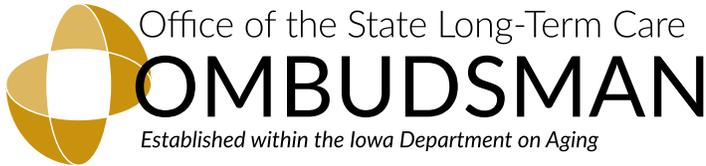


Annual Report 2014

Federal Fiscal Year 2014: Oct. 1, 2013 – Sept. 30, 2014

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January 27, 2015

The Honorable Terry E. Branstad

Members of the General Assembly

Dear Governor Branstad and Members of the General Assembly:

I am pleased to present this annual report of the Office of the State Long-Term Care Ombudsman for federal fiscal year 2014. This report is produced pursuant to Iowa Code 231.42, which requires that this Office annually report to the governor and general assembly on:

1. The activities of this Office; and
2. Recommendations for improving the health, safety, welfare and rights of residents and tenants of long-term care facilities, assisted living programs and elder group homes.

This report reflects the efforts of the Long-Term Care Ombudsmen by sharing program highlights and discussing issues encountered by the Office in carrying out its mandate to act as an advocate for the residents of long-term care facilities.

Respectfully submitted,

Deanna Clingan-Fischer, JD
State Long-Term Care Ombudsman

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Office of the State Long-Term Care Ombudsman

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Cairn Reisch and Meredith Funke, AmeriCorps VISTA Members supporting the Volunteer Ombudsman Program

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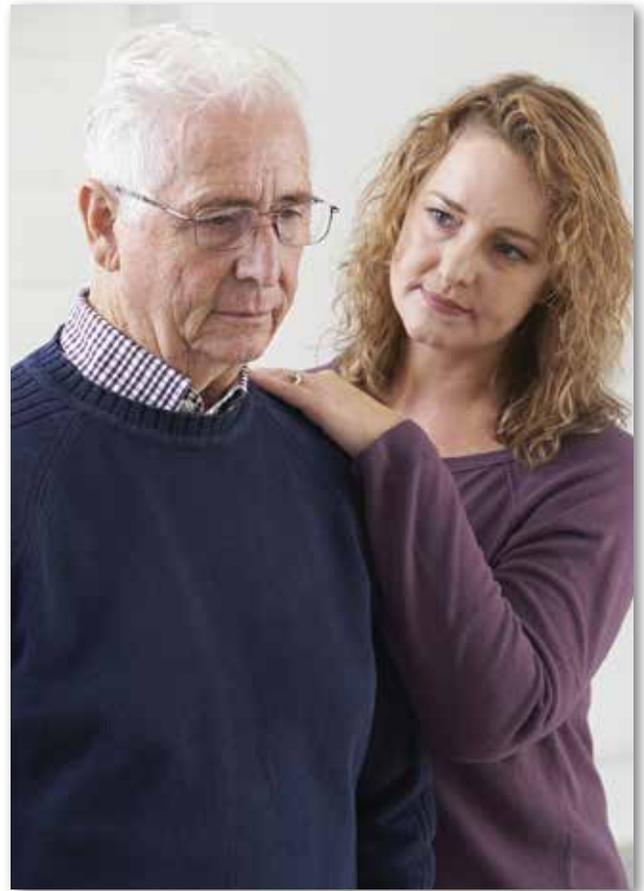
Executive Summary

The focus of the Office of the State Long-Term Care Ombudsman is to advocate for the rights and wishes of residents and tenants, as well as to serve as a resource for persons residing in long-term care facilities, assisted living programs and elder group homes.

The activities of the Office can be categorized as Advocacy Efforts, Outreach Efforts, Administrative Efforts and Volunteer Ombudsman Program Efforts. Following is a summary of the activities completed in each of those categories during Federal Fiscal Year 2014 (Oct. 1, 2013 – Sept. 30, 2014):

Advocacy Efforts

- Ensured residents' and tenants' voices were heard and their rights were maintained in the 407 Assisted Living Programs, Elder Group Homes and Residential Care Facilities within the state;
- Visited the 22,628 beds (or people) within those 407 programs and facilities;
- Ensured residents' voices were heard and their rights were maintained in the 447 nursing facilities within the state;
- Visited the 31,403 beds (or people) within those 447 nursing facilities;
- Received 1,106 complaints made by or on behalf of residents and tenants;
- Opened 733 cases on behalf of residents and tenants;
- Served 10,081 residents and tenants;
- Provided 6,615 hours of advocacy services beyond complaint handling;
- Assisted residents and tenants impacted by involuntary discharges/evictions and facility closures;
- Advocated for passage of legislation regarding elder abuse, substitute decision making, an involuntary discharge specialist and the Older Americans Act;
- Advocated for and provided education about residents' and tenants' rights;
- Monitored proposed administrative rules and provided comment; and
- Monitored proposed legislation and participated in the legislative process on issues that had the potential to impact the health, safety, welfare and rights of residents and tenants residing in Iowa's long-term care facilities.



*In 2014, the Office of the State Long-Term Care Ombudsman worked to **protect the rights of more than 52,000 Iowans** living in long-term care facilities across the state.*



*In 2014, the Office of the State Long-Term Care Ombudsman visited more than **2,200** Iowans living in long-term care facilities while investigating complaints.*



Outreach Efforts

Provided a total of 5,604 program activities (7,990 hours of service), which included:

- Consulting with 877 facilities and providers of service;
- Consulting with 8,253 individuals;
- Making 1,732 complaint-related visits;
- Making 741 non-complaint-related visits;
- Visiting 2,206 residents and tenants on complaint-related issues;
- Providing education, training and technical assistance to 1,095 individuals, including volunteers, ombudsmen, facility staff, media and the community;
- Participating in 71 facility surveys;
- Assisting residents and their families through participation in and development of 72 resident and family council meetings;
- Collaborating with other organizations and serving on committees, task forces and work groups;
- Partnering with Iowa's six Area Agencies on Aging to assist individuals transitioning from a community to a facility and from a facility to a community; and
- Providing 355 consultations and 47 presentations on community transitions (MDS-Q) from January to September 2014.

Administrative Efforts

- Collaborated with aging and disability network partners at the federal and state level;
- Implemented a Civil Money Penalty grant to produce and distribute educational materials;
- Developed internal communication tools to provide updates on issues, laws, rules and interpretative guidance;
- Reviewed and updated Family and Resident Council Handbooks;
- Provided monthly listserv messages (18) to facility administrators and directors to highlight the Long-Term Care Ombudsman Program and issues faced by residents/tenants;
- Issued press releases and provided follow-up discussion with media on relevant topics; and
- Provided updates to the Iowa Commission on Aging and the Iowa Department on Aging (IDA).



*In 2014, Volunteer Ombudsmen **provided 2,098 hours of service worth nearly \$44,000 to lowans** living in 96 of the state's long-term care facilities.*

Volunteer Ombudsman Program Efforts

- Recruited, screened, trained and certified 107 volunteers, serving 96 facilities;
- Conducted 24 trainings for 125 potential volunteers;
- Conducted 22 meetings in 62 Iowa counties to help administrators learn about the Volunteer Ombudsman Program (January to September 2014);
- Served residents through 1,355 volunteer visits;
- Served residents through 2,098 volunteer hours;
- Contributed a total value of \$43,911.14 of in-kind hours to the state;
- Provided on-site orientations for volunteers and administrators by the Local Long-Term Care Ombudsmen;
- Developed policies to provide guidance to volunteers;
- Partnered with groups and organizations including the Iowa Commission on Volunteer Service, AmeriCorps VISTA, RSVP, AARP and statewide media to recruit volunteers;
- Developed an online data entry system for volunteers; and
- Began efforts to develop peer-to-peer volunteer groups, draft a strategic plan, develop volunteer recognition efforts and refine training/continuing education opportunities for volunteers.

Recommendations

Despite the positive efforts and outcomes listed above, there are barriers that exist when attempting to protect the rights, health, safety and welfare of persons residing in long-term care. The following issues are of particular concern and need to be addressed:

1. Quality Care and Treatment

In order to ensure residents and tenants residing in long-term care facilities receive care and services that enhance their quality of life, the Office recommends advocates and stakeholders work together to:

- *Ensure care is provided in a timely and consistent manner;*
- *Develop a long-term care staffing level strategy to implement in Iowa; and*
- *Explore the educational goals and/or certification standards needed for all long-term care staff in Iowa.*

2. Resident and Tenant Rights: Autonomy and Exercise of Decision-Making Rights

In order to ensure residents and tenants with capacity have the right to make their own decisions, that the rights of a resident or tenant with a decision maker are protected and that those in need of substitute decision-making assistance have a trusted source available, the Office recommends advocates and stakeholders work together to:

- *Educate Iowans about the new financial power of attorney law and provide training to agents on their roles and responsibilities;*
- *Adequately fund the Office of Substitute Decision Maker within the Iowa Department on Aging; and*
- *Educate Iowans about capacity, least-restrictive alternatives, durable power of attorneys for health care and the roles of an attorney-in-fact, guardian, conservator and representative payee.*

3. Resident and Tenant Rights: Admission, Transfer, Discharge and Eviction

In order to ensure residents and tenants are aware of and exercise their rights under admission contracts, occupancy agreements and involuntary discharge or transfer notices, the Office recommends advocates and stakeholders work together to:

- *Educate Iowa's long-term care residents and tenants, as well as families, decision makers and staff, about the requirements of discharge and transfers, as well as the right to appeal;*
- *Review Iowa's laws and rules to ensure consistency when asserting appeal rights for residents and tenants;*
- *Enhance Iowa's elder abuse law by providing criminal penalties for financial exploitation;*
- *Develop a system of information, education and training for reporters of dependent adult abuse in Iowa; and*
- *Educate Iowa's long-term care residents and their families about the right to return to the community.*

Issues to Watch

1. Closures, whether voluntary or involuntary, of long-term care facilities
2. Staffing levels at long-term care facilities
3. Recruitment and retention of direct care workers
4. Training to meet level-of-care needs of residents
5. Licensure and training requirements for assisted living program directors and staff
6. Due process rights for tenants of assisted living programs and elder group homes

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Mission and Structure

Mission

The mission of the Office of the State Long-Term Care Ombudsman is to protect the health, safety, welfare and rights of individuals residing in long-term care by investigating complaints, seeking resolutions to problems and providing advocacy with the goal of enhancing quality of life and care.

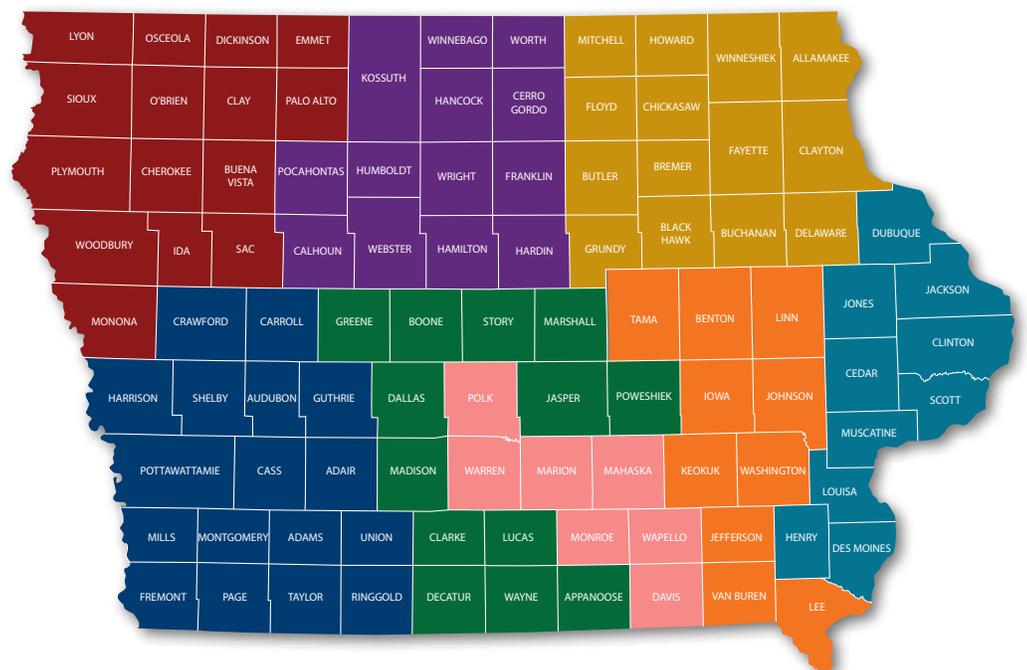
Iowa's Long-Term Care Ombudsman program is responsible, through federal and state law, for advocating for residents and tenants of long-term care facilities, including nursing facilities, residential care facilities, assisted living programs and elder group homes. The Office strives to fulfill this responsibility every day by working to resolve complaints that impact the health, safety and welfare of residents and tenants, as well as by informing residents and tenants of their rights.



Structure

The Office of the State Long-Term Care Ombudsman consists of the state long-term care ombudsman; local long-term care ombudsmen; volunteer coordinators; volunteers; AmeriCorps VISTA members; a discharge specialist; a policy coordinator; and an administrative assistant.

To assist in fulfilling the duties outlined by law, the state long-term care ombudsman has designated eight local long-term care ombudsmen to serve residents and tenants in specific areas of the state (see map). Additionally, two volunteer coordinators are dedicated to implementing a certified volunteer program to recruit, train and monitor certified volunteer long-term care ombudsmen. In 2014, a discharge specialist was added to assist residents and tenants who are being discharged or transferred from a facility.



Authority and Mandates

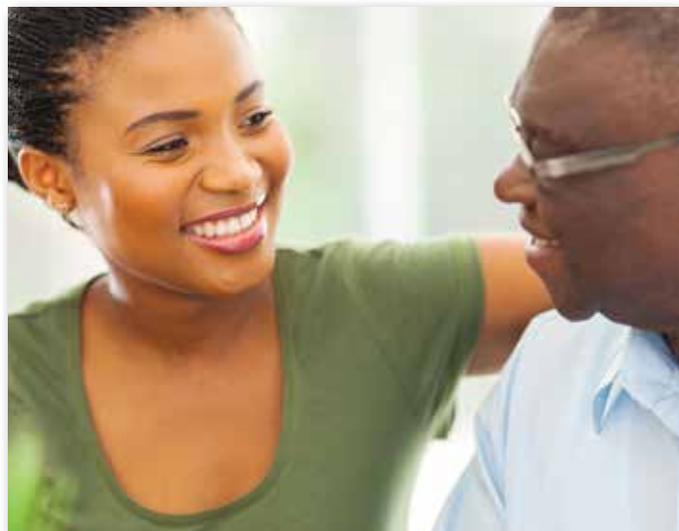
Authority

The Long-Term Care Ombudsman Program is authorized by the federal Older Americans Act¹ and the state Older Iowans Act². The Office of the State Long-Term Care Ombudsman operates as an independent entity within the Iowa Department on Aging and advocates for residents of nursing facilities and residential care facilities, as well as for tenants of assisted living programs and elder group homes.

Mandates

The functions of the Long-Term Care Ombudsman Program are to:

- Identify, investigate and resolve complaints made by or on behalf of residents or tenants that adversely affect their health, safety, welfare or rights;
- Make referrals to appropriate licensing, certifying and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions;
- Provide services to assist residents or tenants in protecting their health, safety, welfare and rights;
- Inform residents and tenants about means of obtaining services offered by providers or agencies;
- Ensure that residents and tenants have regular and timely access to the services provided through the Office and that residents, tenants and complainants receive timely responses;
- Represent the interests of residents before governmental agencies and seek administrative, legal and other remedies to protect their health, safety, welfare and rights;
- Provide administrative and technical assistance to local and volunteer long-term care ombudsmen;
- Analyze, comment on and monitor the development and implementation of federal, state and local laws, regulations and other governmental policies and actions that pertain to the health, safety, welfare and rights of residents and tenants;



¹ Older Americans Act, 42 U.S. Code, Section 3058g

² Older Iowans Act, Iowa Code, Section 231.1



- Provide training for representatives of the Office, promote the development of citizen organizations to participate in the program and provide technical support for the development of resident and family councils to protect the well-being and rights of residents and tenants;
- Establish and implement a statewide confidential uniform reporting system;
- Publicize the Office and provide information and education to consumers, the public and other agencies about the issues related to long-term care in Iowa;
- Annually report on the activities of the Office and make recommendations for improving the health, safety, welfare and rights of residents and tenants of long-term care facilities, assisted living programs and elder group homes;
- Participate in inquiries, meetings or studies that may lead to improvements in the health, safety, welfare and rights of residents and tenants;
- Recruit, train, educate, support and monitor volunteers associated with the Office;
- Coordinate ombudsman services with the protection and advocacy system for individuals with developmental disabilities and mental illness;
- Coordinate ombudsman services with the Older Americans Act legal assistance and elder abuse awareness and prevention programs;
- Coordinate services with state and local law enforcement agencies and courts of competent jurisdiction; and
- Ensure confidentiality and a program free of conflicts of interest.

Activities of the Office

The program activities of the Office of the State Long-Term Care Ombudsman are divided into the following categories: Advocacy; Cases and Complaints; Community Education; Consultation; Other; Resident and Family Councils; Resident and Tenant Visitation; Survey Participation; and Training and Technical Assistance. The efforts within each activity are discussed in more detail below.

Advocacy

The primary role of the Long-Term Care Ombudsman Program is advocacy – or serving as the voice for residents and tenants residing in long-term care settings.

Advocacy can include anything from speaking up for a single individual who is adversely impacted to working for systemic change to ensure that all individuals are treated with dignity and respect. Advocacy also can encompass reviewing and commenting on rules, regulations and laws; recommending policy changes when the health, safety, welfare or rights of residents and tenants are impacted; or educating residents, family, providers, policymakers and the general public on issues of concern to individuals residing in long-term care facilities, assisted living programs and elder group homes.

In Federal Fiscal Year 2014, the State Long-Term Care Ombudsman monitored proposed legislation and rules and provided 54 declarations, or comments, relating to proposed laws and rules that impacted residents and tenants residing in Iowa's long-term care facilities.

Cases and Complaints

The Long-Term Care Ombudsman's Office is mandated to identify, investigate and resolve complaints made by or on behalf of residents or tenants of long-term care facilities that adversely affect their health, safety, welfare or rights.

A complaint is a concern brought to, or initiated by, the Long-Term Care Ombudsman for investigation and action on behalf of one or more residents/tenants. (A complete listing of all complaints received in Federal Fiscal Year 2014 is included in Appendix C.)

Each inquiry brought to, or initiated by, the Long-Term Care Ombudsman on behalf of a resident/tenant or group of residents/tenants that involves one or more complaints and requires investigation, strategy to resolve and follow-up is considered a case.

*In FFY 2014, representatives of the Office **provided 6,615 hours of advocacy**, beyond complaint handling.*

*In FFY 2014, representatives of the Office **handled 1,106 new complaints and opened 733 new cases** on behalf of residents and tenants.*

Most Frequent Complaints Received by the Office of the State Long-Term Care Ombudsman (FFY 2014)

Complaint	# Received
Issues related to resident/tenant care	205
Issues related to autonomy, choice, exercise of rights, privacy	185
Issues related to admission, transfers, discharge and eviction	157
Issues related to the system and concerns apart from the facility	113
Issues related to financial concerns or property lost, missing or stolen	67

Issues Addressed by the Office of the State Long-Term Care Ombudsman (by Complaint Category)

Complaint Category	Issues Addressed through this Category	
Admission, transfers, discharge and eviction	<ul style="list-style-type: none"> • Admission contract & procedures • Appeal process • Discharge/eviction – lack of planning or appropriate notice 	<ul style="list-style-type: none"> • Discrimination in admission • Refusal to readmit • Room changes or assignments
Autonomy, choice, exercise of rights, privacy	<ul style="list-style-type: none"> • Choice of personal physician, hospice or pharmacy • Confinement in facility • Dignity, respect – staff attitudes • Exercise choice and/or civil rights • Exercise right to refuse care 	<ul style="list-style-type: none"> • Language barriers • Participation in care planning • Privacy – telephone, mail, visitors and for couples • Response to complaints • Reprisal, retaliation
Financial concerns or property lost, missing or stolen	<ul style="list-style-type: none"> • Billing/charges • Personal funds mismanaged, access denied or funds not returned 	<ul style="list-style-type: none"> • Personal property lost, stolen, used by others, destroyed or withheld from resident/tenant
Resident/tenant care	<ul style="list-style-type: none"> • Injuries or falls, improper handling • Failure to respond to requests • Concerns over personal hygiene, adequacy of dressing, grooming • Physician services • Pressure sores 	<ul style="list-style-type: none"> • Toileting, incontinent care • Inadequate care plan or failure to follow plan • Unattended symptoms, such as pain • Neglect of catheter or tubes • Failure to monitor wandering • Administration of medications
System/other	<ul style="list-style-type: none"> • Abuse, neglect, abandonment by non-staff • Bed shortage – placement • Family conflict • Financial exploitation by family or friends • Legal – guardianship, conservatorship, powers of attorney, wills • Medicare 	<ul style="list-style-type: none"> • Mental health/disabilities • Operating without a license • Problem with resident’s physician • Protective services agency • Request for less restrictive placement • SSA, SSI, VA or other benefits

Community Education

The Long-Term Care Ombudsman Program presents relevant and timely information to the community on such topics as the role of the long-term care ombudsman; the rights of residents and tenants; how to advocate on behalf of or empower residents and tenants; and various subject matter topics, including powers of attorney, guardianship, conservatorship, visitation, admissions, discharges and evictions from long-term care facilities.

*In FFY 2014, representatives of the Office **provided 40 community education sessions and 23 media interviews** about issues pertaining to long-term care.*

Consultation

The Long-Term Care Ombudsman's Office provides information and assistance to individuals, facilities and providers. A number of consultations conducted by the Office concerned residents' rights; the abuse, neglect or financial exploitation of a resident or tenant; the role of long-term care ombudsmen and ability to intervene; nursing facility and assisted living services and care issues; and involvement of family and friends. Consultation does not involve investigating or working to resolve a complaint.

*In FFY 2014, representatives of the Office **consulted with 8,253 individuals and 877 facilities or providers** about long-term care issues.*

Other

The Long-Term Care Ombudsman's Office participates in federal, state and local efforts to ensure the rights of and issues impacting residents and tenants in long-term care facilities, assisted living programs and elder group homes are communicated. Several of the activities listed below highlight the involvement of the state and local long-term care ombudsmen. Through these efforts, long-term care ombudsmen share systemic issues and day-to-day concerns that adversely impact the health, safety, welfare or rights of residents/tenants, as well as work toward resolution of these very issues.

In an attempt to serve as a visible advocate, the Office is involved in the following efforts:

- Iowa Direct Care Worker Advisory Council
- Iowa State Bar Association Elder Law Council and Section
- Iowa Chapter – National Nursing Home Quality Care Collaborative
- Long-Term Care Social Workers Board
- DMACC Aging Services Management Advisory Council
- Substitute Decision Making Task Force
- Sexuality in Long-Term Care Task Force
- Johnson County Quality Long-Term Care Committee
- Johnson County Elderly Consortium
- Linn County Elderly Consortium
- Elder Abuse Task Force
- Local multi-disciplinary team meetings on dependent adult abuse in multiple counties
- National Consumer Voice Leadership Council
- National Association of State Long-Term Care Ombudsman Programs (NASOP)
- NASOP Appropriations Workgroup
- National Association of Local Long-Term Care Ombudsman
- National Association of Local Long-Term Care Ombudsman Executive Board
- Broadlawn Medical Center Integrated Health Home Project
- Iowa Caregivers Conference Planning Committee
- Dementia Care – University of Iowa Committee
- Health Care Fraud Task Force
- MDS-Q Grant Implementation Committee



Additionally, the Office meets with the following individuals and organizations to advocate on behalf of residents/tenants residing in Iowa's long-term care facilities:

- Mental Health Redesign Transition Committee
- Consumer advocates
- Iowa Department of Inspections and Appeals
- Disability Rights Iowa
- Iowa Department of Human Services and Iowa Medicaid Enterprise
- Area Agencies on Aging, including mediation program staff, elder rights coordinators, and case managers
- Legal Assistance Developer and Title VII legal assistance providers, including the Legal Hotline for Older Iowans
- Crisis/Closure Team to develop a revised closure manual
- Elder Abuse Prevention and Awareness Director
- Facility administrators
- Administration on Aging
- National Ombudsman Resource Center

In addition to participating in meetings, committees, and workgroups, effort has continued regarding the review and update of Iowa's Long-Term Care Ombudsman Program. Some of the efforts to fulfill this initiative include:

- Developing and implementing program protocols through policy memoranda that are sent to staff to share up-to-date information on laws, rules, regulations and issues of interest;
- Developing and implementing policies and procedures in relation to handling cases and complaints within nursing facilities, residential care facilities, assisted living programs and elder group homes;
- Developing and implementing policies and procedures in relation to the Volunteer Ombudsman Program;
- Developing and implementing policies and procedures in relation to the discharge specialist's role and responsibilities;
- Administering a listserv to share information from the Long-Term Care Ombudsman's Office to administrators of nursing facilities and residential care facilities, as well as to directors of assisted living programs and elder group homes;
- Administering a listserv to active Volunteer Ombudsman Program volunteers; and
- Developing press releases to inform and educate the general public on the efforts of the Office of the State Long-Term Care Ombudsman and bring attention to the Office as a resource for residents/tenants and their families.



Resident and Family Councils

The Long-Term Care Ombudsman's Office assists resident and family councils by attending meetings, upon request, and by providing technical assistance in the development and continuation of these councils. Resident and family councils are separate meetings that give residents and their families opportunities to reach out to similarly situated individuals to discuss issues, care needs, frustrations and personal experiences, as well as to receive support and encouragement.

*In FFY 2014, representatives of the Office **worked with 67 resident councils and 5 family councils** across the state.*

Resident and Tenant Visitation

The Long-Term Care Ombudsman's Office responds to inquiries, calls, e-mails and reported concerns by visiting with residents and tenants. These visits allow the local and volunteer long-term care ombudsmen to assess a situation, provide education and information and empower residents or tenants to take action, as well as to obtain additional information to pursue the concern as a complaint or case, if needed.

*In FFY 2014, representatives of the Office **made 1,732 complaint-related visits and 741 non-complaint visits** to residents and tenants.*

Survey Participation

The Long-Term Care Ombudsman's Office participates, as needed, in surveys conducted by the Department of Inspections and Appeals, which serves as the regulatory entity for long-term care facilities in Iowa to ensure their compliance with federal and state laws. The role of the Office is to provide comment; share concerns on behalf of residents, tenants, family members and volunteers; and ensure residents' and tenants' voices are heard. Participation by the Office may include pre-survey briefing or attending the resident group interview or exit interview.

*In FFY 2014, representatives of the Office **participated in 71 facility surveys** throughout Iowa.*

Training and Technical Assistance

The Long-Term Care Ombudsman's Office provides education, training and technical assistance to ombudsmen, volunteers and facility/program staff. Training and education is needed to ensure staff and volunteers are eligible to maintain certifications and stay abreast of issues surrounding long-term care.

Technical assistance is provided to local long-term care ombudsmen, volunteer coordinators, the discharge specialist and volunteer ombudsmen to ensure the consistent and uniform interpretation and implementation of laws, rules and regulations statewide.

*In FFY 2014, the Office **provided 147 training sessions and 2,368 technical assistance contacts** to long-term care ombudsmen and volunteers, and **provided 45 training sessions** to facility staff.*

Recommendations

Despite the positive efforts and outcomes listed above, there are barriers that exist when attempting to protect the rights, health, safety and welfare of persons residing in long-term care. The following issues are of particular concern and need to be addressed:

1. Quality Care and Treatment

Ensure that individual residents and tenants receive care and services that enhance their quality of life.

Individuals residing in long-term care settings have the right to quality care and treatment. It is difficult to receive such care, however, when call lights go unanswered for long periods of time; staff is lacking in numbers or training on how to address the needs of specific residents or tenants; and/or staff are overwhelmed attending to those who need a higher level of care.

Solutions:

- a) Develop a mechanism to create an ongoing dialogue between regulators, facilities, programs, direct care workers, residents, tenants, consumer advocates and the Office of the State Long-Term Care Ombudsman to ensure care is provided by knowledgeable, adequately trained staff in a timely, consistent manner.
- b) Review staffing recommendations developed by the U.S. Department of Health and Human Services and the Centers for Medicare & Medicaid Services that highlight adequate staffing level requirements and develop a strategy to implement in Iowa.
- c) Explore the educational goals and/or certification standards needed in Iowa for all long-term care staff to ensure the highest quality of care and greater consistency in provision of care.



*During this reporting period, **205 concerns** were brought forth regarding resident and tenant care and treatment.*

2. Resident and Tenant Rights: Autonomy and Exercise of Decision-Making Rights

Ensure residents and tenants with capacity have the right to make their own decisions; that the rights of a resident or tenant with a decision maker are protected; and that those in need of substitute decision-making assistance have a trusted source available.

Individuals residing in long-term care settings have the right to participate in their own medical care and treatment, as well as to manage their own financial affairs. It is difficult to exercise these rights, however, when an assumption sometimes exists that individuals residing in long-term care settings lack capacity; when agents or attorneys-in-fact make decisions that do not respect the wishes of the resident or tenant; and/or when a guardian or conservator makes decisions without regard to his/her roles and responsibilities.

Solutions:

- a) Develop an ongoing outreach effort in conjunction with the Iowa State Bar Association, law schools, the judicial branch, the Office of Substitute Decision Maker, AARP, consumer advocates and the Office of the State Long-Term Care Ombudsman to educate Iowans on the new financial power of attorney law, including training agents on their roles and responsibilities.
- b) Adequately fund the Office of Substitute Decision Maker (OSDM) under Iowa Code 231E to serve as a resource to residents, tenants, families and decision makers.
- c) Collaborate with the OSDM and the Iowa Department on Aging's legal services developer to provide education and accurate information on capacity, least-restrictive alternatives, durable power of attorneys for health care and the roles of an attorney-in-fact, guardian, conservator and representative payee.



*During this reporting period, **185 concerns** were brought forth regarding autonomy, choice or exercise of rights and privacy.*

3. Resident and Tenant Rights: Admission, Transfer, Discharge and Eviction

Ensure residents and tenants are aware of and exercise their rights under admission contracts, occupancy agreements and involuntary discharge or transfer notices.

Individuals residing in long-term care settings have the right to be fully informed of admission and discharge rules/policies, as well as the right to remain in the facility or program unless a valid discharge occurs. When a decision maker, family member or friend is the recipient of this information, the resident and/or tenant has a right to expect their financial affairs are well-managed and their best interests followed. It is difficult to exercise this right, however, when an agent, conservator, family member or friend does not pay the facility or program for the costs of care. In some cases this is an oversight; in others it is financial exploitation. This non-payment can result in the issuance of an involuntary discharge or transfer notice.

Solutions:

- a) Implement an ongoing outreach effort by the Office of the State Long-Term Care Ombudsman's discharge specialist to educate and inform residents, tenants, families, decision makers and staff of the requirements of notice provisions and the right to appeal.
- b) Partner with other state agencies and consumer advocates to review laws and rules to ensure consistency when asserting appeal rights for residents and tenants and make legislative recommendations.
- c) Enhance the recently passed elder abuse law to provide criminal penalties for financial exploitation.
- d) Partner with the Departments of Human Services, Inspections and Appeals and Aging, as well as the Area Agencies on Aging, to develop a system of information, education and training for staff, family and other reporters of dependent adult abuse.
- e) Educate residents and families and consult with long-term care staff on the right to return to the community under the Minimum Data Set, Section Q provision.



*During this reporting period, **157 concerns** were brought forth regarding admission, transfer, discharge and/or eviction.*

Issues to Watch

During Federal Fiscal Year 2015 (Oct. 1, 2014 – Sept. 30, 2015), some of the key issues the Office of the State Long-Term Care Ombudsman will continue to monitor closely include:

1

Closures, whether voluntary or involuntary, of long-term care facilities:

It is critical to ensure notice of a long-term facility closure is given to residents and tenants, that ongoing communication is provided and that impacted residents and tenants are guaranteed safe transitions.

2

Required staffing levels at long-term care facilities:

Staffing at long-term care facilities should be sufficient to adequately meet the specific level-of-care needs of residents and tenants and facilities should be required to maintain those staffing levels.

3

Recruitment and retention of direct care workers:

The degree to which a long-term care facility's workforce is stable and committed has a direct impact on the quality of care provided to residents and tenants.

4

Training provided to long-term care facility employees:

Staff at long-term care facilities should receive adequate comprehensive training and be offered high-quality professional development activities that address the specific level-of-care needs of the residents and tenants in their care.

5

Licensure and training requirements for assisted living program directors and staff:

Assisted living program directors and staff should be adequately trained on the rules and regulations governing assisted living programs and be licensed to meet the specific level-of-care needs of the tenants in their care.

6

Due process rights of tenants of assisted living programs and elder group homes:

Tenants of assisted living programs and elder group homes should be informed of their due process rights to ensure they are treated fairly and are able to appeal any decisions denying them eligibility or services.

Appendix A:

Communications

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Section 1:

Press Releases