



Office of the State Long-Term Care Ombudsman Annual Report

Federal Fiscal Year 2021

(Oct 1, 2020 – Sept 30, 2021)



February 23, 2023

The Honorable Kim Reynolds

Members of the General Assembly

Dear Governor Reynolds and Members of the General Assembly:

Attached is the annual report of the Office of the State Long-Term Care Ombudsman for federal fiscal year 2021. This report is produced pursuant to Iowa Code 231.42, which requires that this Office annually report to the governor and general assembly on:

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

This report reflects the efforts of the Long-Term Care Ombudsman by sharing program highlights and discussion 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,


Angela Van Pelt, MPA

State Long-Term Care Ombudsman

Office of the State Long-Term Care Ombudsman

Angela Van Pelt

State Long-Term Care Ombudsman

Lin Christensen

Managed Care Ombudsman

Kim Cooper

Local Long-Term Care Ombudsman

Tiffani Crow

Administrative Team

Jennifer Golle

Local Long-Term Care Ombudsman

Melanie Kempf

Local Long-Term Care Ombudsman

Pam Mollenhauer

Empowerment Specialist

Julie Pollock

Local Long-Term Care Ombudsman

Pam Railsback

Local Long-Term Care Ombudsman

Pamela Rupprecht

Managed Care Ombudsman

Lisa Van Klavern

Volunteer Coordinator

Kim Weaver

Local Long-Term Care Ombudsman

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EXECUTIVE SUMMARY

The Office of the State Long-Term Care Ombudsman (Office) serves as an advocate and resource for residents and tenants who receive services and support while residing in Iowa's long-term care facilities and residential care communities (RCC), such as assisted living programs and elder group homes. The Office also provides support and advocacy to Medicaid managed care members enrolled in one of the seven Medicaid Home and Community-Based Services (HCBS) waiver programs through the Managed Care Ombudsman Program (MCOP)

In Federal Fiscal Year 2021 (Oct. 1, 2020 – Sept. 30, 2021), the programs administered by the Office included the Local Long-Term Care Ombudsman Program (LLTCOP), the Volunteer Ombudsman Program (VOP) and the Managed Care Ombudsman Program.

During this period there were multiple leadership and philosophical changes as there were two State Long-Term Care Ombudsman and one interim Director.

Cynthia Pederson (October 1, 2020-April 2021)

Brian Majeski-Interim (April 2021 - June 2021)

Angela Van Pelt (June 2021 - September 2021 and current)

In June of 2021, the Office changed leadership and started down the path of reinstating regions, returning vehicles to all Local Long-Term Care Ombudsman (LLTCO) so they could travel within their regions and focused on re-entry into facilities. Recognizing the importance of connection with residents after the isolation that COVID brought, being able to see the residents in person was a necessity. Observation of the residents and their living condition as well as ensuring residents rights were honored, especially with respect to visitation from loved ones again, was a high priority of the Office.

In this reporting period, activities of the Office were still largely impacted due to the restrictions placed on facilities and visitation due to COVID. Activities of the Office can be categorized as Advocacy Efforts, Outreach Efforts and Administrative Efforts. The following is a summary of the activities completed during Federal Fiscal Year 2021 (FFY 21).



Advocacy Efforts

- Ensured residents' and tenants' voices were heard and provided advocacy to ensure that their rights were maintained in nursing facilities and residential care communities within the state;
- Received 653 complaints made by or on behalf of residents and tenants;
- Visited long-term care facilities and residents on 518 complaint and non-complaint related visits;
- Closed 437 cases on behalf of residents and tenants;
- Advocated for and provided education about residents' and tenants' rights;
- Assisted residents and tenants impacted by involuntary discharges/evictions and facility closures;
- Advocated for and monitored administrative rules and proposed legislation on issues that had the potential to impact the health, safety, welfare and rights of residents and tenants residing in Iowa's long-term care facilities.

In FFY 2021, the OSLTCO responded to 653 complaints and closed 437 new cases on behalf of long-term care residents/tenants.



Outreach Efforts

- Provided information and assistance to 2,618 long-term care residents, tenants, family members and staff;
- Assisted residents and their families through participation in and development of resident and family council meetings;
- Participated in 26 facility surveys;
- Provided education, training and technical assistance to individuals, including volunteers, ombudsmen, facility staff, media and the community;
- Collaborated with other organizations and served on committees, task forces and work groups;
- Engaged in strategic external public facing promotion and visibility of the OSLTCO.

In FFY 2021, Provided information and assistance to 2,618 long-term care residents, tenants, family members and staff.



Administrative Efforts

- Implemented a redesigned statewide regional structure;
- Ensured that all LLTCO had a vehicle to conduct in person visits;
- Initiated quarterly in person staff meetings and regular team communication as well as individual staff discussion;
- Provided regular updates to the Iowa Commission on Aging and the Iowa Department on Aging (IDA);
- Continued developing the Managed Care Ombudsman Program and the Volunteer Ombudsman Program;
- Re-initiated the discussion and movement towards implementation of the Medicaid claiming process for the LLTCO program.

In June 2021, representatives of the office were able to resume travel and facility visits post COVID.



Managed Care Ombudsman Program Efforts

Since the April 1, 2016, launch of Medicaid Managed Care in Iowa, the Managed Care Ombudsman Program has advocated on behalf of Medicaid managed care members who are enrolled in one of Medicaid's seven home and community-based services (HCBS) waiver programs, which include:

- AIDS/HIV Waiver
- Brain Injury Waiver
- Children's Mental Health Waiver
- Elderly Waiver
- Health and Disability Waiver
- Intellectual Disability Waiver
- Physical Disability Waiver

In addition to advocating on behalf of members, the Managed Care Ombudsman Program also provides education and information regarding managed care plans, services, care and processes; guidance related to the formal grievance and appeals process and complaint resolution for members needing assistance with resolving issues with their managed care organization or navigating the managed care system.

While the MCOP deals with a variety of issues, the top two consumer issues addressed were primarily associated with:

- 1.) Access to services and;
- 2.) Benefits and services reduced, denied or terminated.

In FFY 2021, the Managed Care Ombudsman Program:

- Provided primarily education and information, investigation and advocacy services ;
- Assisted with 483 cases and performed 787 activities ;
- Resolved 84% of the cases to the members satisfaction ;
- Made referrals to outside organizations as appropriate;
- Established community partnerships and conducted outreach.

In FFY 2021, the Managed Care Ombudsman Program performed 787 activities for Iowans on Medicaid Managed Care.



Volunteer Ombudsman Program Efforts

The Office utilizes Volunteer Ombudsman through the Volunteer Ombudsman Program. Certified Volunteer Ombudsman are trained to listen, empower, and advocate to serve as a voice for nursing facility residents. In FFY 21, the Volunteer Ombudsman Program:

- Recruited, screened, trained and certified new volunteers;
- Provided on-site orientations for volunteers;
- Completed unannounced visits to their assigned facility each month to talk with residents and identify concerns;
- Utilized 64 volunteer ombudsman to visit and advocate for residents;
- Served residents through volunteer visits;
- Facilitated peer-to-peer volunteer groups, volunteer recognition and refine training/continuing education opportunities for volunteers.

Volunteers provided 484 hours of service worth \$14,495 in-kind contributions to Iowans living in the state's long-term care facilities.

RECOMMENDATIONS

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

Resident and Tenant Rights: Autonomy, Choice, Rights

In order to ensure residents and tenants residing in long-term care facilities are allowed to direct their care and have choice, privacy and the ability to exercise their rights, the OSLTCO recommends advocates and stakeholders work together to:

- *Inform residents and tenants of their rights to make health care and financial management decisions and implement those choices by educating guardians, conservators, agents and attorneys-in-fact.*
- *Enhance lowans' knowledge and understanding on the rights of residents and tenants.*
- *Promote self-determination of residents to live in an environment that supports choice.*
- *Involve residents in developing their plans of care and identifying their needs, strengths, goals, life history and preferences.*

Quality Care and Treatment

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

- *Ensure the appropriate level of care is received when needed and that call lights are answered promptly.*
- *Review the issues of understaffing, staffing shortages, recruitment and retention of direct care workers and nursing staff, including reliance on and utilization of agency staffing.*
- *Monitor facility staffing practices to ensure that residents' personal needs and preferences are being met*
- *Establish and provide sufficient staff training for those working with individuals experiencing a neurocognitive disorder (e.g., dementia or aggressive behaviors).*

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

In order to ensure residents and tenants residing in long-term care facilities understand their rights through the admission, discharge and transfer process, the OSLTCO recommends advocates and stakeholders work together to:

- *Provide education regarding the new regulations on improper discharges to hospitals and on appeal rights for involuntary discharges and transfers.*
- *Develop better tracking methodologies and data points to identify and address problematic trends.*
- *Educate residents, tenants and families on due process appeal rights and discuss reform of Iowa's assisted living program laws and rules to allow for third party review of involuntary discharges and transfers.*
- *Educate lowans on financial exploitation to protect residents and tenants from discharge due to a fiduciary's lack of action to apply for Medicaid or for non-payment of care expenses.*

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MISSION AND STRUCTURE

Mission

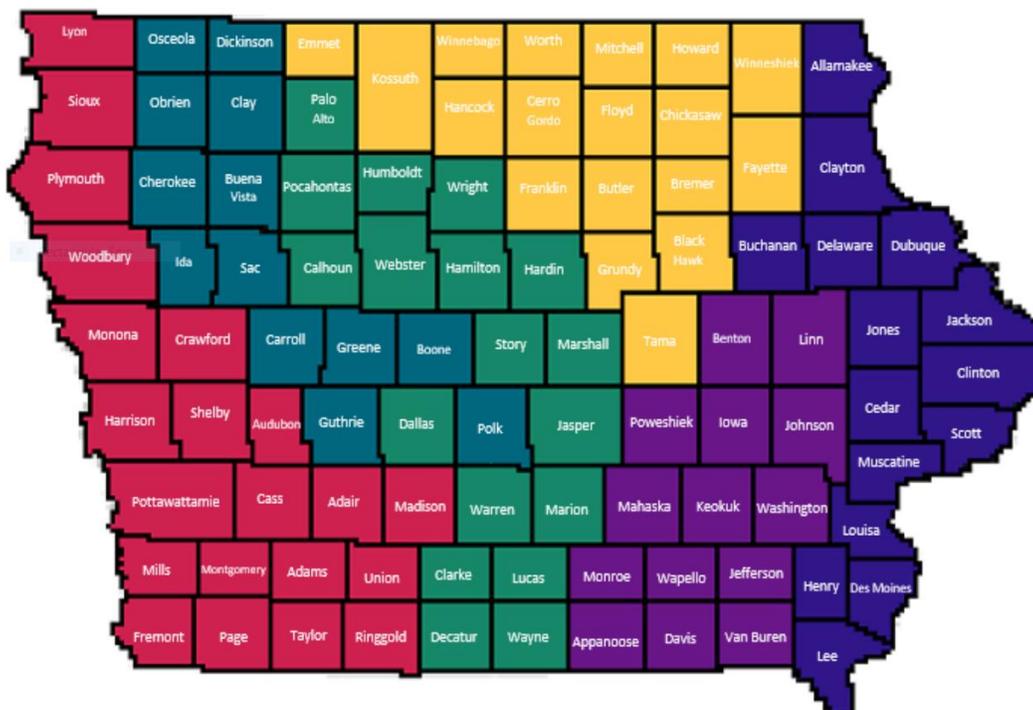
The mission of the Office of the State Long-Term Care Ombudsman is to protect the health, safety, welfare and rights of individuals residing in long-term care by investigating complaints, seeking resolutions to problems and providing advocacy with the goal of enhancing quality of life and care. In 2015, the mission was expanded to also advocate for Medicaid managed care members who receive care in a health care facility, assisted living program or elder group home, or who are enrolled in one of the seven Medicaid waiver programs.

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

Structure

The Office of the State Long-Term Care Ombudsman consists of the State long-term care ombudsman, local long-term care ombudsmen, a volunteer coordinator, managed care ombudsman and administrative support staff.

To assist in fulfilling the long-term care ombudsman duties outlined by law, the OSLTCO has designated local long-term care ombudsmen to serve residents and tenants in specific areas of the state (see map). For several years prior to June 2021, the state was divided into a north and south region with only two mobile LLTCO, this structure limited all LLTCO from visiting facilities and developing relationships with residents in the facilities specific to their region. The impact of COVID on residents was significant and damaging, observing and interacting with residents directly was necessary and remains necessary. In June, the Office re-implemented a statewide regional structure that enables this interaction and ability to develop relationship.



PROGRAM AUTHORITY AND MANDATES

Authority

The Long-Term Care Ombudsman Program is authorized by the federal Older Americans Act and the state Older Americans Act. 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 tenants of residential care communities.

Mandates

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

- Identify, investigate and resolve complaints made by or on behalf of residents or tenants that adversely affect their health, safety, welfare or rights;
- Make referrals to appropriate licensing, certifying and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions;
- Provide services to assist residents or tenants in protecting their health, safety, welfare and rights;
- Inform residents and tenants about means of obtaining services offered by providers or agencies;
- Ensure residents and tenants have regular and timely access to the services provided through the Office and that residents, tenants and complainants receive timely responses;
- Represent the interests of residents before governmental agencies and seek administrative, legal and other remedies to protect their health, safety, welfare and rights;
- Provide administrative and technical assistance to local and volunteer long-term care ombudsmen;
- Analyze, comment on and monitor the development and implementation of federal, state and local laws, regulations and other governmental policies and actions that pertain to the health, safety, welfare and rights of residents and tenants;
- Provide training for representatives of the Office, promote the development of citizen organizations to participate in the program and provide technical support for the development of resident and family councils to protect the well-being and rights of residents and tenants;
- Establish and implement a statewide confidential uniform reporting system;
- Publicize the Office and provide information and education to consumers, the public and other agencies about the issues related to long-term care in Iowa;
- Annually report on the activities of the Office and make recommendations for improving the health, safety, welfare and rights of residents and tenants of long-term care facilities and residential care communities;
- 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 serving as representatives of the Office;
- 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;
- Ensure confidentiality and a program free of conflicts of interest.

ACTIVITIES OF THE OFFICE

The program activities of the Office of the State Long-Term Care Ombudsman are divided into the following categories: *Advocacy; Cases and Complaints; Information and Assistance; Training and Technical Assistance; Community Education; Resident and Tenant Visits; Participation in Facility Surveys; Resident and Family Councils and Other.* In the FFY 21 reporting period, in-person visits to facilities and other activities involving meetings or face to face contact or interaction with a larger group were limited due to facility lockdown and restrictions on facility visits. The efforts within each activity are discussed in more detail below.



Advocacy

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



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

In FFY 2021, the State Long-Term Care Ombudsman monitored proposed legislation and rules and provided declarations, or comments, on issues such as: Medicaid, Managed Care, Certificate of Need, Electronic Monitoring in Long-Term Care Facilities, Elder Abuse, Veterans Issues and Personal Needs Allowance.

Case and Complaints

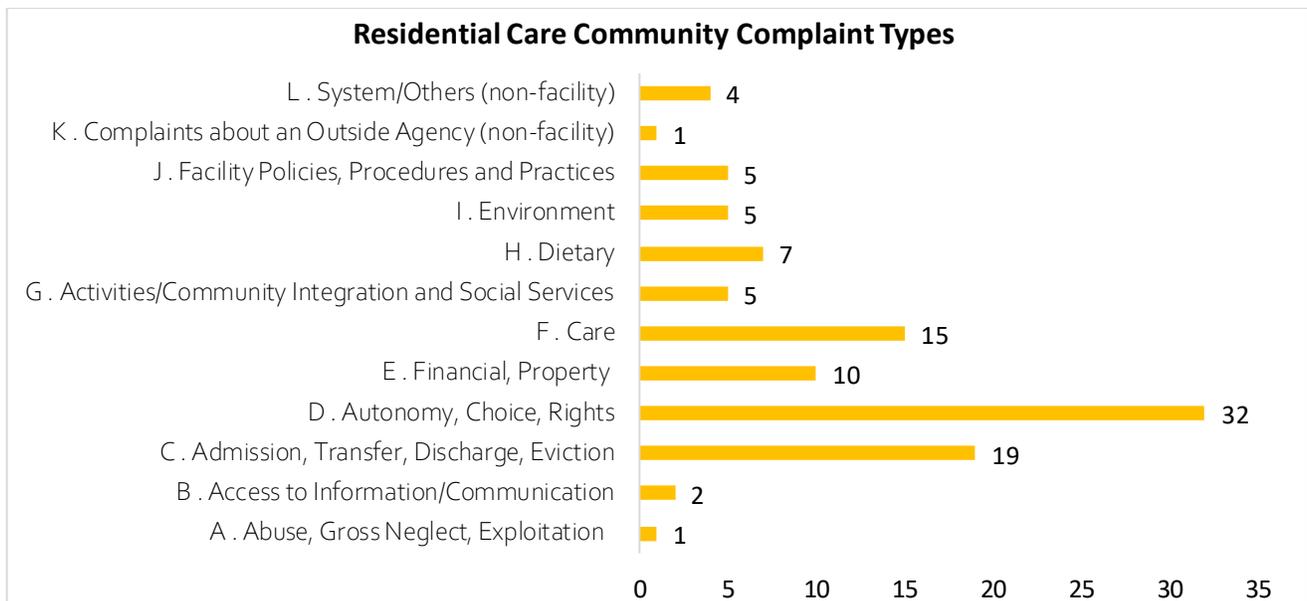
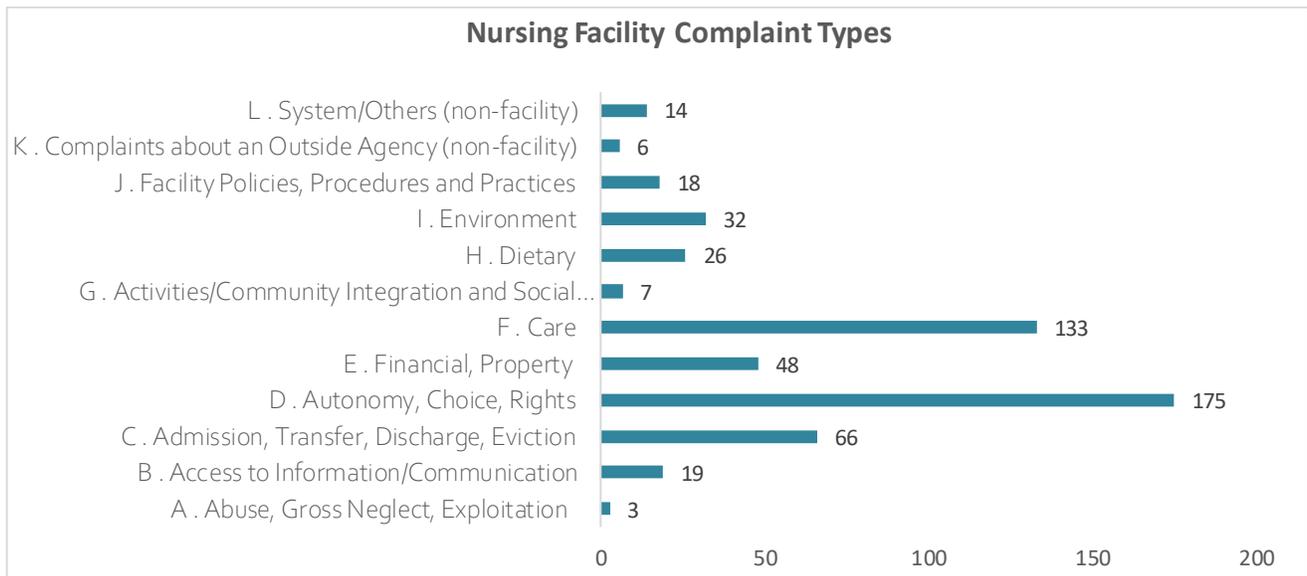
The Office is mandated to identify, investigate and resolve complaints made by or on behalf of residents or tenants of long-term care facilities that adversely affect their health, safety, welfare or rights. A complaint is a concern brought to, or initiated by, the Long-Term Care Ombudsman for investigation and action on behalf of one or more residents/tenants

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

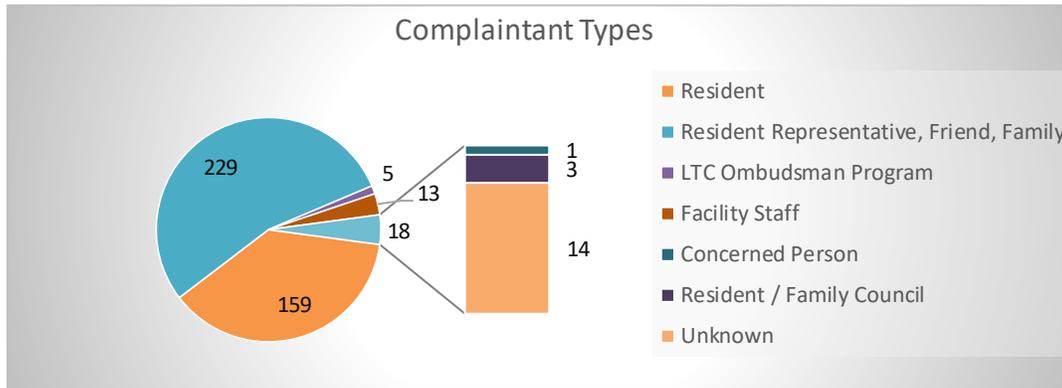
With resident/tenant permission, Long-Term Care Ombudsmen are required to investigate and try to resolve complaints made by or on behalf of residents/tenants of long-term care facilities that adversely affect their health, safety, welfare or rights.

In FFY 21 the top complaint types for both nursing facilities and residential care communities were:

1. Autonomy, Choice and Rights
2. Care
3. Admission, Transfers, Discharge and Eviction



Complaints can come from any source. In FFY 2021 the resident representative, friend and family were the top complainants followed by the resident.



Community Education / Other

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

Consultation / Information and Assistance

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



Other

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

In an attempt to serve as a visible advocate, the Office participates with the following individuals and organizations to advocate on behalf of residents/tenants residing in Iowa’s long-term care facilities:

- Administration for Community Living
- National Ombudsman Resource Center
- Managed Care Organizations
- Consumer advocates
- Medical Assistance Advisory Council
- Iowa Department of Inspections and Appeals
- Area Agencies on Aging
- Iowa Department of Human Services
- Disability Rights Iowa
- Iowa Medicaid Enterprise

- Legal Assistance providers
- Facility administrators and program directors
- National Association of States United for Aging and Disabilities
- Older Iowans Legislature
- AARP
- Alzheimer's Association
- Caregivers Association

Resident and Family Councils

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

Due to COVID, travel restrictions and the overall inability for resident and family councils to meet, participation was hampered and residents seemed reluctant to resume, even when the lockdown was lifted.

Resident and Tenant Visitation

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

In this reporting period visitors were largely kept from facility visits due to COVID, when restrictions were lifted, representatives of the Office spent significant time navigating through visitation issues and concerns regarding visitors not being allowed back in.



Survey Participation

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

Beginning in June 2021, the OSLTCO worked to encourage the re-building of involvement in facility surveys which had been limited for several years. As a result of this, representatives of the Office participated in 24 facility surveys throughout Iowa.

Training and Technical Assistance

The OSLTCO provides education, training and technical assistance to ombudsmen, volunteers and facility/program staff. Training and education are needed to ensure staff and volunteers are eligible to maintain certifications and stay abreast of issues surrounding long-term care. Technical assistance is provided to and by local long-term care ombudsmen, volunteer coordinators, the empowerment specialist, managed care ombudsmen and volunteer ombudsmen to ensure the consistent and uniform interpretation and implementation of laws, rules and regulations statewide.

RECOMMENDATIONS

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

Resident and Tenant Rights: Autonomy, Choice, Privacy

Too many times, individuals residing in long-term care are treated as if they cannot make decisions or voice an opinion about their needs. This means care happens to them, rather than with them. These rights are provided through law and guaranteed to each and every person that resides in a long-term care facility or assisted living program.

Residents and tenants do not lose their rights to make decisions simply because they move into a different environment. Some individuals are comfortable advocating for themselves, once given the tools to be an effective advocate, while others reach out to a local or volunteer long-term care ombudsman for assistance in ensuring their rights are protected.

In order to ensure residents and tenants residing in long-term care facilities are allowed to direct their care and have choice, privacy and the ability to exercise their rights, the OSLTCO recommends advocates and stakeholders work together to:

- *Inform residents and tenants of their rights to make health care and financial management decisions and implement those choices by educating guardians, conservators, agents and attorneys-in-fact;*
- *Enhance lowans' knowledge and understanding on the rights of residents and tenants;*
- *Promote self-determination of residents to live in an environment that supports choice;*
- *Involve residents in developing their plans of care and identifying their needs, strengths, goals, life history and preferences;*
- *Educate residents on the new regulations that allow for greater focus on residents' individual needs/preferences and gives them increased control and choice;*
- *Monitor facilities' implementation of new regulations that require facilities to protect resident belongings from loss and theft, as well as review admission agreements to ensure this right is not waived;*
- *Educate consumers and facilities on a resident's right to designate a "resident representative" and the role of that individual.*

Quality Care and Treatment

Individuals residing in long-term care settings deserve quality of care and treatment. This is a right, not a privilege, and quality should be the rule, not the exception. For this to occur, however, there must be sufficient and trained staff to deliver appropriate levels of care, to respond to requests for assistance in a timely fashion, and to competently attend to the needs of the residents or tenants. Concerns over resident care and treatment continue to be a primary complaint that the Office of the State Long-Term Care Ombudsman receives.

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

- *Review the issues of understaffing, staffing shortages, recruitment and retention of direct care workers and nursing staff, including reliance on and utilization of agency staffing;*
- *Monitor facility staffing practices to ensure that residents' personal needs and preferences are being met;*

- *Ensure the appropriate level of care is received when needed and that call lights are answered promptly;*
- *Establish and provide sufficient staff training for those working with individuals experiencing a neurocognitive disorder (e.g., dementia or aggressive behaviors);*
- *Guarantee that residents receive any specialized or specialized rehabilitative services as a result of the Pre-Admission Screening and Resident Review (PASRR) recommendations;*
- *Monitor facilities' implementation of the new regulations that require care and treatment to be provided in accordance with the resident's choice, developing a person-centered care plan and a comprehensive assessment;*
- *Review staffing practices to ensure that sufficient staff, with appropriate competencies, is in place to meet the needs of the resident population;*
- *Provide training opportunities to facility staff that address resident rights, dementia management and sexuality.*

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

An individual's realization that he or she will need to move from the environment known as home is an emotional journey that some residents and their families do, unfortunately, experience. Many do not know they have due process rights that require a facility or program to give notice, as well as the right to appeal the decision to discharge or transfer. In some cases, families are not informed of this right; they are simply told that the facility can no longer care for their family member and that he or she must be moved.

Residents do, in fact, have choice and, at the very least, have the right to question any assessment or decision that impacts their right to residence. Concerns over resident and tenant rights to admission, transfer, discharge and eviction continue to be the third largest category of complaints that the Office of the State Long-Term Care Ombudsman receives.

In order to ensure residents and tenants residing in long-term care facilities understand their rights through the admission, discharge and transfer process, the OSLTCO recommends advocates and stakeholders work together to:

- *Provide education regarding the new regulations on improper discharges to hospitals and on appeal rights for involuntary discharges and transfers;*
- *Ensure residents and tenants residing in long-term care facilities understand their rights throughout the admission, discharge and transfer process;*
- *Develop better tracking methodologies and data points to identify and address problematic trends;*
- *Educate residents, tenants and families on due process appeal rights and discuss reform of Iowa's assisted living program laws and rules to allow for third party review of involuntary discharges and transfers;*
- *Educate Iowans on financial exploitation to protect residents and tenants from discharge due to a fiduciary's lack of action to apply for Medicaid or for non-payment of care expenses;*
- *Monitor and participate in facility closures to provide residents with assistance to ensure a safe and secure transition to a facility of their choice.*