

The Advocate E-Newsletter - March 2017



March 6, 2017



A note from the State Long-Term Care Ombudsman:

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



Below, you'll find more about the federal regulations impacting your work. In addition to tracking federal laws, the Office of the State Long-Term Care Ombudsman (OSLTCO) monitors new laws at the state level. The 2017 Iowa legislative session began in January and is shaping up to be one of the busiest in recent memory.

During the 2016 legislative session, the OSLTCO monitored numerous bills and administrative rules and provided 17 declarations, or comments, relating to proposed laws and rules that impacted residents and tenants residing in Iowa's long-term care facilities. This year, we are on pace to exceed those numbers, having already presented at two joint

legislative committees, reviewed hundreds of proposed bills and declared on over 25. At the end of this week is the legislative “funnel” - a deadline for getting bills through a certain point in the process to remain eligible for consideration. In next month’s newsletter, we’ll highlight a few bills of interest that survived the funnel and tell you more about the potential impact to those residing in long-term care facilities.

Deanna Clingan-Fischer, JD

Issue briefs provide a closer look at revised nursing facility regulations



Revised federal nursing facility regulations went into effect in late November 2016. Now is the time for residents, family members, advocates, and others to better understand how the regulations are changing nursing facility care.

Justice in Aging, the National Consumer Voice for Quality Long-Term Care and the Center for Medicare Advocacy have been releasing a series of short issue briefs that take a closer look at different aspects of the new regulations. Recent briefs include:

- [Involuntary Transfer and Discharge](#)
- [Unnecessary Drugs and Antipsychotic Medications](#)
- [Nursing Services](#)

The entire series is [available here](#).

The same three organizations presented a [webinar](#) on details of the new regulations in February.

New emergency preparedness regulations for nursing facilities

Emergency preparedness regulations went into effect November 2016 for implementation November 2017. The regulations require nursing facilities to be in compliance with all federal, state and local emergency preparedness requirements.



In addition, a facility’s emergency preparedness program must include an Emergency Plan that is reviewed and updated at least annually. Policies and procedures based on the Emergency Plan must be developed that address at least:

1. Provision of subsistence needs of staff and residents,

2. A system to track location of staff and residents at the facility during and after the emergency,
3. Safe evacuation from the facility
4. Means to shelter in place
5. Methods of documentation during and after the emergency
6. Use of volunteers in an emergency
7. Arrangements with other facilities to receive residents in the event of an emergency

A facility must develop a communication plan and a training and testing program based on its Emergency Plan. Facilities are also required to have emergency and standby power systems under the new regulations.

The Office of the State Long-Term Care Ombudsman believes that these new regulations will improve safety for residents who reside in long-term care settings.

For further information regarding these regulations, please refer to [42 CFR 483.73](#), or contact your trade association or facility counsel.

New requirements for notifying the OSLTCO about discharges



New regulations went into effect in 2016 requiring notices for all discharges/transfers from a facility to be provided to the Office of the State Long-Term Care Ombudsman (OSLTCO). The OSLTCO is still reviewing and making determinations regarding the impact of this regulation; however, we can offer the following comments:

- All involuntary discharge notices must comply with state regulations still in effect.
- Non-involuntary discharge notices must be transmitted to the Office of the State Long-Term Care Ombudsman per the new regulations. Notices may be transmitted via mail to 510 E. 12th Street, Suite 2, Des Moines, IA 50319, via fax to (515) 725-3313 or via email to cynthia.pederson@iowa.gov.
- Please be sure that the notice includes a reason for the discharge.
- Do not include protected personal information, such as a social security number or date of birth, in the notice.
- If using face sheets as notices, please include a reason for the discharge and redact all protected personal information.
- If the notice you are providing includes appeal rights, please include the correct appeal rights for the type of discharge you are issuing.

Please consult your facility counsel, corporate counsel or industry trade association for additional guidance regarding these notices.

Upcoming Events & Educational Opportunities

LEGAL RIGHTS OF OLDER IOWANS

Thursday, March 23, and Thursday, April 27 (12:30-4 p.m.)
Iowa Communications Network (ICN) Sites

Iowa Legal Aid's Legal Hotline for Older Iowans is sponsoring two free elder law seminars for older Iowans and their caregivers in March and April. Both will be offered over the ICN at 26 sites across Iowa. The March seminar will feature information on Medicaid eligibility for nursing facility and in-home services; Medicaid managed care issues and rights; and protecting yourself against elder abuse and financial exploitation. The April seminar will include information about protecting the rights of nursing facility residents; planning to protect your future; and protecting yourself against consumer scams and deceptive practices.

For more information or to register, call (800) 992-8161 or (515) 282-8161. You may also email btharp@iowalaw.org.

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.

Please feel free to forward this newsletter to others who may be interested.