibilities seriously—leading to greater dignity and improved care for residents.

### ***About The Baby Boomer's Guide to Nursing Home Care***

Although many guides to aging and long-term care exist, until now no consumer guide has provided a thorough discussion of the legal rights of nursing home residents and the legal responsibilities of nursing homes. Knowledge of these rights and responsibilities can enable and empower a resident (or her representative) to obtain the best possible nursing home care.

This guide is written in a straightforward question-and-answer format. It is intended for use by elders planning ahead, nursing home residents, and their family members and friends. It is also a worthwhile reference for nursing home operators, attorneys, social workers, and others with a personal or professional interest in nursing home care. For consumers, this guide is best used in conjunction with nursing home visits; interactions with local Long-Term Care Ombudsman programs; and, when needed, consultations with a knowledgeable attorney.

This guide includes the following chapters:

- Chapter 1 Eldercare Options: Types of long-term care, including at-home care, assisted living facilities, and nursing homes
- Chapter 2 Choosing a Nursing Home: Factors in choosing a nursing home
- Chapter 3 Paying for Nursing Home Care: Medicare, Medicare HMOs, and Medicaid
- Chapter 4 Admission Process: Illegal discrimination in admission and nursing home admission agreements
- Chapter 5 Moving In: Transition and safeguarding resident property
- Chapter 6 Quality of Care: Assessments, care plans, improving a resident's condition, meeting resident preferences, and no discrimination against Medicaid-eligible residents
- Chapter 7 Residents' Health Care Decision Making: Powers of attorney for health care, health care directives, and the right to refuse treatment
- Chapter 8 Staying in the Nursing Home: Eviction rules and residents' rights to hold a bed during a hospital stay or be readmitted to a different bed following a hospital stay
- Chapter 9 How to Resolve Problems: Tips for resolving a problem yourself or obtaining help from a Long-Term Care Ombudsman program, state agency, or attorney

### **About the Authors**

This guide has been prepared by attorneys Eric Carlson and Katharine Bau Hsiao of the National Senior Citizens Law Center

(NSCLC), a nonprofit law firm founded in 1972. NSCLC defends the interests of seniors through nationwide advocacy, education, and policy development. Among other things, NSCLC conducts trainings on nursing home law throughout the country and publishes *20 Common Nursing Home Problems—and How to Resolve Them*. NSCLC offices are located in Washington, D.C., and Los Angeles and Oakland, California. More information about NSCLC is available at [www.nslc.org](http://www.nslc.org).

NSCLC works with and provides training and information nationwide to attorneys who represent lower-income older persons, but NSCLC does not have the resources to provide direct counseling or legal representation for individuals. For advice regarding a specific matter, please contact an attorney or legal aid organization in your community.

### **Important Note**

This guide is based on federal law and is intended for general use. This guide is not a substitute for the independent judgment and skills of an attorney or other professional. If you require legal or other expert advice, please consult a competent professional in your area to supplement and verify the information contained in this guide. Relevant laws can change from year to year, so be sure that you have the most recent edition of this guide.