

Protecting Residents' Rights

# SD Long Term Care Ombudsman Program

FFY 2015 Annual Report

Donna Fischer, State LTC Ombudsman

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## Message from the State Long Term Care Ombudsman

This *SD Long Term Care Ombudsman Program FFY 2015 Annual Report* describes the performance of South Dakota's Long Term Care Ombudsman Program during the period of October 1, 2014 through September 30, 2015.

I am pleased to provide information in this annual report that includes key findings identified by a consulting firm, Abt Associates, regarding long term care concerns in South Dakota. Abt Associates was originally commissioned in 2007 by the South Dakota Department of Social Services to conduct an evaluation of utilization and cost of services to the aging population across the continuum of care. Their analysis projected future long term care needs and capacity. Additionally, Abt Associates identified and recommended policy options for South Dakota based on best practices. In 2014, the Department again contracted with Abt Associates to provide an update to the original study. As reflected in the report, positive steps are being taken to improve and enhance services and supports for South Dakotans.

During FFY 2015 South Dakota's State and Local Long Term Care Ombudsmen again provided advocacy, education and empowerment to residents living in long term care facilities. In addition, educational services were provided to staff in long term care facilities and training was provided to local long term care ombudsmen. Statewide outreach events were proven to be successful by reaching rural individuals to discuss resident rights, elder protection, and services and programs available through the Aging and Disability Resource Connections. These outreach events were well-received and instrumental in raising awareness and education to South Dakota citizens of all ages.

I welcome your feedback regarding the results of the *SD Long Term Care Ombudsman Program FFY 2015 Annual Report*.

Sincerely,

Donna Fischer  
State Long Term Care Ombudsman

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## South Dakota's Long Term Care Ombudsman Program

### Authority

The South Dakota Long Term Care Ombudsman Program is mandated by the U.S. Administration on Aging and is authorized under the Older Americans Act (OAA, Title VII, Chapter 2, Sections 711/712). The Long Term Care Ombudsman Program is organizationally located within the Department of Social Services' Division of Adult Services and Aging.

The State Long Term Care Ombudsman is a full-time benefited state employee who is responsible to monitor the files, records and other information maintained by the Ombudsman Program. The State Long Term Care Ombudsman is also responsible for the performance of Local Long Term Care Ombudsmen who are full-time benefited state employees designated to carry out the duties of the Ombudsman Program, Division of Adult Services and Aging within the Department of Social Services. Standards have been developed to assure prompt response to complaints by the State and/or Local Long Term Care Ombudsman which prioritize abuse, neglect, exploitation and time-sensitive complaints and which consider the severity of the risk to the resident, the imminence of the threat of harm to the resident, and the opportunity for mitigating harm to the resident through provision of Ombudsman Program services.

### Purpose

The purpose of the Long Term Care Ombudsman Program is to protect and improve the quality of care and quality of life for residents of long term care facilities through advocacy for, and on behalf of, residents. The Ombudsman receives, investigates and attempts to resolve complaints made by, or on behalf of, individuals who are residents of long term care facilities. The primary focus of the Ombudsman Program is the resident; therefore, the Ombudsman advocates on behalf of the resident. Ombudsmen remain objective throughout the complaint investigation process while collecting the facts. Complaints may relate to the action, inaction, or decisions of providers or their representatives, or to long term care services, which may adversely affect the health, safety, welfare, or rights of residents. The Long Term Care Ombudsman is available to any resident of a long term care facility in the state of South Dakota. The Ombudsman must be sensitive to the needs and concerns of not only the resident, but the needs and concerns of friends and relatives who lodge complaints as well. The Ombudsman seeks to:

- provide an effective means to ensure that the resident receives fair treatment in long term care facilities;
- provide the resident with an opportunity for participation in his/her care; and
- provide an efficient means to ensure that resident rights are being met, and followed according to the Nursing Home Reform Act of 1987; and
- empower the resident with a sense of self-determination.

## Philosophy

The Long Term Care Ombudsman Program is a resident focused advocacy program. The Ombudsman advocates, mediates, investigates, and educates residents and others and upholds his/her responsibility to act in situations involving vulnerable individuals. The Ombudsman carries out his/her advocacy role through the activity of providing information to assist in problem solving, and by promoting individual and group self-advocacy skills.



## Long Term Care Study 2007

In 2007, Abt Associates Inc. was commissioned by South Dakota's Department of Social Services to assess and evaluate the State's long term care system. The study was an evaluation of utilization and cost of services to the aging population across the continuum that projected future long term care needs and capacity and identified and recommended policy options based on best practices.

A key finding from that study indicated that a rapid projected growth in the elderly and disabled elderly population was expected to drive a sharp increase in the demand for long term care services – the number of elders was projected to double by 2025. The study also identified that there was a geographic mismatch between the places where services existed and the places where the elderly population was expected to grow over the next 20 years. Additionally, the study showed that South Dakota historically had high rates of nursing home bed utilization and low rates of use of home and community-based services compared to national indicators. Rural and frontier areas were identified as facing particularly low availability of home and community based services (adult day facilities, senior centers, nutrition programs, homemaker services, and in-home services). The analysis also concluded that South Dakota has aging skilled nursing facilities and that our labor force was not keeping pace with growth of elders – particularly direct care workers.

The study included several policy recommendations and identified three scenarios to address future demand for services: *Scenario 1 – do nothing; Scenario 2 – take moderate steps to address future demand; and Scenario 3 – take aggressive approach to address future demand.*

As a result of the findings of the study, in 2008 the Department of Social Services convened a Task Force on Long Term Care Services and Supports. The Task Force was charged with developing recommendations using the most aggressive approach to address future demand. The Task Force developed seven recommendations:

1. Develop a Single Point of Entry system for long-term care services.
  - *Completed - Aging Disability Resource Center (ADRC) model was implemented in October 2009.*
2. Expand and enhance existing home and community-based services
  - *Ongoing - enhancements through Adult Services and Aging waiver renewal. Implemented Money Follows the Person to transition individuals from nursing homes to community-based services where appropriate. Convened provider workgroup to develop rule changes to facilitate serving individuals with dementia in assisted living settings.*
3. Implement an access critical nursing facility model.
  - *Completed - legislation (SB140 – 2011 session) formally established access critical designation.*

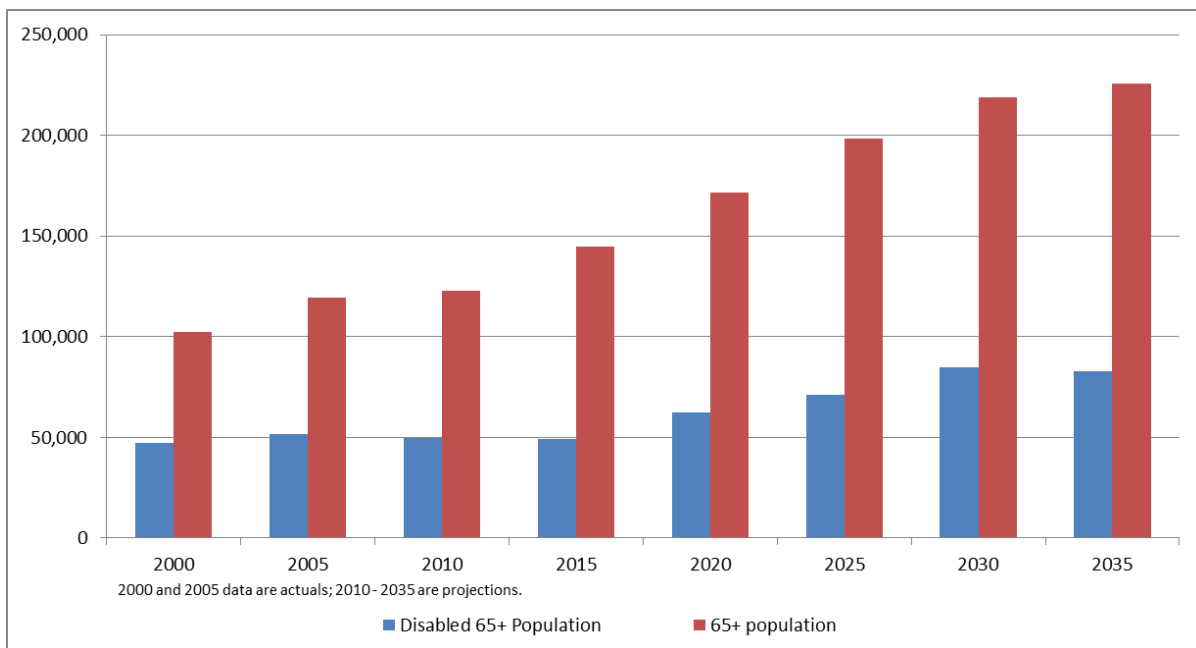
4. Right size the nursing facility industry by realigning moratorium bed levels to reflect projected demand for nursing facility services.
5. Expand nursing facilities through a Request for Proposals (RFP) process developed by state agencies for areas in the state that will need additional nursing facility services.
  - *Completed - legislation (SB196 – 2012 session) gives the Department of Health the ability to identify areas that need additional beds and to transfer beds to those areas through an RFP process.*
    - *Due to a shortage of nursing home beds in the urban area of Rapid City, 20 beds were awarded in 2014.*
    - *Due to a shortage of nursing home beds in the urban areas of Rapid City and Sioux Falls, a request for proposals (RFP) was released in 2015 to allow for an additional 54 nursing home beds (30 additional beds in Rapid City and 24 additional beds in Sioux Falls). These additional beds will focus on the complex care needs of individuals with bariatric, tracheostomy, ventilator dependency, and behavioral health related needs. Additionally, a portion of the beds will be available to serve individuals who are registered sex offenders.*
6. Maintain a sustainable financial infrastructure for the current and future system of care.
  - *Workgroup could not come to consensus on approach.*
7. Collect data and analyze the need for additional assisted living facilities.
  - *In progress.*



## Long Term Care Study Update 2015

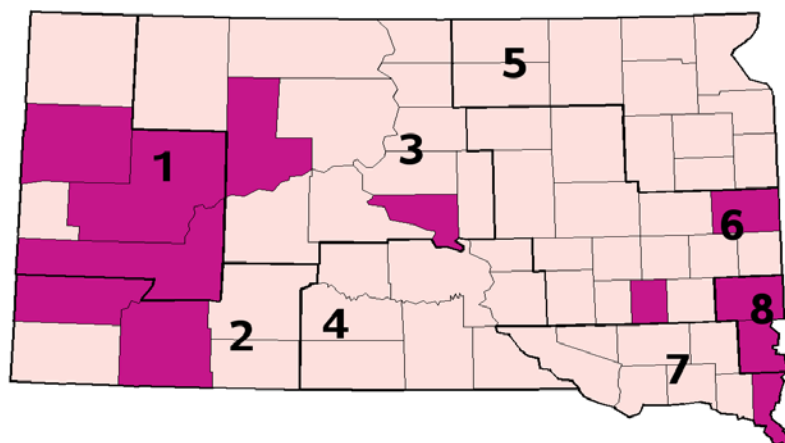
In 2014, the Department of Social Services contracted with Abt Associates to update the original study to include projections for demographic trends, service delivery challenges; and project future demand for long term care services. Key findings from the 2015 updated study showed that growth in elders had slowed relative to the 2007 projections with the elderly population expected to grow by 84% in the year 2025. Additionally, growth rates for the elderly and disabled population are again projected to be higher West River vs East River, and Rapid City and Sioux Falls continue to see the greatest growth rates as seniors migrate toward more urban areas and medical centers.

**Table 1. Projections of South Dakota's Elderly and Disabled Population (2000-2035)**



**Source: Abt Associates' analysis of South Dakota Data Center's Population Projections data, 2010 and American Community Survey.**

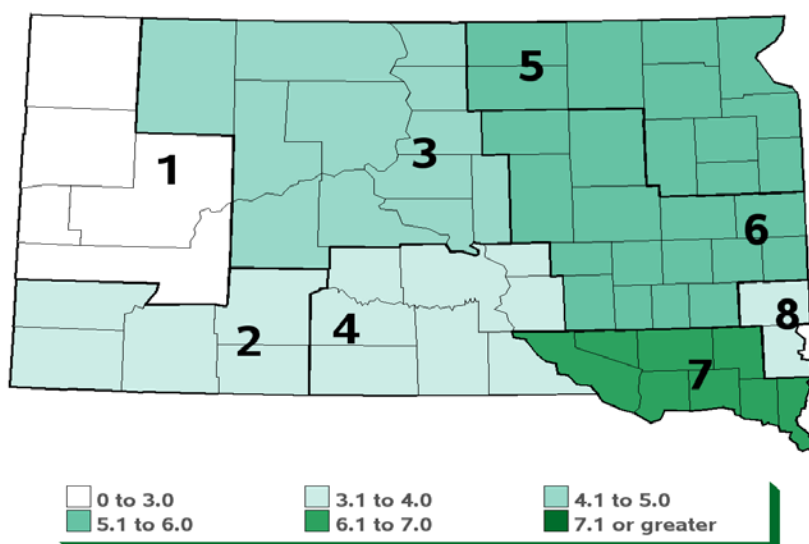
**Table 2. SD Counties Where Elderly Population Is Expected to Double from 2010 to 2035 (Dark Pink)**



**Source: Abt Associates' analysis of South Dakota Data Center's Population Projections data 2015.**

The 2015 Final Report indicated key service delivery challenges for nursing homes. Nursing home capacity and utilization rates have continued to drop both in South Dakota and nationwide since the release of the first study. Nursing home utilization in the 2007 study was 6.4% utilization compared to the 2015 study showing 4.7% utilization.

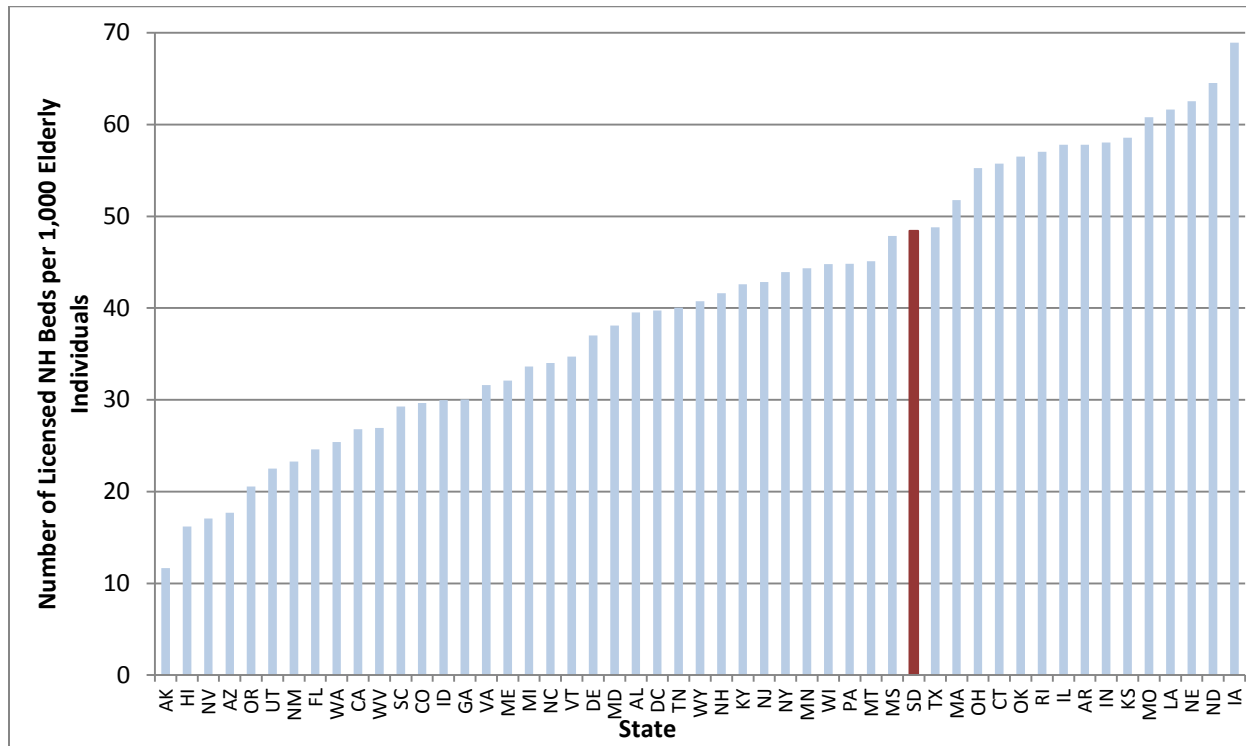
**Table 3. Number of Licensed Beds in Use per 100 Elderly Individuals, South Dakota, 2014**



**Source: Abt Associates' analysis of South Dakota Data Center's Population Projections data; South Dakota's Nursing Facilities Data, and Nursing Home Compare.**

The 2007 study identified nursing home capacity per 100 elderly individuals to be 61 licensed beds per 1,000 elders, placing South Dakota 10<sup>th</sup> in the nation compared to 16<sup>th</sup> in the nation with 48 licensed beds per 1,000 elders as reflected in the 2015 study.

**Table 4. National Comparison of State Nursing Home Capacity, 2011**



Source: Abt Associates' analysis of Henry J. Kaiser Family Foundation's Nursing Home Beds data and American Community Survey data. South Dakota utilization rates appear in red.

Assisted living capacity increased slightly in the 2015 study which shows SD 15th in the nation for available assisted living beds compared to the 2007 study which shows SD 16th in the nation for available assisted living beds.

Home Health Care in South Dakota continues to have the 2nd fewest Medicare skilled home health episodes. According to the 2007 study, SD was identified as the 2nd lowest in the nation for Medicare skilled care utilization and again identified as 2nd lowest nationally in the 2015 study.

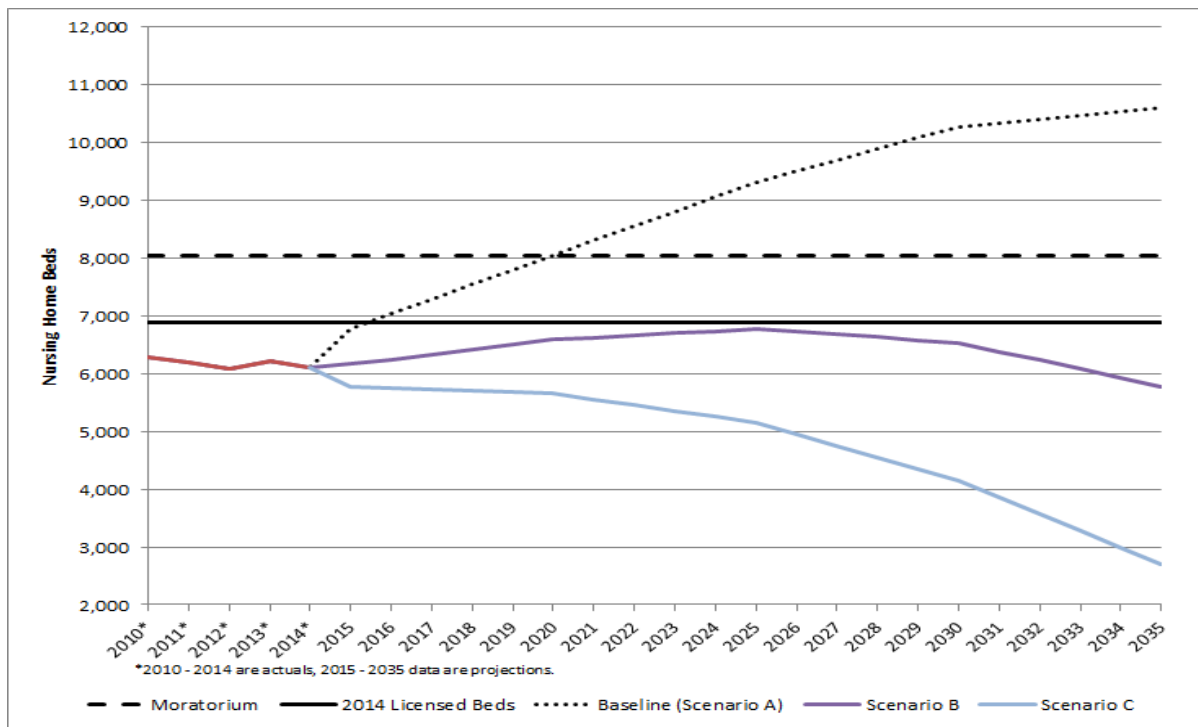
There was no evidence of perceptible shifts in availability of home and community based services from the 2007 report to the 2015 report.

Abt provided three projections of future demand for nursing home services:

- *Scenario A: Nursing home utilization rate will remain at its 2010-2014 average level of 4.7 percent of the elderly population.*

- Assumes assisted living and community based services utilization remain at current levels.
- Given more recent trends in declining nursing home utilization, Scenario A is likely overstated relative to nursing home demand.
- Scenario B: Nursing home utilization rate will decline by 0.09 percentage points per year, or approximately one half the 2000-2014 rate of decline.
  - Assumes recent nursing home utilization decline will moderate and not continue to decline at current rates.
  - Assumes elders will increasingly seek out alternatives to nursing home care.
  - SD must take additional steps to increase community based service capacity.
- Scenario C: Nursing home utilization rate will decline by 0.14 percentage points per year, reaching a rate of 1.2 percent by 2035. Assumes recent nursing home utilization decline will moderate and not continue to decline at current rates.
  - Assumes elders will seek out alternatives to nursing home care at a higher rate than Scenario B.
  - SD must take additional steps to increase community based service capacity.

**Table 5. Forecast Number of South Dakota Nursing Home Beds, 3 Scenarios, 2000 – 2035**



Source: Abt Associates' analysis of South Dakota's Nursing Facilities Data and South Dakota Department of Social Services' Nursing Home Occupancy Report.

Conclusions and recommendations from Abt Associates analysis included the following:

1. Policy changes made by the state have successfully accelerated the decline in nursing home utilization, reducing the gap relative to national utilization rates. Assisted living utilization has increased in parallel, but no concurrent increases in skilled Medicare home health or home and community-based services have occurred.
2. SD should continue to utilize options counseling through the ADRC to educate consumers and families about community-based care alternatives, in attempts to reduce nursing home admissions.
3. Continue to expand and enhance HCBS and other community based care.
4. Further explore care preferences and gather more information regarding informal or other supports that elders are utilizing in lieu of seeking assistance from state programs.

## **Role of Long Term Care Ombudsmen**

The State and Local Long Term Care Ombudsmen provide services to protect the health, safety, welfare, and rights of residents of long term care facilities. The State Ombudsman is responsible for providing leadership, planning and direction for the Ombudsman Program to include program management, development of policies and procedures and maintaining adherence to the Ombudsman Code of Ethics. The State Ombudsman supervises and provides direction and coordination to the Local Ombudsmen.

Visits to the facility to maintain a presence and advocate for the rights and interests of residents is a routine part of the Ombudsman duties. Nursing facilities are visited at a minimum on a monthly basis and assisted living facilities are visited at a minimum on a quarterly basis. Ombudsmen promote and provide technical support for the development of, and provide ongoing support as requested by resident and family councils.

Ombudsmen regularly provide information and assistance regarding long term care issues to the general public, residents and staff of long term care facilities, community organizations and other interested parties.

The State Long Term Care Ombudsman serves as a member of the Medicaid Fraud Control Unit's quarterly liaison meetings, advocating for the rights of residents. The Attorney General's Office' Medicaid Fraud Control Unit is charged pursuant to its federal certification with the responsibility of detection, investigation and prosecution of fraud and abuse by providers of medical services to recipients of Medicaid. The Unit is also charged with the additional responsibility for the investigation and prosecution of incidents of abuse, neglect and exploitation of individuals receiving benefits under State and Federal Medical Assistance Programs and individuals residing in facilities that receive such funds. These interests include the prevention, detection, investigation, and prosecution of provider fraud, abuse, neglect, financial exploitation, and the provision of improper medical practices. There is a formal mechanism for the exchange of case data, information, and reports between representatives of the Department of Health, Department of Social Services and Medicaid Fraud Control Unit, which are formally set forth in a Memorandum of Understanding between the agencies. The purpose of this memorandum is to discuss and refer potential cases between interested agencies as well as address concerns and problems between agencies. The designation of the MFCU is for the express purpose of providing a completely independent review of possible provider fraud in the Medical Assistance Program.

Additionally, in her role as a board member of the Money Follows the Person Board, Dementia Coalition, South Dakota Coalition for Culture Change, the National Association of State Long Term Care Ombudsman Programs and National Consumer Voice, the State Long Term Care Ombudsman will be able to effectuate positive changes to the Ombudsman Program.

## State and Local Long Term Care Ombudsmen Advocate for Residents

The State Long Term Care Ombudsman received a concern from the Department of Health, Office of Health Facilities Licensure & Certification expressing multiple concerns about a long term care facility. Concerns included, but were not limited to, a staff member using fear and intimidation practices and, at times, threatening death and bodily harm. Abuse and neglect concerns were brought up along with a concern about the call lights being unanswered after 9:30 PM. Additional concerns reported were in regard to staffing and an increase in pressure ulcers. The State and Local Long Term Care Ombudsmen traveled to the facility to complete a complaint visit.

During the complaint visit there were many residents who expressed concerns about the care they were receiving, especially from one staff member. Residents also expressed concerns about call lights being out of reach, call light response time being in excess of 30 minutes, and staff being rough with cares. Bruising was noted on more than one resident and a resident stated that staff "...just don't know better; don't know they are hurting me."

The State Long Term Care Ombudsman obtained consent to provide this detailed information to the Department of Health and made a referral to them. Subsequently, the Department of Health staff entered the facility within three days and issued several tags as a result of the survey. Law enforcement and the Medicaid Fraud Control Unit were contacted and are investigating the incident. One staff member was fired and charges are being reviewed. All complaints were resolved to the satisfaction of all residents who brought concerns to the Ombudsmen during the complaint visit.



## **Priority Long Term Care Activities**

### **Money Follows the Person Referrals**

Residents of long term care facilities in South Dakota are routinely assessed for their ability and desire to move back into their community. If a resident has expressed the desire to return to their community, a referral to Money Follows the Person (MFP) is often completed. The Local Long Term Care Ombudsman occasionally receives information from residents about their desire to return to their community and will also make a referral or collaborate with the MFP Program to assist these residents. The Ombudsman Program continues to have a strong working relationship with MFP and the State Long Term Care Ombudsman is a participant on the MFP Board of Directors.

### **Closure of Long Term Care Facilities**

An assisted living facility and a nursing facility closed during this reporting period. Financial difficulties along with the difficulties of maintaining minimal staffing levels were cited as contributory causes in the closure of these two rural facilities. The State and Local Long Term Care Ombudsmen were available to provide residents their rights and to offer assistance to them as they transitioned to a new home.

### **Outreach Events**

Outreach events are a novel approach to reaching rural individuals to discuss resident rights, elder protection, and services and programs available through the Aging and Disability Resource Connections, including core services of the Title III and VII programs. During FFY 2015, outreach events were held in ten locations across the state including Belle Fourche, Spearfish, Lemmon, Brookings, Milbank, Wagner, Yankton, Miller, Murdo and Salem. 1,027 people attended these outreach events to learn more about the programs and services provided by the State Unit on Aging, including those services provided by the Ombudsman Program.



## **Recommendations**

### **Request for Proposals - Shortage of Nursing Facility Beds**

Due to a shortage of nursing home beds in the urban areas of Rapid City and Sioux Falls, a request for proposals (RFP) was released in 2015 to allow for an additional 54 nursing home beds. In 2015, 30 beds were awarded in Rapid City and 24 beds in Sioux Falls. These additional beds will focus on the complex care needs of individuals with bariatric, tracheostomy, ventilator dependency, and behavioral health related needs. Additionally, a portion of the beds will be available to serve individuals who are registered sex offenders. It is expected that the long term care facilities that were awarded the beds will begin serving individuals in these additional beds as early as July 2016.

### **Dementia Care Awareness**

State and Local Long Term Care Ombudsmen will work collaboratively with Senior Citizens Services, Inc. (aka Active Generations), to continue implementation of a statewide public awareness campaign that focuses on caregiving in South Dakota. Other key stakeholders involved in this campaign include the South Dakota Alzheimer's Association, South Dakota Foundation for Medical Care and AARP.

The State Long Term Care Ombudsman is a member of the Dementia Coalition and will involve the Coalition in discussions about dementia care awareness.

### **Review of the Office of the Long Term Care Ombudsman**

The State Long Term Care Ombudsman will continue to lead the Ombudsman efforts in South Dakota and during the next review period will lead a focused and comprehensive review of the Office to ensure ongoing compliance with the final rule. The intent of the review is to also ensure that policies and procedures are in place to improve quality care for residents, protect the health, safety, welfare and rights of residents and look for ways to enhance the Ombudsman Program in South Dakota.

### **Mandatory Reporters**

At the request of the State Long Term Care Ombudsman, legislation is moving forward during the 2016 legislative session to make changes to the mandatory reporting requirements for elders and adults who are disabled. Senate Bill 19 removes Long Term Care Ombudsmen from the mandatory reporting law.

## Office Structure

The State Long Term Care Ombudsman made a recommendation to change the organizational structure of the office with the suggestion to employ six full time Ombudsmen who will be strategically located throughout the state and provide statewide Ombudsman coverage.

## **Ombudsman Services Quick Facts FFY 2015**

- ✓ In South Dakota, 109 nursing facilities and 6,878 beds are licensed by the South Dakota Department of Health Office of Health Care Facilities Licensure and Certification division.
- ✓ 160 assisted living facilities and 4,380 beds are licensed by the South Dakota Department of Health Office of Health Care Facilities Licensure and Certification division.
- ✓ The South Dakota State and Local Long Term Care Ombudsmen within the Department of Social Services' Division of Adult Services and Aging investigated 491 complaints made by or on behalf of residents of long term care facilities.
- ✓ State and Local Long Term Care Ombudsmen resolved or partially resolved 91% of all complaints received to the satisfaction of the resident or complainant.
- ✓ State and Local Long Term Care Ombudsmen conducted 48 in-service training sessions for long term care staff.
- ✓ 25 educational training sessions were provided by the State and Local Long Term Care Ombudsmen to the Division of Adult Services and Aging staff throughout the state.
- ✓ Outreach events held in communities across the state were successfully conducted in ten locations where the State and Local Long Term Care Ombudsmen presented information on residents' rights, elder abuse, the Ombudsman program, and other topics to 1,027 people who attended.
- ✓ 327 resident council meetings were held across the state and attended by the State and Local Long Term Care Ombudsmen as requested by residents to offer support and advocacy.
- ✓ 6 family council meetings were held across the state and attended by the State and Local Long Term Care Ombudsmen as requested by families to offer support and advocacy.
- ✓ State and Local Long Term Care Ombudsmen participated in 72 facility surveys conducted by the Department of Health Office of Health Care Facilities Licensure and Certification to provide information and assistance to surveyors while providing advocacy services to residents.

## Ombudsman Statistics FFY 2015

<b>Number of Cases Opened During Reporting Period</b>	373
<b>Number of Cases Closed During Reporting Period</b>	373

<b>Complainants</b>	<b>Nursing Facility</b>	<b>B&amp;C, ALF, RCF, etc.*</b>	<b>Other Settings</b>
Resident	56	62	25
Relative/friend of resident	55	29	6
Non-relative guardian, legal representative	0	1	0
Ombudsman/ombudsman volunteer	4	2	1
Facility administrator/staff or former staff	32	11	2
Other medical: physician/staff	10	5	0
Representative of other health or social service agency or program	9	1	1
Unknown/anonymous	20	13	8
Other: bankers, clergy, law enforcement, public officials, etc.	7	3	10
*Board and care, assisted living, residential care and similar long-term care facilities, both regulated and unregulated			

<b>Number of Complaints Received</b>	491
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<b>Types of Complaints, by Type of Facility</b>	<b>Nursing Facility</b>	<b>B&amp;C, ALF, RCF, etc.</b>
<b>Residents' Rights</b>		
<b>Abuse, Gross Neglect, Exploitation</b>		
Abuse, physical (including corporal punishment)	6	2
Abuse, sexual	3	2
Abuse, verbal/psychological (including corporal punishment)	3	2
Financial exploitation	4	3
Gross neglect	9	0
Resident-to-resident physical or sexual abuse	5	1
<b>Access to Information by Resident or Resident's Representative</b>		
Access to own records	0	0
Access by or to ombudsman/visitors	0	0
Access to facility survey/staffing reports/license	0	0
Information regarding advance directive	0	0

Information regarding medical condition, treatment and any changes	7	1
Information regarding rights, benefits, services, the resident's right to complain	0	2
Information communicated in understandable language	0	0
<b><i>Admission, Transfer, Discharge, Eviction</i></b>		
Admission contract and/or procedure	3	2
Appeal process – absent, not followed	0	0
Bed hold – written notice, refusal to readmit	10	2
Discharge/eviction – planning, notice, procedure, implementation, & abandonment	13	15
Discrimination in admission due to condition, disability	0	0
Discrimination in admission due to Medicaid status	0	1
Room assignment/room change/intrafacility transfer	3	5
<b><i>Autonomy, Choice, Preference, Exercise of Rights, Privacy</i></b>		
Choose personal physician, pharmacy/hospice/other health care provider	1	2
Confinement in facility against will (illegally)	4	2
Dignity, respect – staff attitudes	8	4
Exercise preference/choice and/or civil/religious rights, individual's right to smoke	4	3
Exercise right to refuse care/treatment	1	1
Language barrier in daily routine	0	0
Participate in care planning by resident and/or designated surrogate	1	0
Privacy – telephone, visitors, couples, mail	4	9
Privacy in treatment, confidentiality	1	1
Response to complaints	2	0
Reprisal, retaliation	1	0
<b><i>Financial, Property (Except for Financial Exploitation)</i></b>		
Billing/charges – notice, approval, questionable, accounting wrong or denied (includes overcharge of private pay residents)	6	2
Personal funds – mismanaged, access/information denied, deposits and other money not returned	4	4
Personal property lost, stolen, used by others, destroyed, withheld from resident	10	10
<b><i>Resident Care</i></b>		
<b><i>Care</i></b>		
Accidental or injury of unknown origin, falls, improper handling	13	2
Failure to respond to requests for assistance	21	8
Care plan/resident assessment – inadequate, failure to follow plan or physician orders	8	5
Contracture	0	0
Medications – administration, organization	11	7
Personal hygiene (includes nail care & oral hygiene) and adequacy of dressing & grooming	13	4
Physician services, including podiatrist	2	1

Pressure sores, not turned	3	0
Symptoms unattended, including pain, pain not managed, no notice to others of changes in condition	7	2
Toileting, incontinent care	9	1
Tubes – neglect of catheter, gastric, NG tube	5	0
Wandering, failure to accommodate/monitor exit seeking behavior	2	1
<b><i>Rehabilitation or Maintenance of Function</i></b>		
Assistive devices or equipment	1	0
Bowel and bladder training	0	0
Dental services	0	0
Mental health, psychosocial services	1	0
Range of motion/ambulation	0	0
Therapies – physical, occupational, speech	0	0
Vision and hearing	0	0
<b><i>Restraints – Chemical and Physical</i></b>		
Physical restraint – assessment, use, monitoring	1	1
Psychoactive drugs – assessment, use, evaluation	1	1
<b><i>Quality of Life</i></b>		
<b>Activities and Social Services</b>		
Activities – choice and appropriateness	2	2
Community interaction, transportation	0	0
Resident conflict, including roommates	2	1
Social services – availability/appropriateness	4	0
<b><i>Dietary</i></b>		
Assistance in eating or assistive devices	3	0
Fluid availability/hydration	1	0
Food service – quantity, quality, variation, choice, condiments, utensils, menu	4	12
Snacks, time span between meals, late/missed meals	0	4
Temperature	1	1
Therapeutic diet	1	4
Weight loss due to inadequate nutrition	1	0
<b><i>Environment</i></b>		
Air/environment – temperature and quality	2	2
Cleanliness, pests, general housekeeping	2	10
Equipment/building – disrepair, hazard, poor lighting, fire safety, not secure	0	3
Furnishings, storage for residents	0	0
Infection control	1	0
Laundry – lost, condition	1	2
Odors	1	0
Space for activities, dining	0	2
Supplies and linens	0	0
Americans with Disabilities Act (ADA) accessibility	1	0

<b>Administration</b>		
<i><b>Policies, Procedures, Attitudes, Resources</b></i>		
Abuse investigation/reporting, including failure to report	0	0
Administrator(s) unresponsive, unavailable	1	1
Grievance procedure	2	0
Inappropriate or illegal policies, practices, record-keeping	0	3
Insufficient funds to operate	0	0
Operator inadequately trained	0	0
Offering inappropriate level of care	0	0
Resident or family council/committee interfered with, not supported	1	0
<i><b>Staffing</b></i>		
Communication, language barrier	1	0
Shortage of staff	12	2
Staff training	1	1
Staff turn-over, over-use of nursing pools	2	0
Staff unresponsive, unavailable	7	1
Supervision	0	1
Eating assistance	1	0
<b>Not against Facility</b>		
<i><b>Certification/licensing Agency</b></i>		
Access to information (including survey)	0	0
Complaint, response to	0	0
Decertification/closure	0	0
Sanction, including intermediate	0	0
Survey process	0	0
Survey process – Ombudsman participation	1	0
Transfer or eviction notice	0	0
<i><b>State Medicaid Agency</b></i>		
Access to information, application	0	0
Denial of eligibility	0	0
Non-covered services	0	0
Personal needs allowance	0	0
Services	0	0
<i><b>System/Others</b></i>		
Abuse/neglect/abandonment by family member/friend/guardian or, while on visit out of facility, any other person	1	0
Bed shortage – placement	0	0
Facilities operating without a license	0	0
Family conflict – interference	3	4
Financial exploitation or neglect by family or other not affiliated with facility	0	1
Legal – guardianship, conservatorship, power of attorney, wills	0	1

Medicare	0	0
Mental health, developmental disabilities, including PASRR	0	0
Problems with resident's physician/assistant	0	0
Protective service agency	0	0
SSA, SSI, VA, Other Benefits/Agencies	0	0
Request for less restrictive placement	0	0
Total Types of Complaints, by Type of Facility	271	167
<b>*Board and care, assisted living, residential care and similar long-term care facilities, both regulated and unregulated</b>		

### Complaints about Services in Settings Other Than Long Term Care Facilities or by Outside Provider in Long Term Care Facilities

	Nursing Facility
Home Care	50
Hospital or hospice	0
Public or other congregate housing not providing personal care	0
Services from outside provider	3
<b>Total</b>	491

### Action on Complaints

	Nursing Facility	B&C, ALF, RCF, etc.*	Other Settings
Complaints That Were Verified	192	131	33
All Complaints Reported, Whether Verified or Not:			
For which government policy or regulatory change in legislative action is required to resolve	0	2	0
Which were not resolved to satisfaction of resident or complainant	13	6	8
Which were withdrawn by the resident or complainant or resident died before final outcome of complaint investigation	15	14	2
Which were referred to other agency for resolution and report of final disposition was not obtained	38	17	2
Which were referred to other agency for resolution and other agency failed to act on complaint	0	0	0
Which were referred to other agency for resolution and agency did not substantiate complaint	5	2	2
For which no action was needed or appropriate	44	26	5
Which were partially resolved but some problem remained	29	21	4
Which were resolved to the satisfaction of the resident or complainant	127	79	30
Total by Type of Facility or Setting	271	167	53
Grand Total			491



<b>Designated Local Entities</b>	
Total number of designated local ombudsman entities	9

<b>Staff and Volunteers</b>	
Number of paid program State Office staff working full time on Ombudsman Program	1
Number of paid Local Office staff working full time on Ombudsman Program	2

<b>Facilities and Beds</b>	
Number of licensed nursing facilities	109
Number of beds in licensed nursing facilities	6,878
Number of licensed assisted living facilities	160
Number of beds in licensed assisted living facilities	4,380
Number of residential facilities	68
Number of beds in residential facilities	685
Number of regulated board and care and similar adult care facilities	231
Number of beds in regulated board and care and similar adult care facilities	5,065

<b>Program Information and Activities</b>			
<b>Program Funding</b>			
Federal – Older Americans Act (OAA) Title VII, Chapter 2, Ombudsman			\$79,350
Federal – Older Americans Act (OAA) Title VII, Chapter 3, Elder Abuse Prevention			\$21,994
Federal – OAA Title III provided at State level			\$93,688
Federal – OAA Title III Provided at AAA Level			\$187,858
<b>State Funds</b>			\$33,151
Total Program Funding			\$416,041
<b>Other Ombudsman Activities</b>			
Activity	Measure	State	Local
Training for Ombudsman staff and volunteers	Number sessions	9	16
	Number hours	10	26
	Total number of trainees that attended any of the training sessions above (duplicated count)	54	39
	3 most frequent	Ombudsman	Ombudsman

	topics for training	Services	Services
		Resident Rights	
Technical assistance to local ombudsmen and/or volunteers	Estimated percentage of total staff time	40	0
Training for facility staff	Number of sessions	25	23
	3 most frequent topics for training	Resident Rights	Resident Rights
		Ombudsman Services	Ombudsman Services
			Elderly Abuse
Consultation to facilities (Consultation: providing information and technical assistance, often by telephone)	3 most frequent areas of consultation	Ombudsman Services	Ombudsman Services
		Long Term Care	Behaviors
		Behaviors	Other
	Number of consultations	121	228
Information and consultation to individuals (usually by telephone)	3 most frequent requests/needs	Ombudsman Services	Ombudsman Services
		Long Term Care	Complaint Process
		Behaviors	Other
	Number of consultations	151	91
Facility coverage (other than in response to complaint)	Number of nursing facilities visited (unduplicated)	12	75
	Number of board and care (or similar) facilities visited (unduplicated)	6	47
Participation in facility surveys	Number of surveys	6	66
Work with resident councils	Number of meetings attended	39	288

## **Code of Ethics for Long Term Care Ombudsmen**

### **The National Association of State Long Term Care Ombudsman Programs**

1. The ombudsman provides services with respect for human dignity and the individuality of the client, unrestricted by considerations of age, social or economic status, personal characteristics, or lifestyle choices.
2. The ombudsman respects and promotes the client's right to self-determination.
3. The ombudsman makes every reasonable effort to ascertain and act in accordance with the client's wishes.
4. The ombudsman acts to protect vulnerable individuals from abuse and neglect.
5. The ombudsman safeguards the client's right to privacy by protecting confidential information.
6. The ombudsman remains knowledgeable in areas relevant to the long term care system, especially regulatory and legislative information, and long term care service options.
7. The ombudsman acts in accordance with the standards and practices of the Long Term Care Ombudsman Program, and with respect for the policies of the sponsoring organization.
8. The ombudsman will provide professional advocacy services unrestricted by his/her personal belief or opinion.
9. The ombudsman participates in efforts to promote a quality, long term care system.
10. The ombudsman participates in efforts to maintain and promote the integrity of the Long Term Care Ombudsman Program.
11. The ombudsman supports a strict conflict of interest standard that prohibits any financial interest in the delivery or provision of nursing home, board, and care services, or other long term care services that are within their scope of involvement.
12. The ombudsman shall conduct himself/herself in a manner that will strengthen the statewide and national ombudsman network.

South Dakota Department of Social Services  
Office of the State Long Term Care Ombudsman

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