Office of the State Long-Term Care Ombudsman Annual Report 2006

January 12, 2007

Jeanne Yordi
State Long-Term Care Ombudsman
Department of Elder Affairs
510 E. 12th Street, Jessie M. Parker Bldg. Suite 2
Des Moines, IA 50319

OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN

JEANNE YORDI
State Long-Term Care Ombudsman

TONYA AMOS
Lead Long-Term Care Ombudsman
Serving Polk County

KATIE MULFORD
Administrative Assistant

KIM COOPER
Regional Long-Term Care Ombudsman
Davenport Office serving eastern Iowa

CONNIE HADDEN
Regional Long-Term Care Ombudsman
Serving northwest Iowa

ANGIE O'BRIEN
Regional Long-Term Care Ombudsman
Serving central Iowa

OPEN POSITION
Regional Long-Term Care Ombudsman
Western Iowa

OPEN POSITION
Regional Long-Term Care Ombudsman
Northeast Iowa

INTRODUCTION

The State Long-Term Care Ombudsman program operates as a unit within the Office of Elder Rights at Iowa Department of Elder Affairs. This office serves people living in intermediate care facilities, skilled nursing facilities, residential care facilities, elder group homes and assisted living programs.

2006 proved to be another year of changes for this office. One ombudsman resigned in March and a second in August. The first regional office opened in July in Davenport, as a result of one of the resignations. Two new regional offices will be opened at the end of 2006. Each regional long-term care ombudsman is assigned a district, or section of the state, and is responsible for all long-term care related issues in that district.

The current ratio of regional ombudsman to residents is 1 to 9,780. The Administration on Aging continues to recommend one ombudsman for each 2,000 long-term care residents. Iowa continues to rank last in the number of ombudsman to residents ratio and continues to rank at the bottom of number of paid full time ombudsmen.

This office continues to attempt to meet the mandates of the Older Americans Act; however, complaint investigations remain a priority. Time is spent investigating and resolving complaints and providing information to residents and families. There is limited time for monitoring facilities, developing resident and family councils, and training and education for professionals or educating the general public regarding issues in long-term care.

OFFICE OF THE STATE
LONG-TERM CARE OMBUDSMAN
FACT SHEET

- ✓ Iowa continues to rank last in the number of paid ombudsman per long-term care bed
  - o 2005 NORS Report shows one ombudsman per 7,639 beds
    - During FFY 2005 Iowa had 1 FT state ombudsman and 5 regional ombudsmen
    - AoA recommends 1 ombudsman per 2,000 beds
    - Iowa would need 25 ombudsmen to meet that mandate
    - National average is 1 ombudsman to 2,208 beds

- ✓ Iowa ranks 41/52 in the number of paid full time ombudsmen
    - National average is 23 full time employees
    - Iowa has 5 regional ombudsmen plus one State Long-Term Care Ombudsman

- ✓ Iowa ranks 45/52 in number of trainings for facility staff
- ✓ Iowa ranks 42/52 in number of facilities visited for routine monitoring
- ✓ Iowa ranks 46/52 in time spent monitoring laws and regulations
- ✓ Iowa ranks 50/52 in number of community education presentations given
- ✓ Iowa ranks 30/52 in number of DIA surveys in which an ombudsman participated

- ✓ Iowa ranks 29/52 in number of consultations to facility staff
- ✓ Iowa ranks 29/52 in number of consultations to individuals
- ✓ Iowa is tied for last with no help given to resident or family councils
- ✓ Iowa ranks 38/52 in number of new cases opened
- ✓ Iowa ranks 39/52 in number of new complaints

- ✓ Iowa ranks 44/52 in total program funding

- ✓ Iowa is one of only 9 states that do not use certified volunteer ombudsmen

Source: 2005. National Ombudsman Reporting System (NORS), Administration on Aging

LONG-TERM CARE OMBUDSMAN PROGRAM

The Office of the State Long-Term Care Ombudsman is a vital and effective presence in advocating for and protecting the rights of the 48,900 people living in long-term care facilities.

To more clearly identify this office, a logo that is being promoted by the National Association of State Ombudsman Programs has been adopted. This "Tough Enough to Care" logo will appear on all documents from this office, and can be seen in the front of this report.

New brochures have been ordered for both ombudsman services and resident advocate committees. Samples are attached to this report.

Each regional long-term care ombudsman is responsible for a district that includes at least 150 long-term care facilities and over 9,780 residents. This makes the daily work life of an ombudsman very hectic, yet the staff remains passionate and dedicated to ensuring that all people live in an environment where the quality of life and quality of care promotes an individualized lifestyle.

Duties of all long-term care ombudsmen are mandated by the Older Americans Act. Duties of the State Long-Term Care Ombudsman include the following, by doing them either personally or through the regional long-term care ombudsmen:

A. Identify, investigate, and resolve complaints that
   - are made by or on behalf of residents and
     - relate to action, inaction, or decisions that may adversely affect the health, safety,
     - welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), or
       - providers, or representatives of providers, of long-term care services;
       - public agencies; or
       - health and social service agencies;

B. Provide services to assist the residents in protecting the health, safety, welfare and rights of the residents;
C. Inform the residents about means of obtaining services provided by providers or agencies described above;
D. Ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;
E. 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;
F. Provide administrative and technical assistance to regional long-term care ombudsmen;
G. Analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions,
    a. that pertain to the health, safety, welfare, and rights of the residents, and with respect to the adequacy of long term care facilities and services in the State;
    b. recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and
    c. facilitate public comment on the laws, regulations, polices, and actions;
H. provide for training representatives of the Office
    a. promote the development of citizen organizations, the participate in the program; and
    b. provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and
I. Carry out such other activities as the Commissioner determines to be appropriate.

This office had an increase in complaints for federal fiscal year 2006. While the actual number of cases declined slightly, this is attributed to the fact that this office was short over 2,000 work hours of ombudsman time due to resignations and multiple extended leaves of absence. We expect to see a sharp rise in cases during the next year when all positions are filled.

This office continues to struggle with fulfilling all of the mandates of the Older Americans Act. Complaint investigations and working with residents and families remain the priority.

Table 1
PROGRAM ACTIVITIES

CATEGORY	FFY 06	FFY 05	FFY 04
Training for Ombudsmen/volunteers	55	37	40
Technical assistance for ombudsmen/ volunteers	713	76	58
Training for Facility Staff	28	32	9
Consultations to facilities/providers	362	957	751
Consultations to individuals	908	1837	1487
Resident visitation-non complaint related	146	258	50
Resident visitation-complaint related	571	512	373
Participation in facility surveys	63	91	50
Work with resident councils	0	1	0
Work with family councils	1	1	0
Community education	9	17	28
Media Interviews	21	6	35
Monitoring laws	4%	4%	6%

The Administration on Aging designates program activities that must be reported. While it appears that consultations to facilities and providers declined significantly, this is not the case. During the summer of 2006 the computer documentation program, OmbudsManager was upgraded which has resulted in a change in our documentation process. Since this change did not happen until the summer, it has skewed the statistics for the reported year. Events formerly categorized as consultations to facilities or individuals are now combined with case notes. This has improved our efficiency and will give us a much more detailed report of how ombudsmen spend their time in the future.

The current ombudsman to resident ratio makes it nearly impossible for the regional long-term care ombudsmen to do much more than complaint-related visits. This will continue to be the case until more ombudsmen are added or a volunteer ombudsman program is established.

TABLE 2
CASES AND COMPLAINTS

	FFY06	FFY05	FFY04
Number of new cases opened	749	787	415
Number of new complaints	1310	1246	998
Abuse, gross neglect, exploitation	9	26	23
Access to information	28	16	15
Admission, transfer, discharge, eviction	202	178	157
Autonomy, choice, exercise of rights, privacy	228	230	170
Financial, property lost, missing or stolen	75	73	50
Care	301	245	233
Rehabilitation of maintenance of function	18	28	13
Restraints-chemical or physical	1	3	8
Activities and social services	52	38	30
Dietary	81	10	62
Environment	86	103	50
Policies, procedures, attitudes, resources	32	45	54
Staffing	115	91	67
Certification/licensing agency	12	11	11
State Medicaid agency	5	6	5
System/others	62	47	40
Other than ICF/RCF	3	4	10
TOTALS	1310	1246	998

COMPLAINT ANALYSIS (Table 2)

Involuntary discharges continue to take a great deal of time for the regional and state long-term care ombudsman. This office received letters for 169 involuntary discharges during the report period. The appropriate regional long-term care ombudsman makes contact with both the facility and resident or responsible party on each letter.

There was an attempt by facilities to involuntarily discharge ninety-six people due to "behavior problems." Of these, this office was successful in satisfactorily resolving eighty cases. Resolution included working with the facility to develop a workable plan of care, providing staff education, or working with the resident and/or responsible party to help the person live in an appropriate environment. Only sixteen of these cases could not be resolved and the resident was forced to move to another location.

Thirteen involuntary discharge letters were received related to level of care. Again, this office was successful in resolving eleven of these cases, and only two people were not happy with the outcome.

We also received sixty letters of involuntary discharge for financial reasons. Regional long-term care ombudsmen spent a great deal of time working with the residents, responsible parties, facilities, and other agencies to get these situations resolved. Fifty cases were resolved and the residents were allowed to remain in the facility of choice. This office is not, nor will ever be, a collection agency; however spending many hours gathering the facts and working with all parties involved to find resolution is a key part of this job.

Sixteen people chose to formally appeal the involuntary discharge notice. The State Long-Term Care Ombudsman is involved in these appeals to help the regional ombudsman gather information and to provide arguments on behalf of the resident during the appeal hearing. These cases are extremely time intensive, and preparation and actual appeal hearing time usually consumes at least fifteen hours of staff time. Each person who chooses to file an appeal is encouraged to seek legal counsel; however the ombudsman continues to be an integral part of each case.

The number one complaint once again is that long-term care staff fails to respond to requests for assistance. This includes the following: call lights not being answered or call lights being turned off by a staff member without the request being fulfilled.

Complaints regarding long-term care staff attitudes continue to rise. Residents frequently complain about not being treated with dignity and respect. There is also an increase in complaints about resident rights and the ability to make personal life choices.

Reports of medication errors, falls or accidents due to inappropriate transfers, and staff not paying attention to changing symptoms as well as residents not being assisted to the bathroom within a reasonable time continue to rise.

Out of the total complaints received, 34% of the complaints received came from a friend or relative of the resident. 33% of the complaints came directly from the resident, and 14% were initiated by the regional long-term care ombudsman.

In review of these cases and evaluating the complaints this office has come to the following conclusions.

1. An administrator who treats employees with dignity and respect creates an environment that carries over as the employees care for the residents.
2. Direct care workers cannot be expected to provide quality care when there is not an appropriate staff to resident ratio.
3. Facilities that are willing to look at resident behavior problems as challenges and get help from outside resources tend to promote a more comfortable work and living environment.

A priority for regional long-term care ombudsman is to build a working relationship with each facility in the assigned district. By doing so, this office has been able to successfully resolve over 80% of concerns. This is far above the national average of 60%, which is a tribute to the dedication and perseverance of the staff.

Assisted Living facilities continue to open at astonishing rates. Seniors and family members often feel misled and deceived in their dealings with these organizations. Admission contracts, services provided and level of care offered differ greatly. Some assisted living facilities appear to be glorified nursing homes, with people needing continual assistance with medications, ambulation or dining.

Cases related to assisted living programs tend to be very complicated and time consuming. There are no standard tenant rights, admission contracts, services or level of care standards. These cases usually require extensive consultations with other agencies and professionals.

LONG-TERM CARE OMBUDSMAN HIGHLIGHTS

Members of the Office of the State Long-Term Care Ombudsman continue to provide the voice of the long-term care resident at a variety of functions.

Jeanne Yordi was elected as vice-president of the National Association of State Long-Term Care Ombudsman programs for a two year term. (NASOP)

Connie Hadden serves on the Better Jobs/Better Care committee with the Iowa CareGivers Association. (ICA)

Angie O'Brien represents this office on the Iowa Person Directed Care Coalition and serves on several sub-committees. (IPDCC)

Angie also attends the Quality Initiative Organization meetings. (QIO)

Tonya Amos is the Iowa representative for the National Association of Local Long-Term Care Ombudsmen. (NAALTCO)

Jeanne Yordi, Angie O'Brien and Kim Cooper were all trained as Eden Associates, to help long-term care facilities implement person directed care into the daily lives of those living and working in a facility.

Katie Mulford represents this office with the OmbudsManager Users Group.

Presentations were given at the National Citizen's Coalition for Nursing Home Reform, the Iowa Governor's Conference on Aging, the Iowa Elder Rights Conference and the at the Iowa CareGivers Association annual meeting.

RESIDENT ADVOCATE COMMITTEES

The resident advocate committee program has been in operation for over thirty years. Throughout those years, the goals of the program have evolved. Originally volunteers served as watchful eyes in the facility and were to report infractions to the Department of Inspection and Appeals immediately. Each Area Agency on Aging had a coordinator to help the local committees and the Department had a State Resident Advocate Committee Coordinator. For the past two years this program has been contracted out to a local entity; however in July 2006 the program was brought back to the Des Moines office where all activities are now handled. All volunteers are now required to attend an orientation prior to beginning volunteer duties. Technical assistance for individual committees is slowly being transferred to the regional long-term care ombudsmen. This will continue our work to unite the advocates and ombudsmen into one cohesive program.

Many new products were developed to help the volunteers in their advocacy duties.

A new manual was distributed during training in 2006. This new manual enhances the previous version and offers many tools for the volunteers to use as they visit residents and observe daily life in a facility.

Name tags are now sent to new volunteers and to any current volunteer who makes the request. These name tags feature the volunteer's name in large letters with the "Tough Enough to Care" logo in red.

Calling Cards were also created. These bright yellow cards may be left by a volunteer after visiting with a resident, or when a resident is not present. The volunteer adds the personal name and phone number so the resident can call if assistance is needed.

All volunteers must now attend orientation prior to starting the advocacy work. Training is offered twice per month, once during the day and once in the evening, and is held via telephone conference. This orientation ensures that all new advocates understand the volunteer role and the meaning of quality of care and quality of life in long-term care facilities.

Over fifty five training sessions were held in local communities for the volunteers. This training focused on teaching volunteers how to be an integral part of the quality improvement process in each long-term care facility. Volunteers are provided with techniques on how to speak on behalf of residents to promote independence, autonomy and quality of life. Volunteers are encouraged to work with facility staff to resolve concerns as they arise.

Volunteers are encouraged to not use the word "complaint" and focus on individual concerns. Advocates are encouraged to imagine daily life in a congregate setting such as a long-term care facility and to help residents express personal preferences.

At the time of this report over 2,068 complaints were identified by 2,840 resident advocate volunteers in the past year. This is a 100% increase over the 1,000 complaints received the previous year.

Resident Advocate Volunteers continue to resolve an average of 70% of concerns to the satisfaction of the resident. 22% of the concerns were related to care, with failure to respond to requests for assistance ranking as the number one concern. 20% of the concerns were about the environment and building maintenance; 16% were dietary related; 11% were concerns regarding social services and activities and 9% of the concerns were about dignity, respect and staff attitudes,

Cases and complaints from resident advocate committees and long-term care ombudsmen have risen during the past year. However, this office does not believe this signals a decline in care in most facilities. As more facilities move to person directed care we find that residents, staff and families struggle with the change. While the outcome is always positive, change is hard for everyone. This office is very pleased that residents feel secure enough to express individual needs, wants and desires. Both resident advocates and regional long-term care ombudsmen help those requests be granted.

SUMMARY

Prior to 1999, Iowa only had one full time ombudsman. Today, the state ombudsman, five regional ombudsmen and an administrative assistant provide support, education and services for people living in long-term care facilities yet we are barely scratching the service of meeting the needs of people living in long-term care facilities.

The Resident Advocate Committee Program was established in the early 1970's to help enforce rules and regulations. Iowa continues to be the only state in the nation with this volunteer system. All other ombudsman programs use a volunteer ombudsman system. Volunteers are now, and always have been, an important part of the ombudsman program both in Iowa and across the country. These volunteers are working hard to improve the quality of life for people living in long-term care facilities. They must cope with facility rules, state and federal regulations and resident rights. These volunteers need very frequent interactions with ombudsman program staff. With almost 3,000 volunteers and only a few paid staff, this is virtually impossible.

Assisted living facilities continue to be built at an alarming rate. Cases that involve assisted living may become very complicated as landlord-tenant law and assisted living regulations sometime appear to be at odds. There are fewer nursing homes today than there were five years ago, yet they will never disappear. People living in any type of long-term care facility must understand they have choices and have the right to continue to live life to the fullest.

Increasing the number of long-term care ombudsmen in Iowa will have immediate and long-lasting effects for the elderly who live in long-term care facilities. Iowa needs to stand strong to make the long-term care system a model for the nation.

CHAPTER 8
LONG–TERM CARE RESIDENT'S ADVOCATE/OMBUDSMAN
[Prior to 5/20/87, see Aging, Commission on the[20] rules 4.2 and 9.6]

321—8.1(231) Definitions.

"*Designee*" means an employee who is designated as a regional long–term care ombudsman.

"*Resident advocate committee member*" means a volunteer appointed by the director or the director's designee pursuant to Iowa Code section 135C.25.

"*Resident's advocate/ombudsman*" means the state long–term care ombudsman.

"*Volunteer long–term care ombudsman*" means a volunteer who has successfully completed all requirements and has received certification from the resident's advocate/ombudsman.

321—8.2(231) Purpose.

8.2(1) *General rule.* The department shall operate a statewide long–term care resident's advocate/ombudsman program in cooperation with appropriate state and local agencies such as the department of inspections and appeals, the department of human services, and the AAAs.

8.2(2) *Resident advocate committee and volunteer long–term care ombudsman program administration.* The program shall include the administration of the resident advocate committee program identified in Iowa Code section 231.4 and the volunteer long–term care ombudsman program identified in Section 712(5) of the Older Americans Act.

321—8.3(231) Long–term care resident's advocate/ombudsman duties.

8.3(1) *Program administration.* The department shall employ an individual (hereinafter called the resident's advocate/ombudsman) to administer the long–term care resident's advocate/ombudsman program in accordance with the requirements of the Act and Iowa Code chapter 231.

8.3(2) *Duties of the resident's advocate/ombudsman (also known as the state long–term care ombudsman).* In accordance with the Older Americans Act, the resident's advocate/ombudsman shall perform the following duties:

a. Identify, investigate and resolve complaints and grievances that are made by or on behalf of residents that may adversely affect the health, safety, welfare or rights of residents;

b. Administer the resident advocate committee system pursuant to these rules and assist the committees in the performance of their duties through training and technical assistance;

c. Monitor the development and implementation of federal, state and local laws, rules, regulations and policies that relate to long–term care facilities;

d. Provide information to the public and to state and local agencies about problems of persons in long–term care facilities;

e. Train long–term care facility staff in conjunction with training provided to resident advocate committee members;

f. Administer the volunteer long–term care ombudsman program;

g. Assist in the development of organizations to participate in long–term care;

h. Comment and make recommendations on administrative actions under consideration by an agency or authority which may affect residents in long–term care facilities;

i. Designate regional long–term care ombudsmen (hereinafter called designees) to perform any of the above duties; and

j. Approve certification for volunteer long–term care ombudsmen.

321—8.4(231) Access requirements. The resident's advocate/ombudsman or designee shall have access to long–term care facilities, private access to residents, access to residents' personal and medical records and access to other records maintained by the facilities or governmental agencies, pertaining only to the person on whose behalf a complaint is being investigated.

8.4(1) *Visits to facilities.* The resident's advocate/ombudsman or designee may enter any long–term care facility without prior notice. After notifying the person in charge of the facility of the resident's advocate/ombudsman's or designee's presence, the resident's advocate/ombudsman or designee may communicate privately and without restriction with any resident who consents to the communication.

8.4(2) *Visits to resident's living area.* The resident's advocate/ombudsman or designee shall not observe the private living area of any resident who objects to the observation.

8.4(3) *Restrictions on visits.* The facility staff member in charge may refuse or terminate a resident's advocate/ombudsman's or designee's visit with a resident only when written documentation is provided to the resident's advocate/ombudsman or designee that the visit is a threat to the health and safety of the resident. The restriction shall be ordered by the resident's physician, and the order shall be documented in the resident's medical record.

8.4(4) *Request agency assistance.*

a. The resident's advocate/ombudsman or designee may request cooperation, assistance and data that will enable the resident's advocate/ombudsman or designee to execute any of the resident's advocate/ombudsman's or designee's duties and powers under the Older Americans Act from any governmental agency or its agent or AAA.

b. Only the state long–term care ombudsman shall have access to adult abuse case information.

8.4(5) *Facility records.* Copies of a resident's medical or personal records maintained by the facility, or other records of a long–term care facility, may be made with the permission of the resident, the resident's responsible party, or the legal representative of the resident.

a. The office of the long–term care ombudsman will pay for copies as requested.

b. All medical and personal records shall be made available to a volunteer long–term care ombudsman for review if:

(1) The volunteer long–term care ombudsman has the permission of the resident, the legal representative of the resident or the responsible party; or

(2) Access to the records is necessary to investigate a complaint; and

(3) The volunteer long–term care ombudsman obtains approval of the resident's advocate/ombudsman or designee; or

(4) The information is sought by court order.

c. The resident's advocate/ombudsman program shall keep all records and information confidential according to the Older Americans Act.

321—8.5(231) Authority and responsibilities of the department.

8.5(1) *Confidentiality and disclosure.* The complaint files maintained by the resident's advocate/ombudsman program shall be maintained as confidential information and may not be disclosed unless the resident's advocate/ombudsman authorizes disclosure.

a. No member of the resident's advocate/ombudsman program shall disclose the identity of any complainant or resident, or any identifying information obtained from a resident's personal or medical records unless the complainant or resident, or the legal representative of either, consents in writing to the disclosure and specifies to whom the information may be disclosed.

b. The resident's advocate/ombudsman may use materials in the files for the preparation and disclosure of statistical, case study and other pertinent reports provided that the means of discovering the identity of particular persons is not disclosed.

8.5(2) *Referral of complaints or grievances.*

a. When the resident's advocate/ombudsman or designee encounters facts which may indicate the failure to comply with state or federal laws, rules or regulations, the resident's advocate/ombudsman or designee shall refer the case to the appropriate agency.

b. When the resident's advocate/ombudsman or designee encounters facts that may warrant the institution of civil proceedings, the resident's advocate/ombudsman or designee shall refer the case appropriately for administrative and legal assistance.

c. When the resident's advocate/ombudsman or designee encounters facts which may indicate the misconduct or breach of duty of any officer or employee of a long–term care facility or government agency, the resident's advocate/ombudsman shall refer the case to the appropriate authorities.

d. The resident's advocate/ombudsman or designee shall initiate follow–up activities on all referred complaints and grievances.

8.5(3) *Reporting.* The resident's advocate/ombudsman program shall maintain a statewide, uniform reporting system to collect and analyze information on complaints and grievances regarding long–term care facilities in accordance with requirements of the Act and Iowa Code section 231.42.

a. Information provided by the department of inspections and appeals, individuals and agencies to whom cases were referred, resident advocate committees and the volunteer long–term care ombudsman program shall be used in the reporting system.

b. No information from this reporting system that threatens the confidentiality of residents or complainants shall be made public without the written permission of the affected residents or complainants.

c. Any information from this reporting system which identifies a specific facility shall state that problems identified in that facility have been corrected, if problems identified have been corrected to the satisfaction of the resident or complainant or pursuant to 321—9.13(231).

d. The complaint and grievance documentation and reporting system shall include, where available:

(1) The source and date of the complaint or grievance;
(2) Name, location and type of facility;
(3) Facility licensure and certification status;
(4) Description of the problem;
(5) Billing status of the resident;
(6) Method by which the complaint was received; and
(7) Description of follow–up activities and date of resolution.

e. The resident's advocate/ombudsman program shall prepare an annual report analyzing complaint statistics collected and provide this report, by January 15 of each year, to the following agencies and others as deemed appropriate, including but not limited to: AOA, the office of the governor, the general assembly of Iowa, the department of inspections and appeals, the department of human services, and AAAs.

321—8.6(231) Volunteer long–term care ombudsman program.

8.6(1) Application. Any individual may apply to the resident's advocate/ombudsman program to become a volunteer long–term care ombudsman. A resident advocate committee member shall be given priority in the selection process and may become a certified volunteer long–term care ombudsman pending successful completion of the required training and background checks.

a. Application forms. Application forms may be obtained from the resident's advocate/ombudsman program at the department of elder affairs address listed in rule 321—2.1(231) or from other organizations designated by the department.

b. Submission of forms. Each applicant shall complete an application and submit it to the department address listed in rule 321—2.1(231).

8.6(2) Conflict of interest.

a. Prior to certification, applicants for the volunteer long–term care ombudsman program must not have a conflict of interest or have had a conflict of interest within the past two years in accordance with the Older Americans Act. A conflict of interest shall be defined as:

(1) Employment of the applicant or a member of the applicant's immediate family within the previous year by a long–term care facility or by the owner or operator of any long–term care facility;

(2) Current participation in the management of a long–term care facility by the applicant or a member of the applicant's immediate family;

(3) Current ownership or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long–term care facility or long–term care service by the applicant or a member of the applicant's immediate family;

(4) Current involvement in the licensing or certification of a long–term care facility or provision of a long–term care service by the applicant or a member of the applicant's immediate family;

(5) Receipt of remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long–term care facility by the applicant or a member of the applicant's immediate family;

(6) Acceptance of any gifts or gratuities from a long–term care facility or a resident or a resident's representative;

(7) Acceptance of money or any other consideration from anyone other than the office of the state long–term care resident's advocate/ombudsman for the performance of an act in the regular course of long–term care;

(8) Provision of services while employed in a position with duties that conflict with the duties of a volunteer long–term care ombudsman;

(9) Provision of services to residents of a facility in which a member of the applicant's immediate family resides; or

(10) Participation in activities which negatively affect the applicant's ability to serve residents or which are likely to create a perception that the applicant's primary interest is other than as an advocate for the residents.

b. Immediate family shall be defined as father, mother, son, daughter, brother, sister, aunt, uncle, first cousin, nephew, niece, wife, husband, father–in–law, mother–in–law, son–in–law, daughter–in–law, brother–in–law, sister–in–law, stepparent, stepbrother, stepchild, stepsister, half sister, half brother, grandparent or grandchild.

8.6(3) Applicants shall not be accepted into the program if:

a. It is determined that the applicant has a conflict of interest as listed in subrule 8.6(2); or

b. The applicant has unfavorable references, which shall include a DCI criminal background check and abuse check;

c. The applicant lives in any part of a continuing care retirement community, or any housing owned by the long–term care facility in which the volunteer would function.

8.6(4) Training. Prior to certification, applicants must successfully complete the required training as approved by the resident's advocate/ombudsman. Successful completion shall be defined as completion of all assignments and tasks during training, demonstration of proper techniques and skills, and an understanding of the role of the volunteer long–term care ombudsman in the long–term care setting. The applicant shall complete a minimum of 24 hours of approved training, which shall include, but not be limited to:

a. History and overview of resident's advocate/ombudsman program;

b. Terminology;

c. Resident rights;

d. State and federal law, rules and regulations regarding long–term care facilities;

e. Regulatory process in long–term care facilities;

f. Aging process, common medical conditions and terminology;

g. Life in a long–term care facility and culture change;

h. Communication skills;

i. Confidentiality;

j. Problem solving and documentation, and follow–up of complaints;

k. Dynamics of abuse and neglect;

l. Ethics; and

m. Resources for volunteer long–term care ombudsmen.

8.6(5) Approval for certification. Final approval for certification as a volunteer long–term care ombudsman shall be made by the resident's advocate/ombudsman and shall be subject to the applicant's successful completion of the required training and to a favorable report from the instructor. The resident's advocate/ombudsman has the right to require that the applicant receive additional personal training prior to certification and has the right to deny certification to applicants not meeting the above training criteria.

8.6(6) Certification.

a. Notification. A volunteer long–term care ombudsman shall be notified in writing within 14 days following the conclusion of the training program if certification has been continued or revoked.

b. Certification shall initially be for one year, with recertification available following the volunteer's completion of a minimum of ten hours of approved continuing education in the first year and completion of a progress review by the residents of the facility, the facility administrator and staff, and the resident's advocate/ombudsman or a representative from the office of the state long–term care resident's advocate/ombudsman program.

c. After the volunteer's successful completion of one year as a volunteer long–term care ombudsman, the resident's advocate/ombudsman may recertify the volunteer for a two–year period.

8.6(7) Continuing education.

a. All certified volunteer long–term care ombudsmen shall complete a minimum of ten hours of continuing education the first year and a minimum of six hours of continuing education each year thereafter. Continuing education may include, but is not limited to:

(1) Scheduled telephone conference calls with representatives from the office of the state long–term care resident's advocate/ombudsman program;

(2) Governor's conference on aging;

(3) Area Alzheimer's disease conferences;

(4) Elder abuse conferences;

(5) Courses related to aging conducted by a local community college or university or via the Internet;

(6) Other events as approved in advance by the resident's advocate/ombudsman.

b. Volunteer long–term care ombudsmen are responsible for reporting continuing education hours to the resident's advocate/ombudsman or designee within 30 days following the completion of the continuing education event.

8.6(8) Contesting an appointment. A provider who wishes to contest the appointment of a volunteer shall do so in writing to the resident's advocate/ombudsman. The final determination shall be made by the resident's advocate/ombudsman within 30 days after receipt of notification from the provider.

8.6(9) Certification revocation.

a. Reasons for revocation. A volunteer long–term care ombudsman's certification may be revoked by the resident's advocate/ombudsman for any of the following reasons: falsification of information on the application, breach of confidentiality, acting as a volunteer long–term care ombudsman without proper certification, attending less than the required continuing education training, voluntary termination, unprofessional conduct, failure to carry out the duties as assigned, or actions which are found by the resident's advocate/ombudsman to violate the rules or intent of the program.

b. Notice of revocation. The resident's advocate/ombudsman shall notify the volunteer and the facility in writing of a revocation of certification.

c. Request for reconsideration. A request for reconsideration or reinstatement of certification may be made in writing to the resident's advocate/ombudsman. The request must be filed within 14 days after receipt of the notice of revocation.

d. Response time. The resident's advocate/ombudsman shall investigate and consider the request and notify the requesting party and the facility of the decision within 30 days of receipt of the written request.

8.6(10) Access.

a. Visits to facilities. A volunteer long–term care ombudsman may enter any long–term care facility without prior notice. After notifying the person in charge of the facility of the volunteer long–term care ombudsman's presence, the volunteer long–term care ombudsman may communicate privately and without restriction with any resident who consents to the communication.

b. Visits to resident's living area. The volunteer long–term care ombudsman shall not observe the private living area of any resident who objects to the observation.

c. Restrictions on visits. The facility staff member in charge may refuse or terminate a volunteer long–term care ombudsman visit with a resident only when written documentation is provided to the volunteer long–term care ombudsman that the visits are a threat to the health and safety of the resident. The restriction shall be ordered by the resident's physician, and the order shall be documented in the resident's medical record.

8.6(11) Duties. The volunteer long–term care ombudsman shall assist the resident's advocate/ombudsman or designee in carrying out the duties described in the Older Americans Act. Primary responsibilities of a volunteer long–term care ombudsman shall include:

a. Conducting initial inquiries regarding complaints registered with the long–term care resident's advocate/ombudsman;

b. At the request of the resident's advocate/ombudsman or designee, providing follow–up visits on cases investigated by the resident's advocate/ombudsman or designee;

c. Attending, assisting with, or providing technical assistance to resident and family council meetings as needed;

d. At the request of the resident's advocate/ombudsman or designee, making follow–up visits to a facility after a department of inspections and appeals survey or complaint investigation to monitor the progress and changes listed in the plan of correction or to monitor the correction of deficiencies;

e. Tracking, monitoring and following up on publicly available information regarding facility performance;

f. Identifying concerns in a facility. Concerns identified should be discussed with the chair of the resident advocate committee to determine an appropriate course of action to reach resolution;

g. Completing all reports and submitting them to the resident's advocate/ombudsman in a timely manner; and

h. Completing exit interviews when the volunteer ombudsman resigns.

These rules are intended to implement Iowa Code chapter 231.

[Filed 5/20/82, Notice 3/17/82—published 6/9/82, effective 7/14/82]
[Filed 11/5/82, Notice 7/21/82—published 11/24/82, effective 12/29/82]*
[Filed emergency 12/17/82—published 1/5/83, effective 12/29/82]
[Filed 5/1/87, Notice 2/25/87—published 5/20/87, effective 6/24/87]**
[Filed emergency 8/20/87—published 9/9/87, effective 9/2/87]
[Filed 1/16/04, Notice 10/29/03—published 2/4/04, effective 3/10/04]

*Effective date of subrule 20—4.2(1) delayed 70 days by the Administrative Rules Review Committee. (IAB 12/22/82).
Delay lifted by Committee on January 4, 1983.
**Effective date of Ch 8 delayed 70 days by the Administrative Rules Review Committee.