



Office of the State Long-Term Care Ombudsman

Iowa Office of the State Long-Term Care Ombudsman

Annual Report 2012

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.

January 30, 2013

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 2012. This report is produced pursuant to Iowa Code 231.42(d), 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

Office of the State Long-Term Care Ombudsman

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Table of Contents

Executive Summary.....	9
Mission and Structure.....	11
Authority and Mandates.....	11
Activities of the Office.....	12
Recommendations.....	17
Appendices	
A Communications	
A1 Press Releases.....	25
A2 Articles and Guest Editorials	27
A3 Fact Sheets.....	43
B Legislative Declarations.....	49
C Executive Order 76.....	51
D SF 2336—Certified Volunteer Long-Term Care Ombudsman Program.....	53
E Cases and Complaint Data.....	57

Executive Summary

Federal Fiscal Year 2012

October 1, 2011 through September 30, 2012

This year was one of transition for the Office of the State Long-Term Care Ombudsman. In December 2011, Deanna Clingan-Fischer, JD, was appointed as the new State Long-Term Care Ombudsman assuming the role from Jeanne Yordi. This report timeframe covers portions of the tenure of each State Long-Term Care Ombudsman. Through the transition, the Office continued to be an effective advocate and resource for persons residing in long-term care facilities, assisted living programs and elder group homes. Some of the accomplishments include:

Administrative Efforts:

- Revitalizing the program by collaborating with federal, state, aging and disability network partners;
- Developing program protocols through policy memorandum;
- Revising the case management software utilized by the Office;
- Developing a listserv to communicate with administrators and directors to highlight the Long-Term Care Ombudsman Program and issues faced by residents/tenants;
- Issuing guest editorials and press releases on relevant topics; and
- Developing informational fact sheets.

Advocacy Efforts:

- Ensuring that residents and tenants voices are heard and rights maintained in the 408 Assisted Living Programs, Elder Group Homes and Residential Care Facilities within the state;
- Visiting the 21,971 beds (or people) within those 408 programs and facilities;
- Ensuring that residents voices are heard and rights maintained in the 445 nursing facilities within the state;
- Visiting the 31,549 beds (or people) within those 445 nursing facilities;
- Receiving 1,869 complaints by or on behalf of residents and tenants;

- Opening 1,048 cases on behalf of residents and tenants;
- Served 3,440 residents and tenants; and
- Providing 3,737 hours of advocacy services, beyond complaint handling.

Outreach Efforts:

Providing a total of 5,858 program activities which included:

- Consulting with 629 facilities and providers of service;
- Consulting with 1,535 individuals;
- Visiting 708 residents and tenants on non-complaint related visits;
- Visiting 1,197 residents and tenants on complaint-related issues;
- Providing education, training, and technical assistance to 667 individuals including volunteers, ombudsmen, facility staff, media, and the community;
- Participating in 986 facility surveys;
- Assisting residents and their families through participation in and development of 39 resident and family council meetings;
- Collaborating with other organizations by serving on 19 committees, task forces, and workgroups;
- Monitoring proposed legislation and participating in the legislative process on issues that impact the health, safety, welfare, and rights of residents and tenants;
- Advocating for successful passage of a Certified Volunteer Long-Term Care Ombudsman Program; and
- Hiring one Local Long-Term Care Ombudsman to develop, implement and monitor the Certified Volunteer Long-Term Care Ombudsman Program.

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 through system changes.

1. Person-Centered Care. Care should focus on the person's needs and wishes, not just on what

is convenient. Residents and tenants are entitled to their civil rights, to understand their rights, to participate fully in their care, and to feel at home wherever they live. Individuals residing in long-term care settings should have choice, dignity, respect, autonomy (self-determination), privacy, and services that optimize well being and purposeful living. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard lack of or disregard of these core person-centered values.

2. Substitute Decision Makers—Guardianship, Conservatorship, and Powers of Attorney.

The ability to make decisions for oneself is of concern for residents and tenants of long-term care facilities. The concerns relate to residents/tenants who do have capacity, but are not listened to because they have signed a power of attorney; those residents who do not have capacity and do have a substitute decision maker who is abusing, neglecting or exploiting them; and those residents who do need a substitute decision maker, but have no one willing or able to serve. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard problems with or lack of someone to serve as a substitute decision maker.

3. Financial Exploitation. When a resident or tenant is in need of financial management assistance, a fiduciary can be appointed to serve as a manager of income and assets. Unfortunately, too many times, the individual appointed as an attorney-in-fact under a financial power of attorney, or a Representative Payee for Social Security benefits or a Conservator appointed by the court, breaches their fiduciary duty and does not manage the income or resources for the best interests of the resident or tenant. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard involuntary discharges or evictions due to lack of payment by the fiduciary for the care of the resident or tenant.

4. Visitation and Access to Residents and Tenants. The ability to visit with individuals of one's choosing, is a right guaranteed by law to the person residing in long-term care. Unfortunately, this right is not automatically recognized, whether by family or other individuals, and creates stress, anxiety, sadness, and hardship for the resident or tenant. The resident or tenant needs to have their voice heard and to be a part of the discussion, rather than to have these decisions simply made on their behalf without their input. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard problems with access to and the right to visit with a resident or tenant.

5. Residential Care Facilities (RCF). Through the course of the 2012 calendar year, 10 RCF's have closed. (An additional 4 RCF's have already closed in January of 2013.) The closure of these facilities creates anxiety, confusion, and disruption to the lives of many residents. While there may be less restrictive housing settings or other RCF's for these individuals to reside in, the fact is that many residents choose to live in this setting and this choice should be recognized and honored. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard the closure and lack of funding to allow for continued residence in an RCF of the resident's choosing.

6. Long-Term Care Ombudsman Program. The issues that present themselves to the Office of State Long-Term Care Ombudsman, to Local Long-Term Care Ombudsmen and to Resident Advocate Committees (now, the Certified Volunteer Long-Term Care Ombudsman) are numerous and becoming more complicated and time-consuming. The time needed to truly devote to meeting the needs of all residents and tenants requires additional Local Long-Term Care Ombudsmen as well as continued funding for the Office to adequately implement the Certified Volunteer Long-Term Care Ombudsman Program and to transition from the current Resident Advocate Committee structure.

Mission and Structure

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.

The Office of State Long-Term Care Ombudsman consists of the State Long-Term Care Ombudsman; Local Long-Term Care Ombudsmen and Volunteers, as well as an Administrative Assistant. To assist in fulfilling the duties outlined by law, the State Long-Term Care Ombudsman has designated nine (9) Local Long-Term Care Ombudsmen as representatives of the office. Of the nine (9) Local Long-Term Care Ombudsman, eight (8) are dedicated to specific areas of the state and one (1) is dedicated to developing a certified volunteer program to recruit, train, and monitor certified volunteer long-term care ombudsmen.

Throughout the years, Resident Advocate Committee (RAC) volunteers have played a significant role in the structure of Iowa's Long-Term Care Ombudsman program. These RAC volunteers are dedicated individuals who advocate for residents of long-term care facilities by visiting with residents on a regular basis and working with the Local Long-Term Care Ombudsmen toward resolution of concerns. Although Iowa's law requires RAC, the funding

for this program was eliminated in 2009. With the elimination of funding, the RAC program capacity as well as support to the remaining volunteers diminished. Despite this, some volunteers persevered and continue to serve the needs of residents in an advocacy capacity.

In 2012, Senate File 2336 was passed and signed into law. This legislation appropriated \$100,000 to provide an additional local long-term care ombudsman to administer the certified volunteer long-term care ombudsman program pursuant to new chapter, Iowa Code 231.45, as enacted by the 2012 Act. A Local Long-Term Care Ombudsman was hired as a result. The Office is in the process of implementing this law by partnering with the existing RAC members and reaching out to new volunteers to transition to the Certified Volunteer Program.

Authority and Mandates

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.

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 the health, safety, welfare, or rights;*

¹ Older Americans Act, 42 U.S.C. 3058g

² Iowa Code 231-- Iowa's law currently refers to the Long-Term Care Ombudsman as the Long-Term Care Residents/Tenants Advocate

- *Make referrals to appropriate licensing, certifying, and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions;*
- *Provide services to assist the resident or tenant in protecting the health, safety, welfare, and rights of the resident/tenant;*
- *Inform residents and tenants about means of obtaining services provided by providers or agencies;*
- *Ensure that residents and tenants have regular and timely access to the services provided through the Office and that the residents, tenants, and complainants receive timely responses;*
- *Represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;*
- *Provide administrative and technical assistance to local 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 the residents and tenants;*
- *Provide for training 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 are divided into the following specific categories: Advocacy; Cases and Complaints; Community Education; Consultation; Other; Resident and Family

Councils; Resident and Tenant Visitation; Participation in Surveys; and Training and Technical Assistance. The efforts within each activity are discussed in more detail below.

Advocacy

The primary role of Long-Term Care Ombudsmen is advocacy—this entails serving as the voice for residents and tenants residing in long-term care settings. Advocacy comes in the form of 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 can encompass reviewing and commenting on rules, regulations and laws; recommending policy changes when the health, safety, welfare, and rights of residents and tenants are impacted; as well as educating residents, family, providers, policy makers, and the general public on issues of concern and rights guaranteed to individuals residing in long-term care facilities, assisted living programs, and elder group homes.

Representatives of the Office spent 3,737 hours providing advocacy beyond complaint handling.

The State Long-Term Care Ombudsman monitored proposed legislation and rules and provided 97 declarations or comments relating to proposed laws that impacted the health, safety, welfare, and rights of residents and tenants.

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 that adversely affect 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 or tenants. A case is each inquiry brought to, or initiated by, the Long-Term Care Ombudsman on behalf of a

resident/tenant or group of residents or tenants involving one or more complaints which requires investigation, strategy to resolve and follow-up.

*Representatives of the Office handled:
1,869 new complaints*

*Representatives of the Office opened:
1,048 new cases*

The most frequent complaints received are:

1. Issues related to Admission, Transfers, Discharges, and Eviction—370 complaints
2. Issues related to Autonomy, Choice, Exercise of Rights, and Privacy—326 complaints
3. Issues related to Resident and Tenant Care—275 complaints
4. Issues related to Environment/Safety—173 complaints
5. Issues related to the System and Concerns Apart from the Facility—147 complaints

For a complete listing of all complaints, see table located in Appendix E.

Complaint Category	Issues Addressed through this Category	
Admission, Transfers, Discharges, and Eviction	<ul style="list-style-type: none"> • Admission contract & procedures • Appeal process • Refusal to readmit 	<ul style="list-style-type: none"> • Discharge/eviction-lack of planning, or appropriate notice • Discrimination in admission • Room changes or assignments
Autonomy, Choice, Exercise of Rights and 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
Resident and Tenant Care	<ul style="list-style-type: none"> • Injury or falls, improper handling • Failure to respond to requests • Concerns over personal hygiene, adequacy of dressing, grooming • Physician services • Pressure sores • Toileting, incontinent care 	<ul style="list-style-type: none"> • 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
Environment/Safety	<ul style="list-style-type: none"> • Air, temperature and quality • Cleanliness • Equipment/building disrepair • Furnishings • Infection control 	<ul style="list-style-type: none"> • Laundry • Odors • Space for activities • Supplies and linens • Accessibility
System/Other	<ul style="list-style-type: none"> • Abuse, neglect, abandonment by non-staff • Bed shortage-placement • Operating without a license • Family conflict • Financial exploitation by family or friends • Medicare 	<ul style="list-style-type: none"> • Mental health, disabilities • Problem with residents physician • Protective services agency • SSA, SSI, VA, or other benefits • Request for less restrictive placement • Legal-guardianship, conservatorship, powers of attorney and wills

Community Education

The Long-Term Care Ombudsman's Office 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 for or empower residents and tenants and on such subject matter topics as powers of attorney, guardianship, conservatorship, visitation, admissions, discharges, and evictions from long-term care facilities.

*Representatives of the Office provided:
111 community education sessions*

*The State Long-Term Care
Ombudsman provided:
13 interviews with media*

*Total community education:
124 sessions and interviews*

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 resident's rights; abuse, neglect, and financial exploitation of a resident or tenant; the role of long-term care ombudsman 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.

*Representatives of the
Office consulted with:
1,535 individuals*

*Representatives of the
Office consulted with:
629 facilities or providers*

Total: 2,164 consultations

Other

1. The Long-Term Care Ombudsman's Office participates in federal, state and local efforts to ensure that 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, and 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;
- Direct Care Workforce Initiative—Ambassador;
- Iowa State Bar Association Elder Law Council and Section;
- Iowa Person-Directed Care Coalition;
- Long-Term Care Social Workers Board;
- DMACC's Aging Services Management Advisory Council;
- Johnson County Quality Long-Term Care Committee;
- Johnson County Elderly Consortium;
- Linn County Elderly Consortium;
- IPOST Advisory Councils;
- Elder Abuse Task Force;
- National Consumer Voice Leadership Council;
- National Association of State Long-Term Care Ombudsman Programs;
- National Association of Local Long-Term Care Ombudsman;
- National Association of Local Long-Term Care Ombudsman Executive Board;
- Workgroup to Improve National Ombudsman Reporting System Consistency;
- Iowa Caregivers Conference Planning Committee;
- Partnership to Improve Dementia Care;
- Health Care Fraud Task Force;
- Meetings with the Linn County MHDD Planning Committee;

- Meetings for the Mental Health Redesign Transition Committee;
- Meetings with Department of Inspections and Appeals;
- Meetings with Disability Rights Iowa Advocates;
- Meetings with the Legal Assistance Developer and the Title VII legal assistance providers, including the Legal Hotline for Older Iowans;
- Meetings with the Elder Abuse Prevention Committee;
- Meetings with the Elder Abuse Prevention and Awareness Director;
- Meetings with the Administration on Aging; and
- Meetings with the National Ombudsman Resource Center.

2. In addition to participating in meetings, committees, and workgroups, effort has been expended to review and update Iowa's Long-Term Care Ombudsman program policies and procedures. As a part of this process, tools for effectively communicating with the Local Long-Term Care Ombudsmen, Long-Term Care Ombudsmen Volunteers, Administrators and Directors of Long-Term Care Facilities/Assisted Living Programs, and the general public have been developed and in some cases refined. Some of the efforts to fulfill this initiative include:

- Developing program protocols through policy memorandum. Policy memos are sent to Local Long-Term Care Ombudsmen to share up-to-date information on laws, rules, regulations and issues of interest;
- Developing policies and procedures in relation to handling cases and complaints within nursing facilities, residential care facilities, assisted living programs, and elder group homes;
- Revising and implementing a new case management software system for the State and Local Long-Term Care Ombudsmen to enter data on complaints, cases,

consultations, education, training, and other work done on behalf of residents and tenants in long-term care facilities. The process involved developing a request for proposal, receiving bids, evaluating the submissions, choosing a vendor, entering into a contract and training the Office on the use of the new system;

- Collaborating with the Iowa Department on Aging and the Attorney General's Office to implement Executive Order 76;
- Developing partnerships with the Aging and Disability Resource Centers (ADRC) to transfer the responsibility of performing assessments of residents in long-term care facilities to determine if less restrictive residence options were available. These assessments, through an MDS-Q referral, were originally performed by the Local Long-Term Care Ombudsmen. The transfer of this role on July 1, 2012 allowed the Long-Term Care Ombudsman to serve as an advocate for the resident rather than serving as a provider of service;
- Developing 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 and elder group homes. At the end of this reporting cycle, the listserv was in the process of being developed with the goal of a November 2012 implementation date; and
- Developing regular press releases and guest editorials 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, when requested, and by providing technical assistance in the development and continuation of these councils. The resident and family councils are separate meetings which 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.

*Representatives of the Office worked with:
28 Resident Councils*

*Representatives of the Office worked with:
11 Family Councils*

*Total Resident and Family Councils:
39 Councils assisted*

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 Long-Term Care Ombudsmen to assess the situation, provide education and information, help empower the resident or tenant to take action for him or herself, as well as to obtain additional information to pursue as a complaint or case, if needed.

*Representatives of the Office
made 1,197 complaint related visits*

*Representatives of the Office
made 708 non-complaint visits*

Total visits to residents and tenants: 1,905

Participation in Surveys

The Long-Term Care Ombudsman's Office participates, as needed, in surveys conducted by the regulatory entity, the Department of Inspections and Appeals. The Long-Term Care Ombudsman's Office role is to provide comment, to share concerns on behalf of residents, tenants, family, and volunteers, and to ensure that residents and tenant's voices are heard. Surveys are inspections performed by the regulatory entity to ensure compliance with federal and

state laws. Participation can include pre-survey briefing and attending the resident group interview or exit interview.

*Representatives of the Office participated
in 986 facility surveys*

Training and Technical Assistance

The Long-Term Care Ombudsman's Office provides education, training and technical assistance to ombudsmen, volunteers, and facility staff. Training and education is needed to ensure staff and volunteers can retain their certifications and remain on the cutting edge of issues and the laws and regulations surrounding long-term care. Technical assistance is provided to Local Long-Term Care Ombudsman and Volunteers by the State Long-Term Care Ombudsman in an effort to ensure consistent and uniform interpretations and implementation of laws, rules, and regulations statewide.

*Training to the Long-Term Care
Ombudsmen and Volunteers:
6 sessions*

*Technical Assistance to Long-Term Care
Ombudsmen and Volunteers:
516 contacts*

*Trainings to Facility Staff:
21 sessions*

*Total Training and Technical Assistance
activities:
543 activities*

Recommendations

1. Person-Centered Care. Person-centered care is designed to assist an individual to plan their life and supports to increase personal self-determination and improve independence. Care

should focus on the person's needs and wishes, not just on what is convenient. Residents and tenants are entitled to their civil rights, to understand their rights, to participate fully in their care, and to feel at home wherever they live. Individual's residing in long-term care facilities, including assisted living programs, should expect core values of: choice, dignity, respect, autonomy (self-determination), privacy, and services that optimize well being and purposeful living. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard lack of or disregard of these core person-centered values.

In an effort to assist in resolving issues before they arise, consumers should be educated and receive clear instructions to understand: admission agreements, occupancy agreements, negotiated risk agreements, and the role of landlord-tenant law within assisted living programs. Once an individual is a resident or tenant of a long-term care facility, the emphasis needs to ensure that the resident or tenant remains as the primary focus in the provision of care. Increasing the role of the Long-Term Care Ombudsman in promoting person-centered care and expanding education efforts relating to pre-admission is imperative. The Office of State Long-Term Ombudsman can work with residents, tenants, consumers, families, nursing facilities, residential care facilities, assisted living programs, elder group homes, staff, providers, and aging/disability advocates to provide this much needed education and work to develop person-directed care standards.

Solution: Allow for increased involvement by the Office of the State Long-Term Care Ombudsman by creating a new Long-Term Care Ombudsman position and funding to expand efforts relating to education and to ensure practices are developed and consistently applied across the state to ensure person-centered care core values are respected and implemented.

2. Substitute Decision Makers—Guardianship, Conservatorship, and Powers of Attorney. A substitute decision maker is an individual or entity who is appointed or nominated to assist an individual in need of financial management or personal care decisions. The ability to make these decisions for oneself is presumed under Iowa law, unless there is an incapacity statement issued by a doctor or an order by the court. The ability to make decisions for oneself is of concern for residents and tenants of long-term care facilities. The concerns relate to residents/tenants who do have capacity but are not listened to because they have signed a power of attorney; those residents who do not have capacity and do have a substitute decision maker who is abusing, neglecting or exploiting them; and those residents who do need a substitute decision maker but have no one willing or able to serve. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard problems with or lack of someone to serve as a substitute decision maker.

Solution: Adopt the recommendations proposed by the Elder Abuse Task Force 2012 report relating to implementation of the Office of Substitute Decision Maker. The re-establishment of the Office of Substitute Decision Maker will allow for education and training on the subject, allow for interventions when abuse or financial exploitation is suspected, and allow for the office to serve as a decision maker of last resort.

3. Financial Exploitation. Financial exploitation is the taking of property, income or other resources for one's own profit or purposes to the detriment of the individual to whom the resources belong. When a resident or tenant is in need of financial management assistance, a fiduciary can be appointed to serve as a manager of income and assets. Unfortunately, too many times, the individual appointed as an attorney-in-fact under

a financial power of attorney, or a Representative Payee for Social Security benefits or a Conservator appointed by the court breaches their fiduciary duty and does not manage the income or resources for the best interests of the resident or tenant. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard involuntary *discharges or evictions due to lack of payment by the fiduciary for the care of the resident or tenant.*

Solution: Adopt the recommendations proposed by the Elder Abuse Task Force 2012 report relating to implementation of the uniform power of attorney law, development of a guardianship and conservatorship monitoring program, and the development of an elder abuse law which would include an allegation of financial exploitation.

4. Visitation and Access to Residents and Tenants. The focus of the Long-Term Care Ombudsman's Office is to advocate for the rights and wishes of residents and tenants in long-term care. In fact, resident's rights are guaranteed by the federal 1987 Nursing Home Reform Law.³ Iowa has incorporated these rights into state law for nursing facility residents, assisted living and elder group home tenants.⁴ Pursuant to these rights, all residents and tenants are guaranteed access and visitation rights. These rights are essential to a meaningful quality of life. The resident and tenant have the right to associate and communicate privately with persons of the resident or tenant's choice.⁵ The law does allow a visitor to be restricted by the facility if the resident refuses to see the visitor; the resident's physician documents specific reasons why such a visit would be harmful to the resident's health; or

the visitor's behavior is unreasonably disruptive to the functioning of the facility.⁶

The ability to determine who is allowed to visit with the resident or tenant is a right guaranteed by law to the person residing in long term care, unless one of the exceptions listed above is present and enforced by the facility. Yet despite the guaranteed right to visitation and access, this right is not automatically recognized or honored by family, the attorney-in-fact or guardians. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard problems with access to a resident or tenant.

Solution: Develop legislation which definitively confers the right of access and visitation to the resident or tenant. This legislation would need to address the issues of whether an attorney-in-fact under a durable power of attorney for health care or a court-appointed guardian can override this basic resident/tenant right to visitation. The proposed legislation would also need to address how this right is enforced when the resident or tenant has periods of medical incapacity. The Office of State Long-Term Care Ombudsman would be willing to convene a task force or workgroup to pursue this issue and then make legislative recommendations.

5. Residential Care Facilities (RCF). A residential care facility means any institution, place, building, or agency providing for accommodation, board, personal assistance and other essential daily living activities to three or more individuals, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves, but who do not require the services of a registered or licensed practical nurse except on an emergency basis.

³42 U.S.C. 1396r; 42 C.F.R. 483.10

⁴Iowa Code 135C.14(8) and 481 IAC 67.3

⁵42 C.F.R. 10(j) and 481 IAC 67.3(6)

⁶481 IAC 58.47(2)

Through the course of the 2012 calendar year, 10 RCF's have closed. (An additional 4 RCF's have already closed in January of 2013.) The closure of these facilities creates anxiety, confusion, and disruption to the lives of many residents. While there may be less restrictive housing settings or other RCF's for these individuals to reside in, the fact is that many residents choose to live in this setting and this choice should be honored. Many of the concerns brought forth to the Long-Term Care Ombudsman's Office regard the closure and lack of funding to allow for continued residence in an RCF.

Solution: Convene a workgroup, including state and county government agencies, RCF administrators, Mental Health Advocates, Disability Rights Iowa, Office of State Long-Term Care Ombudsman, providers, residents, families and staff to discuss the issues facing residents in RCF's and seek resolutions that empower residents and provide viable options for housing alternatives and funding.

6. Long-Term Care Ombudsman Program. The issues that present themselves to the Office of State Long-Term Care Ombudsman, to Local Long-Term Care Ombudsmen and to Resident Advocate Committees (now, Certified Volunteer Long-Term Care Ombudsmen) are numerous and becoming more complicated and time-consuming. The time needed to truly devote to meeting the need of all residents and tenants requires additional Local Long-Term Care Ombudsmen as well as continued funding for the Office to adequately and effectively implement the Certified Volunteer Long-Term Care Ombudsman Program and transition from

the current Resident Advocate Committee structure.

Two national studies⁷ recommend that each local long-term care ombudsman serve 2,000 beds, which equates to people. Currently, in Iowa, the ratio is one local long-term care ombudsman for 6,661 beds or people. In order for Iowa to meet the national recommendation and to further meet the needs of individuals residing in long-term care facilities, Iowa would need 26.6 Local Long-Term Care Ombudsman, instead of the current eight (8) that serve residents and tenants as advocates. This means that Iowa needs an additional eighteen (18) local long-term care ombudsmen. (Note: Iowa does have nine (9) Local Long-Term Care Ombudsmen but one is devoted to coordinating the certified volunteer program.)

State and Local Long-Term Care Ombudsmen provide valuable consultation, education and assistance when we have the opportunity to collaborate with care providers, families, and consumers. With the current funding constraints, Local Long-Term Care Ombudsmen have focused more on responding to complaints and concerns of residents and tenants rather than on performing non-complaint related visits.

With the passage of legislation in 2012⁸, Iowa, through the Office of State Long-Term Care Ombudsman, was authorized to create a Certified Volunteer Long-Term Care Ombudsman Program. This law did allow for the hire of an additional Local Long-Term Care Ombudsman to develop, recruit, monitor, manage and train volunteers willing to serve as certified volunteers. The Certified Volunteers, once in place, will serve as an advocate for residents in nursing facilities as well as residential care facilities. The goal is to allow for a more regular presence within a facility and to conduct non-complaint related visits. As concerns or problems arise, the Certified

⁷ Institute of Medicine, Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act, 1995 and the Bader Report, 2003

⁸ SF 2336, codified in Iowa Code 231.45

Volunteer will refer to the Local Long-Term Care Ombudsman who covers that area for follow up. To ensure the success of this program, continued funding is needed.

Solution: Allow for increased involvement by the Office of the State Long-Term Care Ombudsman by creating and funding new Local Long-Term Care Ombudsman position(s) and continue, as well as expand, advocacy efforts on behalf of residents and tenants in long-term care facilities. Allow for continued funding to implement a successful statewide Certified Volunteer Long-Term Care Ombudsman Program. A successful volunteer program requires the continued ability to devote at least one Local Long-Term Care Ombudsman to serve as a volunteer coordinator to mentor volunteers through education, technical assistance and support. The Certified Volunteer Program needs continued commitment through funding and state support to become and then remain a vital program dedicated to advocating for the health, safety, welfare, and rights of residents in long-term care facilities.

Appendices

Iowa Department on Aging

Director Donna Harvey

For more information:

Machelle Shaffer

515/725-3312

515/745-3442 (cell)

For Immediate Release:

December 19, 2011

Deanna Clingan-Fischer Named New State Long Term Care Ombudsman

Clingan-Fischer has Extensive Experience in Law and Aging Issues

Des Moines, IA (December 19, 2011) Today, Iowa Department on Aging Director Donna Harvey appointed Deanna Clingan-Fischer as Iowa's State Long Term Care Ombudsman.

"I am pleased to announce the hiring of Deanna Clingan-Fischer as Iowa's State Long-Term Care Ombudsman. Clingan-Fischer is an attorney who brings extensive experience and knowledge to this position and has served the Department for twenty-two years as the Department's Legal Services Developer," Stated Director Donna Harvey.

Clingan-Fischer commented, "I look forward to working with, and on behalf of, residents and tenants residing in Iowa's long term care and assisted living facilities. The Office of the State Long Term Care Ombudsman is a tremendous state-wide resource available through a network of locally designated ombudsmen. Our local ombudsmen excel at what they do and it will be a pleasure to act in a leadership role to ensure Iowa's vulnerable citizens are protected and enjoy quality lives".

Deanna Clingan-Fischer's career path has led to numerous leadership honors at the state and national levels, including the national *Aging & Law Award* for significant contributions to justice for older persons.

The State Long Term Care Ombudsman will direct eight designated regional long term care ombudsman and Older Americans Act Title VII elder rights protection activities. Clingan-Fischer replaces Jeanne Yordi, who accepted the position of Family Caregiver Specialist with the Iowa Department on Aging.

In her seven years of service as the State's Long-Term Care Ombudsman, In collaboration with the Iowa Department on Aging and Iowa General Assembly, Yordi oversaw the growth of the office as it expanded from three local ombudsmen to eight local ombudsmen serving Iowans statewide. Yordi also developed and implemented program standards for local ombudsman programs resulting in greater use of the program by older Iowans, and their families.

Yordi also helped develop the State Facility Crisis Team protocol that is now used when a facility is closing, at risk of decertification or in an emergency situation.

In 2010, Yordi received the national *Hollis Turnham Award* for advocacy. She is the only long-term care ombudsman to receive this honor.

To find out more about the State Long-Term Care Ombudsman, contact the office directly toll-free at: 1-866-236-1430.

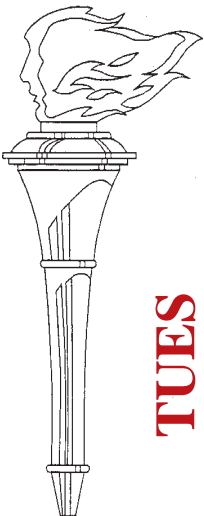
For more information on the State Ombudsman's Office and the Iowa Department on Aging (IDA) go to the website: www.aging.iowa.gov .

The mission of the Iowa Department on Aging is to develop a comprehensive, coordinated and cost-effective system of long-term living and community support services that help individuals maintain health and independence in their homes and communities.

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This then is the message which we have heard of him, and declare unto you, that God is light, and in him is no darkness at all. — I John 1:5

Established 1894



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Today In History

On December January 3, 1777, Gen. George Washington's army routed the British in the Battle of Princeton, N.J. With the victory at Princeton, morale rose in the ranks and more men began to enlist in the army.



Today In History

On January 3, 1967, Jacob Leon Rubenstein, the man who shot and killed accused presidential assassin Lee Harvey Oswald, died in a Dallas hospital. Rubenstein legally changed his name to Jack Leon Ruby in 1947.



Today In History

On January 3, 1990, Panamanian leader Manuel Noriega, who worked for the CIA for more than three decades, surrendered to U.S. forces. In 1992 he was convicted on eight counts of drug trafficking, racketeering and money laundering.

Iowa Bystander

Carl T. Rowan Pinnacle Award Winner Monday through Saturday

\$1⁰⁰ • January 3, 2012 • Fear God, Tell the Truth & Make Money • Volume 125 Number 1D

Deanna Clingan-Fischer Named New State Long Term Care Ombudsman



"I am pleased to announce the hiring of Deanna Clingan-Fischer (pictured) as Iowa's State Long-Term Care Ombudsman. Clingan-Fischer is an attorney who brings extensive experience and knowledge to this position and has served the Department for

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Clingan-Fischer commented, "I look forward to working with, and on behalf of, residents and tenants residing in Iowa's long term care and assisted living facilities. The Office of the State Long Term Care Ombudsman is a tremendous state-wide resource available through a network of locally designated ombudsmen. Our local ombudsmen excel at what they do and it will be a pleasure to act in a leadership role to ensure Iowa's vulnerable citizens are protected and enjoy quality lives".

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In 2010, Yordi received the national Hollis Turnham Award for advocacy. She is the only long-term care ombudsman to receive this honor.

Patty Link To Step Down From DMPS School Board



Patty Link announced that she intends to resign from the Des Moines School Board effective today. She informed her colleagues late last year of her intentions.

"Over the past four years I have had the pleasure of serving on the Des Moines Public School Board. Academic achievements for all students and community outreach have always been my focus. Unfortunately, I am currently unable to fulfill my term on the Board. I have had a change in my employment status that will make it nearly impossible for me to dedicate the time and energy it takes to be an effective member of the Board while also trying to balance my responsibilities to my family," Link said.

Link added: "Although I am saddened to leave, I feel as though I have made a positive impact on the Des Moines Public Schools."

Since her term began in 2007, she spent time reaching out to the community to keep lines of communication open. She served as both the chair and the co-chair of the Community Linkage Committee. The Linkage Committee helped with the planning of the first ever Reach out to Dropouts walk, as well as beginning the Get on the Bus Tour to inform the community about registration and upcoming district events.

Link also served as the vice president of the board for two years. She helped the district navigate through unprecedented cutbacks in education funding in order to make the least possible impact on the classroom. Through these tough economic times the board has continued to hold public hearings and request

input from its constituency.

"I feel strongly the district is headed in the right direction with good leadership both on the Board and in the administration", Link said. "I will continue to be involved with the district both through my children's' education and on committees to maintain my belief in equal education for all and community outreach."

"Patty's dedication and leadership on the Board will be missed, but I know as a parent and a community member she will continue to be an advocate for our public schools," said Teree Caldwell-Johnson. "As a Board member and a former educator, Patty was always a strong voice for making sure our decisions were always in the best interests of students, teachers and parents."

The School Board has 30 days to select a person to serve the remainder of her term, which expires in September 2013.

Parmenter Named To ACLU Board



The American Civil Liberties Union of Iowa is proud to announce Dennis Parmenter as the newest addition to its 22-member statewide board.

Parmenter, of Cambridge, is a former state representative and former mayor of Huxley. He currently has a law practice located in Huxley and does a variety of law, including serving for many years as legal counsel to public-sector labor unions. He is also a leader at the United Methodist Church in Huxley and a member of the Huxley Business Association and the Huxley Development Commission.

The ACLU of Iowa is a private, non-partisan organization that fights to advance civil liberties for all. It is the state affiliate of the national American Civil Liberties Union.

The ACLU prides itself in upholding everyone's civil liberties, no matter who they are or what they believe. We have worked to assure the rights of all Iowans—from atheists to devout Christians, from labor unions to businesspeople and more—to make sure the constitutional rights of all are preserved.

Des Moines Public Schools is pleased to announce that Tim Schott will serve as the district's Executive Director of Secondary Schools. Schott most recently served as principal of Hubbell Elementary School.

Read more in tomorrow's Iowa Bystander!



Amanpour To Address Partnership Annual Dinner!

The Greater Des Moines Partnership will host its 123rd Annual Dinner on January 18th in the newly renovated ballroom at Vets Auditorium, in Downtown Des Moines. The Annual Dinner is the business community's celebration of the past year's successes featuring a keynote speaker, who this year will be Christiane Amanpour.

On January 8, 2012, Amanpour will leave her role as the anchor of ABC's Sunday morning political affairs program, "This Week with Christiane Amanpour," which premiered in August of 2010. Amanpour joined ABC from CNN, where she was the network's Chief

International Correspondent. She will return to CNN but also work with ABC.

She has reported on and from the world's major hot spots including Iraq, Afghanistan, Iran, Pakistan, Somalia, Israel, the Palestinian territories, Rwanda, the Balkans, and the U.S. during Hurricane Katrina. She has interviewed world leaders from Europe, Africa, and the Middle East, including Iranian Presidents Mohammad Khatami and Mahmoud Ahmadinejad, as well as the presidents of Afghanistan, Sudan, Syria, and Palestinian leader Yassar Arafat, among others.

The Partnership's Annual Dinner includes a social hour beginning at 5:30

p.m., and the dinner and program beginning at 6:30 p.m. The program includes the presentation of the 2012 Diversity Award(s) and the Partnership's Annual Report, summarizing the accomplishments of the group's work in 2011. The report will be available online following the dinner at www.desmoinesmetro.com.

Visit the event registration page to register for the Annual Dinner. Center stage seating is \$150 per person or \$1,500 per table, and general seating is \$125 per person or \$1,250 per table.

Reservations can also be directed to Joaquin Flores (515) 286-4948 or jflores@desmoinesmetro.com.

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Advocate needs an independent voice

Long-term care ombudsman should not be housed in a state agency

In the 1970s, Congress created long-term care ombudsmen. Every state has one. The goal was to provide advocates for people living in institutions, including nursing homes, who can't advocate for themselves.

An ombudsman is responsible for everything from investigating complaints to making recommendations to lawmakers. Federal law is clear: They are supposed to operate without interference or influence from state government.

But Iowa just doesn't seem to understand that.

State leaders from both parties have repeatedly failed to recognize the importance of this independence. They have treated the job as an arm of state government rather than an autonomous entity.

The latest example of this comes from Gov. Terry Branstad. He signed an executive order that moves the ombudsman's office back into the Iowa Department on Aging.

Branstad's action defies the intent of Congress. It sends a message that Iowans living in institutions have nowhere to turn for help other than state agencies under his purview. It politicizes an office that is supposed to be independent. It ignores the very reason former Gov. Chet Culver moved the office out of the aging agency in the first place.

In 2010, during Culver's tenure, conflicts of interests and allegations a former agency head was muzzling a former ombudsman prompted a federal investigation. Culver signed an executive order severing the two.

The Iowa Legislature was supposed to finish the job by codifying the ombudsman's independence in law.

Lawmakers didn't do their job, and history began repeating itself.

When the last ombudsman quit, Donna Harvey, director of the aging department, hired a replacement in 10 days. She gave the job to the only person interviewed: Deana Clingan-Fischer, a lawyer in her agency. A news release from the governor's office says

the two “have brought productive changes and a better working relationship” to the offices.

The ombudsman and a state department are not supposed to have a cozy relationship. The office should be separate, and the ombudsman should be someone who is hired and confirmed by a majority of the Legislature, the way the state citizen aide/ombudsman is.

That ensures the long-term care ombudsman is an advocate for Iowa’s care-center residents and is not subject to being fired or collaborating with an agency head or governor who may not like what the person is investigating or recommending.

If Branstad doesn’t understand the importance of this structure, it’s troubling. If he understands it, but chooses to ignore it, it’s even more troubling.

During his campaign for governor, Branstad expressed concern that state regulators were being too tough in regulating institutions caring for vulnerable Iowans. One of his appointees cut positions for nursing home inspectors and defied lawmakers who later provided money to hire more.

Now the governor has proactively worked to ensure a cozy relationship between his administration and an advocate who is supposed to operate independently.

In a state with a high percentage of seniors and people living in institutions, this is especially worrisome.

Sidebar

Does Iowa need these two entities?

The Iowa Department on Aging has no regulatory authority.

It botched that job years ago with assisted-living centers and was stripped of oversight responsibilities. It doesn’t investigate complaints. It is supposed to advocate for seniors and provide information to the public, but that is a role fulfilled by private entities like AARP.

A review in 2011 found the long-term ombudsman’s office made fewer unprompted visits to nursing homes than counterparts in almost every other state. The previous ombudsman, Jeanne Yordi, complained about being silenced by a state director for years. The person who was supposed to stand up for vulnerable seniors couldn’t even stand up for herself.

Now an executive order from Gov. Terry Branstad ties these two agencies together with a mission of “focusing on the safety of older Iowans and improving their quality of life.”

Review of Iowa ombudsman order sought

<http://www.desmoinesregister.com/article/20120411/NEWS10/304110035/Review-of-Iowa-ombudsman-order-sought>

A multistate organization that advocates for the elderly says a recent move by Gov. Terry Branstad jeopardizes the independence of the nation's long-term care ombudsmen.

On March 30, Branstad signed an executive order moving the office of Iowa's long-term care ombudsman back to the Iowa Department on Aging, where conflicts of interest had sparked a federal investigation and the resignation of a state department head in 2010.

In making the change, Branstad rescinded an executive order issued by his predecessor, Chet Culver, and said the Department on Aging's past interference in the ombudsman's work on behalf of nursing home residents was no longer an issue.

The move caught the interest of senior advocates nationally, in part because the director of the Department on Aging has instructed the ombudsman's staff to refrain from speaking out against the Branstad administration's decision to cut the number of nursing home inspectors.

On Tuesday, Voices for Quality Care, a Maryland-based organization of nursing home residents and their advocates, sent a letter to Branstad, urging him to reconsider the move because of the potential conflicts of interest.

At the very least, the organization wrote, the move re-creates an organizational structure that led to "the muzzling" of the ombudsman in 2010 and 2011. Iowa's elderly "are not well served by an ombudsman program that is not clearly and completely independent of political manipulation," the letter said.

Noting that its work is primarily in Florida, Maine, Maryland and Washington, D.C., the organization said it is interested in Iowa because the ombudsman program is federally mandated and is designed to serve all states and territories.

"Anything that jeopardizes the ombudsman program in any state jeopardizes the ombudsman program in all states," the letter said. "What happens in the ombudsman program in Iowa eventually affects, directly or indirectly, the quality and operations of the ombudsman programs in all other states."

In response, Branstad spokesman Tim Albrecht said the governor "remains confident that Iowa's long-term care ombudsman program is, and shall remain, an independent voice for Iowans" in nursing homes.

Albrecht said the move simply places the program in the Department on Aging to provide necessary administrative support. The head of the aging department will conduct the ombudsman's annual performance reviews, he said.

Under federal law, all of the nation's long-term care ombudsmen are to be independent voices for seniors, investigating complaints without interference from the industry or from other state agencies. In fact, part of each ombudsman's job is to review and comment on the actions of state government as they relate to the needs of the elderly.

In 2010, the U.S. Administration on Aging questioned the independence of Iowa's long-term care ombudsman, who at the time was Jeanne Yordi. Emails obtained by The Des Moines Register showed that the director of the aging department, John McCalley, had told Yordi that Culver would dictate her position on issues.

The U.S. Administration on Aging ordered McCalley to change a department policy that barred the ombudsman and her staff from voicing opinions on state and federal legislation. McCalley subsequently resigned, and Culver, via executive order, moved the ombudsman's office out from under control of the aging department, which he said would help ensure its independence.

But shortly after Branstad took office as governor, Yordi sought his approval before taking a position on a bill in the Legislature.

She also emailed her staff and told them they shouldn't criticize the new administration's decision to eliminate the 10 nursing home inspectors' positions, adding that she didn't think it was appropriate for her "to publicly criticize the decision of another state department."

Yordi's stance was endorsed by Donna Harvey, director of the Department on Aging. Harvey wrote to the regional ombudsmen and said: "Jeanne is absolutely correct in her statements. Each of you should not speak on this issue, but stay focused on reassuring everyone that YOU are fulfilling your responsibilities" as ombudsmen.

Yordi resigned in December and was replaced by Deanna Clingan-Fischer, a lawyer within the Department on Aging.

Guest Editorial—The Iowa Office of the State Long-Term Care Ombudsman

I would like to take this opportunity to introduce myself—I am Deanna Clingan-Fischer, a lawyer, an advocate, and the current State of Iowa Long-Term Care Ombudsman. I served as the Legal Services Developer for the Iowa Department on Aging for a little over twenty-one years. During that time, I was a leader for elder rights and worked to improve systems that adversely impacted older person's quality of life. I intend to continue to stand up for the rights of individuals across this state.

There has been a lot of discussion of late concerning the independence and role of the State Long-Term Care Ombudsman's Office after the signing of Executive Order 76. What is being missed throughout this upheaval and executive order conversation is the people we are here to serve. Serving those individuals is my primary concern and responsibility. I will work tirelessly to ensure that those rights are protected and that the voice of the Long-Term Care Ombudsman is indeed autonomous and independent.

The facts are that the Iowa Office of the State Long-Term Care Ombudsman has always been under the umbrella of the Iowa Department on Aging. The executive order signed by Governor Culver in 2010 facilitated the relocation of the State Office to another office building but did not sever the relationship with the Iowa Department on Aging. The new executive order 76 did not change that relationship either; it simply relocates the State Office of Long-Term Care Ombudsman from one address to another which also houses the rest of the State Unit on Aging. None of the duties, responsibilities or general work of the Ombudsman office has changed. The State and Local Long-Term Care Ombudsmen are advocates for residents and tenants of long-term care facilities, assisted living, and elder group homes. In fact, our office receives numerous letters of thanks and support for the work we do. One such letter stated, "The local ombudsman has been wonderful in helping my family member. She has been so caring, knowledgeable and helpful in finding out all our options, I cannot imagine having gone through all of this without her." Another letter stated, "Not many people would care enough to help me in the first place, let alone take the extra step to help find the correct information." It would be a shame if that good work was tarnished by this ongoing debate.

With some of the past history involving the Office of the State Long-Term Care Ombudsman, I understand that there are concerns over another change. Please know that if this change affected my ability to advocate or speak up independently, I would be the first to state as much. This change, however, is simply a physical move of the office. In fact, nothing in this executive order hinders the independent voice of the Ombudsman. Executive Order 76 actually states that the Long-Term Care Ombudsman program is and shall remain an independent voice for Iowans in long-term care facilities and shall continue to meet all requirements of the Federal Older Americans Act, but shall be housed with and administratively supported by the Department on Aging.

The ability for the State Long-Term Care Ombudsman's office to continue to act independently is further strengthened by an agreement that was entered into in 2010, between the Department on Aging, the Iowa Commission on Aging and the State Long-Term Care Ombudsman's Office. This agreement implements the original executive order and is in the process of being updated to reflect the new executive order. This agreement ensures that the Department on Aging (IDA) and the Iowa Commission

on Aging (ICA) will individually and collectively support and cooperate with the Long-Term Care Ombudsman in independently carrying out the duties imposed by the Iowa Code and the Older Americans Act. The IDA and ICA agree to the fullest extent provided by state and federal law, they will assume and maintain the independence and autonomy of the Ombudsman under the Older Americans Act. This agreement is one more way in which the aging network is collaborating with the State Long-Term Care Ombudsman's Office to strengthen the role and independence of the office into the future.

I challenge all of us to focus on the real issues that impact older persons. Those are the issues of concern—the abuse, neglect, poverty, scams, age discrimination, housing rights, residents rights, the misuse of legal documents, and exploitation . Let's focus on these issues and bring about change which leads to a better quality of life for residents of this state.

Ombudsman's address has changed, not its mission

I would like to take this opportunity to introduce myself: I am the current state long-term care ombudsman.

I served as the legal services developer for the Iowa Department on Aging for 21 years. During that time, I was a leader for elder rights and worked to improve systems that adversely impacted older persons' quality of life. I intend to continue to stand up for the rights of individuals across this state.

There has been a lot of discussion of late concerning the independence and role of the state long-term care ombudsman's office after the signing of Executive Order 76. What is being missed is the people we are here to serve.

Serving those individuals is my primary concern and responsibility. I will work tire-

DEANNA CLINGAN-FISCHER is Iowa's long-term care ombudsman. Contact: Deanna.Clingan@iowa.gov.

lessly to ensure that those rights are protected and that the voice of the long-term care ombudsman is independent.

The facts are that the Office of the State Long-Term Care Ombudsman has always been under the umbrella of the Iowa Department on Aging. The executive order signed by Gov. Chet Culver in 2010 facilitated the relocation of the office to another building but did not sever the relationship with the Department on Aging. The new Executive Order 76 did not change that relationship either; it simply relocates the ombudsman's office from one address to another, which also houses the rest of the state unit on aging.

None of the duties, responsibilities or general work of the ombudsman office has changed. The state and local long-term care ombudsmen are advocates for residents and tenants of long-term care facilities, assisted living and elder group homes.

Our office receives numerous letters of thanks for the work we do. One letter stated, "The local ombudsman has been wonderful in helping my family member. She has been so caring, knowledgeable and helpful in finding out all our options, I cannot imagine having gone through all of this without her."

It would be a shame if that good work was tarnished by this ongoing debate.

With some of the past history involving the state's long-term care ombudsman, I understand that there are concerns over

another change. Please know that if this change affected my ability to advocate or speak up independently, I would be the first to state as much.

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I challenge all of us to focus on the real issues that impact older persons. Those are the abuse, neglect, poverty, scams, age discrimination, housing rights, residents rights, the misuse of legal documents and exploitation. Let's focus on these issues and bring about change which leads to a better quality of life for residents of this state.

DM Register: The Register editorial: Iowa needs to act to really be 'best' for aging

<http://www.desmoinesregister.com/article/20120806/OPINION03/308060027/The-Register-editorial-iowa-needs-to-act-to-really-be-best-for-aging?archive>

Five Iowa cities were ranked among the “Best Cities for Aging” in the nation by researchers at the Milken Institute.

The private, nonprofit center looked at dozens of indicators, including job opportunities for seniors, affordable housing, libraries, the number of hospital beds and health professionals. It ranked Des Moines eighth among large metro areas for people ages 65 to 79 and sixth for those 80 years and older. Council Bluffs, Iowa City, Ames and Dubuque also scored high.

In fact, Iowa had more cities on the list than any other state. It’s always nice to land on “best” lists. It gives cities something to brag about and reminds residents not to take living in Iowa for granted. These cities are doing many things right that improve the quality of life for people of all ages.

Yet Iowa has a long way to go when it comes to caring for the most vulnerable, elderly people, particularly those living in institutions. Though the study used some federal data about nursing homes and noted Des Moines had too few caregivers, the study did not consider many variables, including the oversight or quality of institutions where thousands of seniors live.

“We haven’t been able to approach the exact differences in regulations in all states. We were ranking 359 metros,” said Anusuya Chatterjee, one of the study’s authors. She said she would consider in a future study taking a deeper look at oversight and safety issues as they relate to senior care centers.

Iowa knows what it needs to do to really be the best place to grow old. And the responsibility falls to state, rather than city, officials. It’s about ensuring the very sickest people are safe, and Iowa has more work to do on that.

A few years ago, The Des Moines Register reported Iowa’s long-term care ombudsman made fewer unprompted visits to nursing homes than ombudsmen in almost any other state in the country. The ombudsman is an advocate for people living in institutions, but the official visited only four of the 446 homes. Compare that 1 percent to the Illinois ombudsman, who visited 94 percent of homes in that state.

Iowa’s ombudsman is also treated as an arm of state government, rather than the autonomous entity that Congress envisioned. Gov. Terry Branstad signed an executive order moving the office into the Iowa Department of Aging after a federal investigation prompted former Gov. Chet Culver to make the office independent.

Branstad has expressed concerns about state regulators being too tough on facilities housing seniors. One of his appointees reduced the number of nursing home inspectors shortly after taking office. There have been no legislative efforts to impose additional penalties on homes that abuse or neglect residents.

A moratorium was placed on inspections of residential care facilities. Lawmakers refuse to require nursing homes to have a minimum staff-to-patient ratio. Though the number of assisted-living centers has grown from a few dozen to more than 300 over the past decade, the state conducts little oversight of them, even though they care for increasingly frail people.

And on and on.

The Milken report makes clear the rankings on “successful aging” should not be confused with others that identify the sunniest or cheapest places to retire. They should also not reassure anyone that this state is doing all it can to protect our most vulnerable seniors. It isn’t; more needs to be done.

Guest Editorial—State Office of Long-Term Care Ombudsman

In Response to The Register's Editorial-August 6, 2012

A recent Des Moines Register editorial concerning Iowa's support for its older citizens cited 2009 annual report statistics that could lead readers to believe that the State Long-Term Care Ombudsmen staff had been less than diligent in carrying out their duties as advocates for residents in nursing homes and assisted living facilities. The writer stated that the State Long-Term Care Ombudsman's Office visited only 4 out of 446 homes in Iowa (1%) and compared this to the Illinois State Long-Term Care Ombudsman program staff who visited 94% of their facilities. The use of this statistic is misleading at best and misrepresents the dedicated work that Iowa's Long-Term Care Ombudsman's Office performs on behalf of older Iowans.

The reality of the situation is that during that same reporting period the 7 Local Long-Term Care Ombudsmen throughout the state completed 505 unprompted visits and 825 visits related to complaints. This means that the Local Long-Term Care Ombudsmen each averaged 190 visits to facilities during the 2009 reporting period. Those numbers are pretty impressive by any measure and especially so considering each Local Long-Term Care Ombudsman was responsible for covering an average of 120 facilities and 14 counties.

Why is there such a huge discrepancy between the services actually performed and the information contained in the federal report? The answer is simple. In order for a visit to count on the federal report a Long-Term Care Ombudsman must complete an unprompted visit to a facility at least one time during each federal fiscal quarter. Although a Long-Term Care Ombudsman may make four visits to a facility during a year, it would not show up in the report unless the visits occurred each and every quarter. This does not mean that the Long-Term Care Ombudsman's Office did not visit the facilities for either an unprompted visit or a complaint related visit.

Why would the Illinois State Long-Term Care Ombudsman program be able to complete unprompted visits in 94% of their facilities quarterly when Iowa completed them in only 1%? There is a simple answer to this as well. In Illinois there were 16 Local Long-Term Care Ombudsmen who had the support of 215 certified volunteers who were also qualified to perform those visits and 31 additional paid program staff to support them. This meant that in Illinois there was a Local Ombudsman or Certified Volunteer Ombudsman for approximately every 7 facilities. In Iowa, during that same reporting period there were only 7 Local Long-Term Care Ombudsmen and 2 paid program staff, meaning each Local Ombudsman had to visit an average of 120 facilities. Given those numbers it isn't too difficult to see why comparing Iowa's program to the one in Illinois is like comparing apples to dump trucks.

What is Iowa doing to increase the number of reportable unprompted visits? This year, due to efforts by the State Long-Term Care Ombudsman and local advocates, the legislature approved funding to hire an additional Local Long-Term Care Ombudsman who will be charged with developing and overseeing a certified volunteer ombudsman program. One of the duties of a Certified Volunteer Ombudsman will be to complete unprompted visits on behalf of the Long-Term Care Ombudsman's Office. The Long-Term

Care Ombudsman's Office is grateful for the support of the legislature and Governor's office as we strive to expand and improve services to lowans living in long-term care facilities.

How important are unprompted visits? Although the federal program has prioritized unprompted visits as a way to improve resident access to their local Long-Term Care Ombudsman, they do not take priority over addressing actual complaints by residents. When given the choice between going to a facility to investigate a complaint and stopping in for just a monitoring visit, a Long-Term Care Ombudsman will always choose to advocate for a resident who has an immediate concern or complaint. The bottom line is that the health, safety, and rights of residents will always take priority over unprompted visits.

What can you do to help the Long-Term Care Ombudsmen support older lowans? In the upcoming year the Office will be developing the certified volunteer program. If you have a passion for supporting residents and the dedication to complete the volunteer training and time commitments we would welcome a call from you. Iowa's State Long-Term Care Ombudsmen staff may be reached toll free by calling 1-866-236-1430.

Deanna Clingan-Fischer, JD
State Long-Term Care Ombudsman
Deanna.clingan@iowa.gov

Impression from state statistics for inspectors is misleading

A recent Des Moines Register editorial concerning Iowa's support for its older citizens cited 2009 annual report statistics that could lead readers to believe that the state long-term care ombudsman's staff had been less than diligent in carrying out their duties as advocates for residents in nursing homes and assisted living facilities.

The editorial stated that Iowa's



DEANNA CLINGAN-FISCHER is Iowa's long-term care ombudsman. Contact: Deanna.clingan@iowa.gov

long-term care ombudsman office visited only four out of 446 homes in Iowa (1 percent) and compared this to the

Illinois state long-term care ombudsman program staff, which visited 94 percent of that state's facilities. This statistic misrepresents the work Iowa's long-term care ombudsman performs on behalf of older Iowans.

The reality is that the seven local long-term care ombudsmen throughout the state completed 505 unprompted visits and 825 visits related to complaints. This means that the local long-term care ombudsmen each averaged 190 visits to facilities during the 2009 reporting period. Those numbers are pretty impressive, especially so considering each ombudsman was responsible for an average of 120 facilities and 14 counties.

Why is there such a huge discrepancy between the services performed

and the information contained in the federal report? The answer is simple.

In order for a visit to count on the federal report a long-term care ombudsman must complete an unprompted visit to a facility at least one time during each federal fiscal quarter. Although an ombudsman may make four visits to a facility during a year, it would not show up in the report unless the visits occurred each and every quarter. This does not mean that the ombudsman's office did not visit the facilities for either an unprompted visit or a complaint-related visit.

Why would the Illinois long-term care ombudsman program be able to complete unprompted visits to 94 percent of the state's facilities quarterly when Iowa completed them in only 1 percent? There is a simple answer.

In Illinois, there were 16 local long-term care ombudsmen who had the support of 215 certified volunteers who were qualified to perform those visits and 31 additional paid program staff to support them. This meant that in Illinois there was a local ombudsman or certified volunteer ombudsman for approximately every seven facilities. In Iowa, during that same reporting period there were only seven long-term care ombudsmen and two paid program staff, meaning each local ombudsman had to visit an average of 120 facilities.

Given those numbers it isn't too difficult to see why comparing Iowa's program to the one in Illinois is like comparing apples to dump trucks.

What is Iowa doing to increase the number of reportable unprompted

visits? This year, due to efforts by the state long-term care ombudsman and local advocates, the Iowa Legislature approved funding to hire an additional local long-term care ombudsman who will be charged with developing and overseeing a certified volunteer ombudsman program. One of the duties of a certified volunteer ombudsman will be to complete unprompted visits on behalf of the long-term care ombudsman. The ombudsman's office is grateful for the support of the Legislature and governor's office as we strive to improve services to Iowans living in long-term care facilities.

How important are unprompted visits? Although the federal program has prioritized unprompted visits as a way to improve resident access to the long-term care ombudsman, they do not take priority over complaints by residents. Given the choice between going to a facility to investigate a complaint and stopping in for a monitoring visit, an ombudsman will always advocate for a resident who has an immediate concern or complaint.

The bottom line: Health, safety and rights of residents will always take priority over unprompted visits.

What can you do to help the long-term care ombudsmen support older Iowans? In the coming year, the office will develop the certified volunteer program. If you have a passion for supporting residents and the dedication to complete the volunteer training and time commitments, we want to hear from you. Iowa's long-term care ombudsmen may be reached toll free by calling 866-236-1430.

Iowa's Long-Term Care Ombudsman Program

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

What is the Iowa Long-Term Care Ombudsman Program?

Long-Term Care Ombudsmen are advocates for residents and tenants of long-term care facilities, assisted living, and elder group homes. Long-Term Care Ombudsmen work to resolve concerns of individual residents and tenants, assist individuals in understanding resident's rights, and provide a voice for those unable to speak for themselves.

Long-Term Care Ombudsmen Responsibilities:

Long-Term Care Ombudsmen responsibilities outlined in Title VII of the Older Americans Act and in Iowa Code 231 include:

- Identify, investigate, and resolve complaints made by or on behalf of residents/tenants;
- Provide information to residents/tenants about long-term care services;
- Represent the interests of residents/tenants;
- Educate and inform consumers and the general public regarding issues and concerns related to long-term care;
- Provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and
- Advocate for changes to improve residents' quality of life and care

Resident's Rights:

Long-Term Care Ombudsmen help residents and their families and friends understand and exercise rights guaranteed by law. Residents have the right to:

- Be treated with respect and dignity
- Be free from chemical and physical restraints
- Manage their own finances
- Voice grievances without fear of retaliation
- Associate and communicate privately with any person of their choice
- Send and receive personal mail
- Have personal and medical records kept confidential
- Apply for State and Federal assistance without discrimination
- Be fully informed prior to admission of their rights, services available, and all charges
- Be given advance notice of transfer or discharge

The Iowa Long-Term Care Ombudsman Program may be reached through the state office or through one of eight Local Ombudsman and by calling 1-866-236-1430.

We're making progress. The Direct Care Professional Recruitment Toolkit will be available soon.



Please remember to update us if you have any name or contact information changes, so that you can continue to receive the ICA HUB and other program announcements. Thank you.

Iowa CareGivers Association does not discriminate in its educational programs and activities on the basis of race, creed, national origin, ancestry, color, religion, sex, age, disability, veteran status, sexual orientation or any other protected class under relevant state and federal laws.

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Voting

Fact Sheet | August 2012

ABSENTEE VOTING

The State of Iowa has special procedures for individuals residing in hospitals or health care facilities who want to vote using an absentee ballot.

Requesting an absentee ballot. Use the form on the Secretary of State's website (www.sos.iowa.gov) or call at (515) 281-5204 to request the form be sent to you via U.S. Mail.

The request must be submitted by 5 p.m. on the Friday before the election. If you were admitted to the facility or hospital after Friday and before election day, you may contact the county auditor directly to request an absentee ballot.

Voting. A bipartisan team of election officials must deliver the absentee ballot to you. You will be notified when the team will be delivering the ballot to you. If you will not be available at that time, you may arrange for another time that will be more convenient to you.

The team members will give you your absentee ballot and wait while you mark it. They will return your voted ballot to the county auditor's office.

Every citizen has the inherent right to vote.

Under both the United States and Iowa Constitutions, every adult citizen may vote unless that person is either (1) declared mentally incompetent to vote; or (2) has been convicted of an infamous crime.

What does it mean to be "mentally incompetent"?

A person is mentally incompetent to vote if he or she *"lacks sufficient capacity to comprehend and exercise the right to vote"*.

EVERY CITIZEN OF THE UNITED STATES... SHALL BE ENTITLED TO VOTE AT ALL ELECTIONS...
IOWA CONST., ART. II, SEC. 1

How does an individual go about registering to vote?

First, the individual must obtain a voter registration form. The form may be downloaded from the Secretary of State's website, or the form can be requested by calling (515) 281-5204. The form will be sent via the U.S. Mail.

After providing the information requested, the form must be signed. If a person is not physically able to sign, they may use a mark or stamp they regularly use or may ask someone to sign for them – as long as the signer is doing it at the request of and in the presence of the voter.

This form must be submitted at least 10 days before a primary or general election and 11 days before any other election. Your county auditor will send you a voter registration card within two weeks.

Attorneys-in-fact and guardians are NOT authorized to sign a voter registration or absentee ballot on behalf of their principal or ward

Who determines competency?

The court is usually asked to make this determination during either a commitment hearing or at the time of granting guardianship.

Once a guardian is appointed, is the ward automatically presumed to be mentally incompetent?

NO! Just because an individual has a guardian does NOT mean he or she is incompetent.

Rather, the judge is required to make a separate determination regarding competency to vote.



Iowa Dept on Aging | Jessie M Parker Bldg | 510 E 12TH St, Rm 2 | Des Moines, IA 50319
515.725.3333 | 866.236.1430 | www.iowaaging.gov | www.lifelonglinks.org

Voting Information Sheet

Resident/Tenant's Name: _____

Circle Resident/Tenant's Choice:

Do they wish to vote in elections: YES NO

What type of elections do they want to vote in? Presidential Primaries Local All

How do they wish to vote: Absentee Ballot In-Person at the Polls In the Facility

Supports/Information Needed:

If they wish to vote at the polls do they need transportation arranged? YES NO

Who will be responsible for transportation if needed? _____

Where is their polling place located? _____

Is their voter registration current with the address of the health facility? YES NO

If not current, do they want assistance updating their registration? YES NO

Who will help? _____

Does the resident/tenant need assistance with voting due to vision impairment or difficulty writing?

YES NO

Who will help? _____

If they have a guardian does it specifically state in the guardianship papers that they are not eligible to vote?

YES NO

Completed by _____ Date _____

Legislative Declarations by Office of the State Long Term Care Ombudsman

Bill	Topic	Declaration	Date
SSB3054	Medicaid Supplementation	Undecided	January 23, 2012
HF2058	Property Tax exemptions	Undecided	January 31, 2012
HF2132	Assisted Living	For	January 31, 2012
HF2133	Sex Offender Committee	Undecided	January 31, 2012
HF2134	Sex Offender Notice	Undecided	January 31, 2012
HF2149	Long Term Care Ombudsman	For	January 31, 2012
HSB551	Sex Offender Notice/Registry	Undecided	January 31, 2012
SF2032	Certified Volunteer Long Term Care Ombudsman	For	January 31, 2012
SF2060	Assisted Living	For	January 31, 2012
SSB3043	Physicians Order for Scope of Treatment	For	February 2, 2012
SF2103	Assisted Living	Undecided	February 7, 2012
HSB605	Landlord/Tenant Law	Undecided	February 9, 2012
HSB611	Iowa Department on Aging	For	February 9, 2012
SF2125	Physicians Order for Scope of Treatment	For	February 9, 2012
SSB3035	Iowa Department on Aging	For	February 9, 2012
SSB3039	Area Agency on Aging Dedesignation	For	February 9, 2012
SSB3078	Direct Care Professionals Certification	Undecided and changed to For	January 31, 2012 February 9, 2012
SF2051	Iowa Department on Aging Funding	For	February 13, 2012
SF2086	Health Care Facility Inspections	For	February 13, 2012
HF2244	Health Care Facility Inspections	For	February 13, 2012
SF2121	Citizen's Aide Ombudsman	Undecided	February 13, 2012
SF2160	Medicaid Supplementation	Undecided	February 13, 2012
HF2220	Elder Abuse Laws	For	February 13, 2012

Legislative Declarations by Office of the State Long Term Care Ombudsman

Bill	Topic	Declaration	Date
HSB560	Health Care Facility Inspections	For	February 14, 2012
HSB562	Nursing Home Administrators	For	February 14, 2012
SSB3036	Nursing Facility Inspections	For	February 14, 2012
SSB3085	Nursing Home Administrators	For	February 14, 2012
HSB627	Direct Care Professionals Certification	For	February 15, 2012
HSB623	Mental Health Illness	Undecided	February 23, 2012
SF2250	Area Agency on Aging Dededesignation	For	February 25, 2012
SF2247	Mental Retardation to Intellectual Disabilities	Undecided	February 25, 2012
SF2298	Direct Care Professionals Certification	For	March 9, 2012
HF2387	Elder Abuse Laws	For	March 12, 2012
SF2312	Mental Health Illness	Undecided	March 12, 2012
HF2421	Mental Health Illness	Undecided	March 12, 2012
HF2305	Iowa Department on Aging	For	March 12, 2012
SF2164	Background Checks	Undecided	March 12, 2012
HF2422	Sex Offender Notice	Undecided and changed to Against	March 12, 2012 April 25, 2012

EXECUTIVE ORDER NUMBER SEVENTY-SIX

WHEREAS, On April 26, 2010 the United States Department of Health & Human Services expressed concern that the Department on Aging's policy at that time effectively prohibited the State Long-Term Care Ombudsman from communicating directly with legislators; and

WHEREAS, together, the Director of the Department on Aging, Donna Harvey, and State Long-Term Care Ombudsman, Deanna Clingan-Fischer, have announced that they are fulfilling all requirements of federal and state laws in Iowa, negating the need for Executive Order 24 by Governor Chester J. Culver; and

WHEREAS, in cooperation that benefits older Iowans, the Director of the Department on Aging, Donna Harvey and State Long-Term Care Ombudsman, Deanna Clingan-Fischer, have brought positive and productive changes to the working relationship between their offices to serve the best interests of older Iowans; and

WHEREAS, the Long-Term Care Ombudsman and Director of the Department on Aging are serving older Iowans by focusing on the safety of older Iowans and improving their quality of life; and

WHEREAS, older Iowans are a treasured asset of our state and they will benefit from the positive changes that have occurred since 2010 with respect to the Long-Term Care Ombudsman and the Department on Aging.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, declare that the Long Term Care Ombudsman program is and shall remain an independent voice for Iowans in long-term care facilities and shall continue to meet all requirements of the Federal Older Americans Act, but shall be housed with and administratively supported by the Department on Aging. I hereby order and direct that Executive Order Number 24, dated May 28, 2010, issued by Governor Chester J. Culver, shall be rescinded.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 30th day of March, in the year of our Lord two thousand twelve.

TERRY E. BRANSTAD
GOVERNOR

ATTEST:

MATT SCHULTZ
SECRETARY OF STATE

1. Funds appropriated in this section may be used to supplement federal funds under federal regulations. To receive funds appropriated in this section, a local area agency on aging shall match the funds with moneys from other sources according to rules adopted by the department. Funds appropriated in this section may be used for elderly services not specifically enumerated in this section only if approved by an area agency on aging for provision of the service within the area.

~~2. The amount appropriated in this section includes additional funding of \$225,000 for delivery of long-term care services to seniors with low or moderate incomes.~~

3. Of the funds appropriated in this section, ~~\$89,973~~ \$179,946 shall be transferred to the ~~department of~~ economic development authority for the Iowa commission on volunteer services to be used for the retired and senior volunteer program.

4. a. The department on aging shall establish and enforce procedures relating to expenditure of state and federal funds by area agencies on aging that require compliance with both state and federal laws, rules, and regulations, including but not limited to all of the following:

(1) Requiring that expenditures are incurred only for goods or services received or performed prior to the end of the fiscal period designated for use of the funds.

(2) Prohibiting prepayment for goods or services not received or performed prior to the end of the fiscal period designated for use of the funds.

(3) Prohibiting the prepayment for goods or services not defined specifically by good or service, time period, or recipient.

(4) Prohibiting the establishment of accounts from which future goods or services which are not defined specifically by good or service, time period, or recipient, may be purchased.

b. The procedures shall provide that if any funds are expended in a manner that is not in compliance with the procedures and applicable federal and state laws, rules, and regulations, and are subsequently subject to repayment, the area agency on aging expending such funds in contravention of such procedures, laws, rules and regulations, not the state, shall be liable for such repayment.

5. Of the funds appropriated in this section, \$100,000 shall be used to provide an additional local long-term care

resident's advocate to administer the certified volunteer long-term care resident's advocate program pursuant to section 231.45 as enacted in this 2012 Act.

6. The department shall develop recommendations for an implementation schedule, including funding projections, for the substitute decision maker program created pursuant to chapter 231E, and shall submit the recommendations to the individuals identified in this Act for submission of reports by December 15, 2012.

7. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under the purview of the department.

DIVISION II

DEPARTMENT OF PUBLIC HEALTH

Sec. 2. 2011 Iowa Acts, chapter 129, section 114, is amended to read as follows:

SEC. 114. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the department of public health for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADDICTIVE DISORDERS

For reducing the prevalence of use of tobacco, alcohol, and other drugs, and treating individuals affected by addictive behaviors, including gambling, and for not more than the following full-time equivalent positions:

.....	\$	11,751,595
		<u>23,863,690</u>
.....	FTEs	13.00

a. (1) Of the funds appropriated in this subsection, ~~\$1,626,915~~ \$3,653,830 shall be used for the tobacco use prevention and control initiative, including efforts at the state and local levels, as provided in chapter 142A. The commission on tobacco use prevention and control established pursuant to section 142A.3 shall advise the director of public health in prioritizing funding needs and the allocation of moneys appropriated for the programs and activities of the initiative under this subparagraph (1) and shall make recommendations to the director in the development of budget requests relating to the initiative. Of the funds allocated

obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. § 1673(b). The system shall comply with the provisions of a marital property order requiring the selection of a particular benefit option, designated beneficiary, or contingent annuitant if the selection is otherwise authorized by this chapter and the member has not received payment of the member's first retirement allowance. However, a marital property order shall not require the payment of benefits to an alternative payee prior to the member's retirement, prior to the date the member elects to receive a lump sum distribution of accumulated contributions pursuant to section 97B.53, or in an amount that exceeds the benefits the member would otherwise be eligible to receive pursuant to this chapter.

Sec. 94. Section 135H.10, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 95. Section 144D.4, as enacted by 2012 Iowa Acts, House File 2165, section 5, is amended by adding the following new subsection:

NEW SUBSECTION. 10. A POST form executed between July 1, 2008, and June 30, 2012, as part of the patient autonomy in health care decisions pilot project created pursuant to 2008 Iowa Acts, chapter 1188, section 36, as amended by 2010 Iowa Acts, chapter 1192, section 58, shall remain effective until revoked or until a new POST form is executed pursuant to this chapter.

Sec. 96. Section 225B.8, Code Supplement 2011, is amended to read as follows:

225B.8 Repeal.

This chapter is repealed July 1, ~~2012~~ 2015.

Sec. 97. NEW SECTION. 231.45 Certified volunteer long-term care resident's advocate program.

1. The department shall establish a certified volunteer long-term care resident's advocate program in accordance with the federal Act to provide assistance to the state and local long-term care resident's advocates.

2. The department shall develop and implement a certification process for volunteer long-term care resident's advocates including but not limited to an application process, provision for background checks, classroom or on-site training, orientation, and continuing education.

3. The provisions of section 231.42 relating to local

long-term care resident's advocates shall apply to certified volunteer long-term care resident's advocates.

4. The department shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 98. NEW SECTION. 239B.2C **Absence from home — incarceration.**

An individual family member who is absent from the home for more than three months because the individual is incarcerated in jail or a correctional facility shall not be included in the family unit for purposes of assistance.

Sec. 99. Section 384.22, subsection 2, paragraph b, unnumbered paragraph 1, if enacted in 2012 Iowa Acts, House File 2460, is amended to read as follows:

The report required under this subsection shall include all of the following as of June 30 of the most recently ended fiscal year or the information for such fiscal year, as applicable:

~~TEB~~ Sec. 100. ~~SPECIAL EDUCATION INSTRUCTIONAL PROGRAMS — PRIVATE AGENCY RESIDENTIAL TREATMENT SERVICES. For the school year beginning July 1, 2012, the department of education shall administer the costs of special education instructional programs funded under section 256B.9, subsection 7, when contracted with a private agency that provides residential treatment services to include the costs of general administration, health services, attendance officers, plant operation, and plant maintenance, regular and special instructional costs, overhead costs, and the costs of purchase of equipment, transportation, and insurance to meet the special needs of children requiring special education.~~] TEB

Sec. 101. SPECIAL EDUCATION COSTS — LEGISLATIVE STUDY. The legislative council is requested to establish an interim study committee during the 2012 interim to examine the payment of special education costs associated with student services provided in residential treatment facilities and whether the planning for and costs of such services would be more appropriately administered by the department of education or the department of human services.

Sec. 102. CIVIL MONETARY PENALTIES — NURSING FACILITY TRAINING. Of the funds received by the department of human services through civil monetary penalties from nursing facilities, during the fiscal year beginning July 1, 2012, and ending June 30, 2013, \$250,000 shall be used for initial training of nursing facility staff for the care of individuals

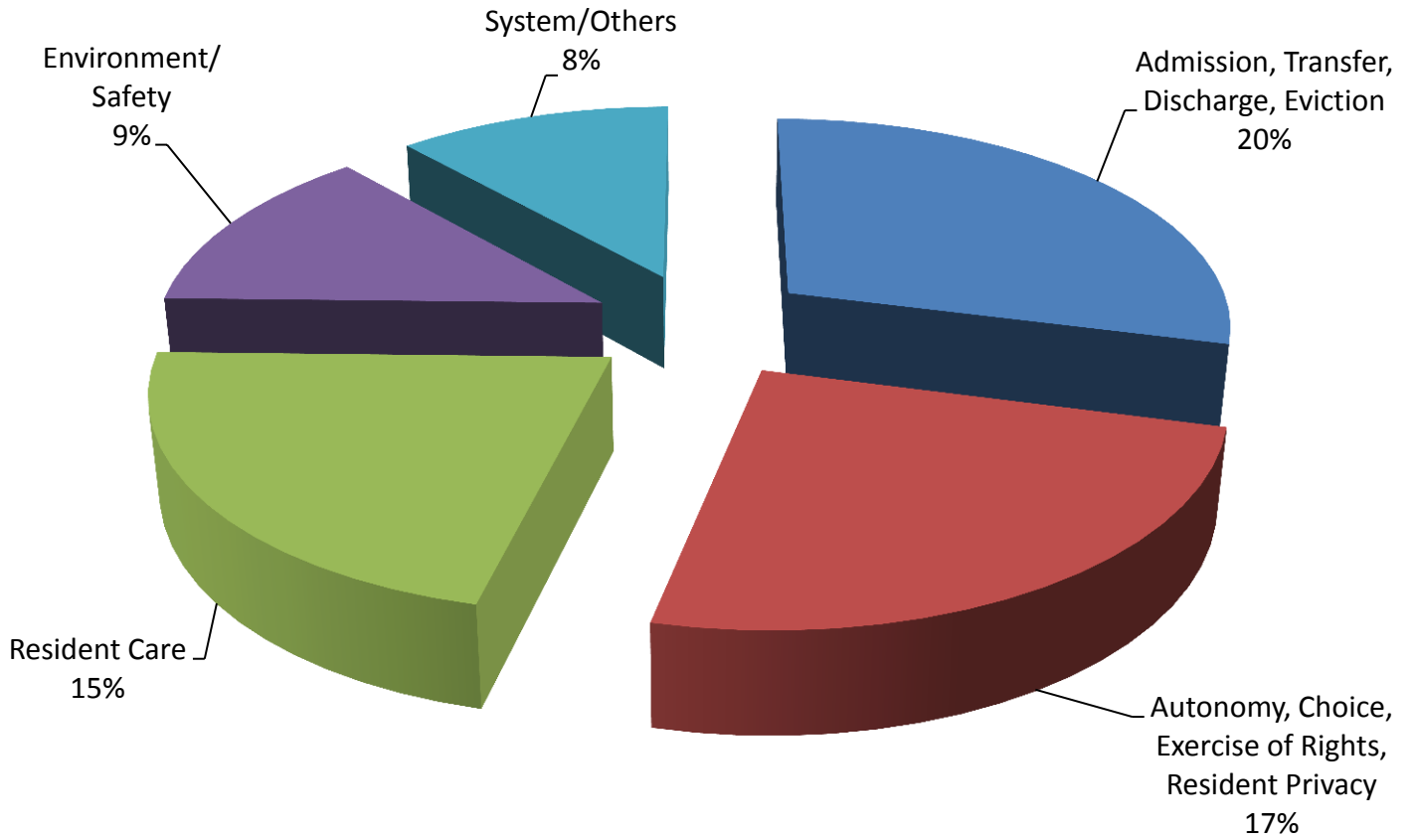
Cases and Complaints

Number of New Cases Opened: 1,048

Number of New Complaints: 1, 869

Category	New Complaints FFY 12	% of New Complaints FFY 12	Issues addressed through this category
Abuse, Gross Neglect, Exploitation	18	1%	Physical, sexual, verbal, seclusion, financial and resident to resident willful deprivation
Access to Information	58	3%	Access to records, to visitors, information on services/benefits/medical/advance directives/rights
Admission, Transfer, Discharge, Eviction	370	20%	Admission contract & procedure, appeal process, bed hold, discharge/eviction notice & procedure, discrimination due to disability, Medicaid status, room assignment
Autonomy, Choice, Exercise of Rights, Privacy	326	17%	Physician, pharmacy, hospice, other health care provider, confinement, treated with dignity & respect, smoking, refuse care, language barrier, participate in care plan, privacy to visitors/telephone/mail/couples/treatment/confidentiality, response to complaints/retaliation
Financial, Property Lost, Missing or Stolen	95	5%	Billing/charges, personal funds, personal property
Resident and Tenant Care	275	15%	Injuries, response to requests for assistance, care plan/resident assessment, contracture, medications, personal hygiene, physician services, pressure sores, symptoms unattended, incontinent care, tubes, wandering
Rehabilitation or Maintenance of Function	67	4%	Assistive devices, bowel/bladder training, dental & mental health services, ambulation, therapies, vision & hearing
Restraints-Chemical and Physical	7	0%	Physical restraint and psychoactive drugs-assessment use, monitoring, evaluation
Activities and Social Services	70	4%	Choice, community interaction, resident conflict, social services availability/ appropriateness,
Dietary	119	6%	Assistance in eating, hydration, food service, snacks, temperature, therapeutic diet, weight loss
Environment/Safety	173	9%	Air temperature/quality, noise, housekeeping, equipment/buildings, furnishings, infection control, laundry, odors, space for activities/dining, supplies, ADA accessibility
Policies, Procedures, Attitudes, Resources	35	2%	Abuse investigation/reporting, administrator unresponsive, grievance procedure, inappropriate or illegal policies, insufficient funds to operate, operator inadequately trained, offering inappropriate level of care, resident or family council interfered with
Staffing	88	5%	Communication barrier, shortage of staff, staff training/turn-over/unresponsive, supervision, eating assistants
Certification/Licensing Agency	5	0%	Access to information including survey, response to complaint, decertification/closure, sanction, survey process/ombudsman participation, transfer/eviction hearing
State Medicaid Agency	12	1%	Access to information application, denial of eligibility, non-covered services, personal needs allowance, services
System/Others	147	8%	Abuse by family member/friend/guardian, bed shortage, facilities operating without a license, family conflict, legal, Medicare, mental health/developmental disabilities/PASRR, physician/assistant, protective service agency, SSA/SSI/VA/other health benefits/agencies, request for less restrictive placement
Services Other than NF/RCF/ALP	4	0%	Home care, hospital/hospice, congregate housing not providing care, services from outside provider

Top Five Complaints by Major Reporting Category



Top Five Program Activities

Percentages are of time spent completing activities.

