

DID YOUR LOVED ONE'S NURSING HOME FAIL TO RESPOND TO COVID-19?



CONTACT ME TODAY

Colin G. Meeker

Attorney at Law

Blakemore, Meeker & Bowler Co., L.P.A.

495 Portage Lakes Drive

Akron, Ohio 44319



IS YOUR LOVED ONE SAFE IN THEIR NURSING HOME?

8 Ohio nursing facility laws you must know during the COVID-19 pandemic
By [Colin G. Meeker, Attorney at Law](#)

If your loved one resides in a nursing home, no time is more important than now to gain a better understanding of the laws that regulate nursing homes in Ohio. With the outbreak of the COVID-19, your elderly relatives and friends are at great risk of contracting the disease, especially if they reside in a nursing home. With your knowledge of Ohio's nursing home laws, you will be in a better position to help enforce those provisions and protect the important people in your life.

Our COVID-19 attorneys at [Blakemore, Meeker & Bowler Co., L.P.A.](#) are fielding calls now concerning COVID-19 and are experienced in litigating wrongful death and personal injury cases. We will ensure that you receive compensation and justice as you navigate the legal system for the first time. Please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

#1 Nursing home residents have rights.

Ohio grants nursing home residents 33 rights. These rights protect your loved ones and should be discussed frequently with those you care for. [O.R.C. 3721.13](#).

Pertinent to the COVID-19 pandemic, you must be aware of the following:

- The right to a safe and clean living environment;
- The right to be free from physical, verbal, mental, and emotional abuse;
- The right to adequate and appropriate medical treatment and nursing care;
- The right to have all reasonable requests and inquiries responded to promptly;
- The right to participate in decision that affect the resident's life, including obtaining complete and current information concerning medical conditions;
- The right to be free from prolonged isolation;
- The right to exercise all civil rights; and
- The right to have any significant change in the resident's health status reported to his or her sponsor.

Remember: The above rights mean life or death for a person living in a nursing home during the COVID-19 pandemic. Physically, residents must be protected from the virus no matter what the cost is to the nursing home. At the same time, the resident's emotional and mental well being cannot be forgotten. Extended isolation cannot be tolerated.

If your loved one's rights have been violated while in their nursing home during the COVID-19 pandemic, please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

#2 Nursing home neglect kills.

The law defines "neglect" as "recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident." [O.R.C. 3721.21](#).

Remember: During the pandemic, it is neglect for a home to withhold from residents and their families the fact that the Coronavirus has infiltrated the nursing home.

Remember: During this pandemic, it is neglect for a nursing home to run out of protective

masks or antibacterial hand soap

Remember: During this pandemic, it is neglect for a nursing home to fail to prepare for the containment of infectious disease.

Remember: During this pandemic, it is neglect for a nursing home to operate with a substantially reduced staff needed to provide the appropriate level of resident care.

Remember: During this pandemic, it is neglect to isolate a nursing home resident for a long period of time.

Remember: During this pandemic, it is neglect to fail to provide a safe activity program designed to meet the physical, mental, emotional, psycho-social well-being and personal interests of each resident.

If you feel that your loved one has been a victim of neglect in their nursing home during the COVID-19 pandemic, please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

#3 If a resident's rights have been violated, THERE IS HELP.

Should a resident feel that his or her rights have been violated, there is a procedure to file a grievance. Unfortunately, the resident's grievance will be submitted to the nursing home's own grievance committee. The better course is to file the grievance directly to Ohio's Department of Health, while also providing a copy to the nursing home's grievance committee. The best action you can take is to contact an experienced nursing home attorney to advocate aggressively on the resident's behalf. [O.R.C. 3721.17](#).

Remember: The nursing home, nor any of its employees shall retaliate against anyone who files a grievance. If a resident or family member observes something that is not right, report the home immediately. Because COVID-19 moves so quickly, families should complain first and ask questions later; better safe than sorry.

Remember: Any resident whose rights are violated has a cause of action against any person or home committing the violation. Do not rely on the nursing home or the government to protect your loved ones. God made attorneys for a reason; they zealously protect their clients when they need it most. Lawsuits are commonplace

in the nursing home industry; usually when an attorney intervenes, the nursing home listens.

If your loved one's rights have been violated while in their nursing home during the COVID-19 pandemic, rather than calling the nursing home's ombudsman or state official, please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

#4 Nursing homes must immediately report COVID-19 cases

Due to the severity and the potential for epidemic spread of the COVID-19, should a nursing home resident contract the disease, a nursing home must immediately, via telephone, report the case to government health officials. [O.A.C. 3701-3-02](#).

Remember: COVID-19 is a newly recognized infectious outbreak; it has created an unexpected pattern of cases, suspected cases, deaths or increased incidence of a disease of major public health concern. Notwithstanding that fact, nursing homes are required to report cases of COVID-19. If your loved one's nursing home failed to report COVID-19 or failed to realize its symptoms were spreading throughout the nursing home prior to intervening, lives can be lost. If you are a family member or friend of a resident of a nursing home, demand that the home properly report any cases of COVID-19 to the proper authorities.

If your loved one's nursing home did not immediately report COVID-19 cases during the pandemic, please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

#5 Ohio nursing homes must implement quality control.

Ohio's nursing homes must establish and maintain an ongoing quality assurance and performance improvement (QAPI) program to address all systems of care and management practices, including clinical care, quality of life, and resident choice. O.A.C. 3701-17-06. The QAPI team must meet regularly to:

- Monitor and evaluate the quality of care and quality of life provided at the nursing home;
- Track, investigate, and monitor incidents, accidents, and events that have occurred in the home;
- Track and monitor the effectiveness of the infection control program;
- Identify problems and trends; and
- Develop and implement appropriate action plans to correct identified problems.

Remember: Nursing home administrators and their QAPI team have great responsibility during the COVID-19 pandemic. If the nursing home's QAPI program has not taken its role seriously, COVID-19 will enter a nursing home, stay for a long period, and kill many residents. Residents and family members should speak to nursing home staff frequently to discern whether home leadership are meeting its responsibilities.

If your loved one's nursing home did not implement a proper quality control program, please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

#6 Ohio nursing homes must implement an infection control plan.

Ohio mandates that nursing homes have written policies and procedures to assure a safe, sanitary and comfortable environment for residents. [O.A.C. 3701-17-11](#). Furthermore, these policies, procedures, as well as precautions, look to control the development and transmission of infections and diseases. A nursing home's infection control program is tasked with the following:

- To monitor compliance with the home's infection control policies and procedures;
- To investigate, control and prevent infections in the nursing home; and
- To institute appropriate interventions if infection occurs.

Remember: A nursing home's planning, implementation of procedure, and response to infection during the COVID-19 outbreak is essential to saving lives. If the nursing home neglects this responsibility, lives can quickly be lost. A review of the home's infection control program, to include a review of whether infected residents are properly isolated, is essential in determining whether a nursing home was negligent in failing to protect its residents.

If your loved one's nursing home did not implement a proper infection control plan during the COVID-19 pandemic, please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

#7 A healthy, complete, and equipped staff equals happy residents.

Although a resident can contract COVID-19 from a visiting family member or friend, the virus is more likely to be transmitted by contagious nursing home personnel. No person with a disease which may be transmitted in the performance of the person's job responsibilities shall

work in a nursing home during the stage of communicability unless the person is given duties that minimize the likelihood of transmission and follows infection control precautions and procedures. [O.A.C. 3701-17-07](#).

Remember: It is the nursing home's responsibility to assure that its employees, volunteers, vendors, etc. are free from disease which may be passed on to a resident during interaction.

Ohio's nursing homes shall have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner. In addition, nurses and aides must provide a minimum daily average of two and one-half hours of direct care and services per resident per day. [O.A.C. 3701-17-08](#).

Remember: It is the nursing home's responsibility to assure that it is properly staffed during the COVID-19 pandemic. A reduced staff cannot meet the needs of an elderly nursing home population. Many problems, including injury and death, can result from the lack of adequate nursing home staffing.

Ohio's nursing homes must, at all times, have the supplies and equipment necessary to provide the services and nursing care needed by the type of residents admitted. [O.A.C. 3701-17-16](#).

Remember: It is the nursing home's responsibility to assure that it is properly equipped to handle an outbreak of a contagious disease such as COVID-19. Running out of masks, hand sanitizer or disinfectant soap is not an option when people's lives are at risk.

If your loved one's nursing home is understaffed, under-equipped or unhealthy during the COVID-19 pandemic, please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

#8 Certain vaccinations must be offered to nursing home residents annually.

On an annual basis, unless medically inappropriate, nursing homes are required to offer each resident a vaccination against influenza and pneumococcal pneumonia. In addition, the nursing home must post an influenza vaccine information sheet in a conspicuous location that is accessible to all residents, employees, and visitors. [O.R.C. 3721.041](#).

Remember: Make sure your loved one's nursing home is offering flu and pneumonia vaccines and placing information in a public area for all to see.

If your loved one was not offered vaccinations, please contact [Attorney Colin G. Meeker](#) at (330) 603-7173 for help understanding your legal options.

KNOWING IS HALF OF THE BATTLE.

There are many laws governing how nursing homes are operated; too many for this brief review. Ohio Revised Code [Chapter 3721](#) contains some pertinent laws governing Ohio's nursing homes. Ohio Administrative Code [Chapter 3701-17](#) and [Chapter 3701-3](#) contain some of the rules passed to implement the Revised Code's laws. Additionally, the [federal government](#) has regulations which all nursing homes must follow. Finally, Ohio's Governor Mike DeWine's recent [executive orders](#) add new responsibilities to nursing homes in light of the COVID-19 pandemic. Use the above links at your convenience to read more about nursing laws and regulations.

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