



Ombudsman Outlook: News, Resources, and Tips

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They're Here! Final Regulations for the LTC Ombudsman Program

On February 11, 2015, [final regulations](#) for the LTC Ombudsman Program were published in the Federal Register. This is the first time comprehensive regulations for the LTCOP have been issued. They will provide needed clarity and interpretation for States around the provisions of the Older Americans Act (OAA) and implementation of the Long-Term Care Ombudsman Program. All states will need to review – and for some, revise – their laws, regulations, policies and/or practices prior to the implementation date, July 1, 2016.

The regulations contain expanded definitions; provide clarity around who/what constitutes the Office of the State LTC Ombudsman; list the elements that must be included in State LTC Ombudsman Program policies and procedures; describe the functions and responsibilities of the State LTC Ombudsman, the State Unit on Aging (as related to the State Ombudsman Program), the agencies hosting Local Ombudsman Entities, and the representatives of the Office of the State LTC Ombudsman. Specific issues addressed include conflict of interest (both individual and organizational), designation of representatives of the Office, legal counsel for ombudsman programs, disclosure of information, access (to residents, records, and facilities), willful interference with ombudsman responsibilities, and more.

The National Ombudsman Resource Center (NORC) hosted a webinar (March 2) on the regulations featuring Becky Kurtz, Director of LTC Ombudsman Programs at the Administration on Aging/Administration for Community Living. The recording and slides can be accessed [on the NORC website](#), along with an [overview](#) of the regulations prepared by NORC staff.

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New NORC Resources

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NORC Featured Resource

Nursing Homes: Getting Good Care There

This book is an excellent advocacy tool for consumers, family members, and advocates. NORC developed a free [teaching guide](#) and [PowerPoint](#) titled "You Can Make a Difference" based on the information and advocacy strategies provided in the book. The book is available in print or as an e-book in the Consumer Voice [store](#).

A brief overview of new resources that have recently been added to the NORC [website](#) is below.

[New! Long-Term Care Ombudsman Program Final Regulations Overview](#)

The information contained in this document is an overview of the Final Regulations for the Long-Term Care Ombudsman Program (amending 45 CFR Parts 1321 and 1327), published in the Federal Register, Vol. 80, No. 28, 7704-7767 (February 11, 2015). The purpose of this overview is to provide a quick reference to the provisions included in the regulation. **Visit the NORC [Library](#) to read the final rule and for additional resources.**

[New! Policy to Practice: CMS Guidance and Proposed Rules to Ensure Rights of Same-Sex Spouses](#)

CMS has issued [guidance](#) and [proposed regulatory revisions](#) that provide equal treatment to all spouses, regardless of sex, of a valid marriage, even if the state where the individual lives or receives services does not recognize same sex marriage. Both the proposed rules and revised language for the State Operations Manual, Appendix PP – Guidance to Surveyors for Long-Term Care Facilities (Appendix PP) were issued December 12, 2014. This policy to practice [brief](#) provides more information and details how ombudsmen can use the new guidance in their advocacy efforts.

[New! Brochure for Consumers on Resident to Resident Mistreatment](#)

Aggression between residents of long-term care facilities is a serious yet hidden problem. All residents have the right to be free from all forms of abuse, neglect, and exploitation, and have rights if they have been subjected to mistreatment. Newly released from the [National Consumer Voice for Quality Long-Term Care](#) and the [National Center on Elder Abuse](#), this [brochure](#) (and [large font fact sheet](#)) identifies mistreatment, shares information about an individual's rights, and offers resources where they can go for help.

[New! Involuntary Transfer and Discharge from Nursing Homes: Prevention, Advocacy, and Appeals Webinar](#)

This webinar discussed strategies and best practices for preventing and advocating for residents facing involuntary discharge from a nursing home, and considered how those strategies, best practices change/stay the same if the resident is in assisted living. The presenters also reviewed best practices for supporting residents and families, identifying legal support, appealing discharge notices, and more.

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CMS Revises Its Nursing Home Five Star Rating System- What Does that Mean?

Consumer Voice Featured Resource

2015 Resident's Voice Challenge

This year's Residents' Rights Month (October 2015) theme is "**CARE Matters**" and Consumer Voice wants to hear from long-term care consumers about what care means to them.

Submissions are due **May 15, 2015**, please encourage consumers to participate. Visit the Consumer Voice [website](#) for more information, including a printable [flyer](#) to share with consumers and LTCO representatives.

Calendar of Events

April 30, 2015: [Save the Date! Risk Management and the LTCOP](#). 3-4:30 ET. Free webinar. Registration information forthcoming.

May 2015: [Older Americans Month](#). The theme is "[Get Into the Act](#)." Use this month for volunteer recognition and recruitment.

Questions or Ideas?

Do you have any questions or challenges related to LTCO advocacy and program management you want addressed in a future newsletter?

Do you have any suggestions for articles

In February 2015, the Centers for Medicare and Medicaid Services (CMS) announced changes to the Nursing Home Five Star Quality Rating system, including a recalibration in how the data is evaluated for inclusion in the rating system, putting more emphasis on data that can be verified by independent sources. As a result of the changes, the overall ratings of about one-third of nursing homes were reduced, and about two-thirds of nursing homes saw declines in their clinical Quality Measure rating.

A nursing home's rating under the Five Star Quality Rating System is determined by three factors: (1) information from onsite inspections by State Departments of Health, (2) Quality Measures submitted by the nursing home, and (3) information about staffing levels submitted by the nursing home.

Some of the changes include: adding antipsychotic drug rates to the list of quality measures used in Nursing Home Compare (other additional measures are to be added in the future); implementation of focused survey inspections designed to better verify the staffing and quality measure information; a revised scoring methodology for how a facility's Five Star rating is calculated; stronger requirements for timely and accurate completion of state inspections plus a requirement that states maintain a user-friendly website for the public; and implementation (by the end of FY2016) of a payroll-based staffing reporting system that can be used to verify staffing information.

What does this mean for Ombudsman practice?

Consumer Empowerment and Consultation

The Five-Star Rating System on Nursing Home Compare is an important tool for consumers in evaluating quality in nursing homes and Ombudsmen (LTCO) need to know how to use this information when talking with consumers regarding selecting a nursing home. You should be familiar with the ratings of nursing homes in your service area, understand how the ratings are determined, and be prepared to discuss what the data means with consumers. Help consumers by sharing other information on [selecting a nursing home](#) and encourage visits to nursing homes they are considering. CMS has a [fact sheet](#) on the Nursing Home Compare Five Star Rating System that can be shared with consumers.

Ombudsman Knowledge Assists Surveyors

Onsite inspections influence a home's rating. LTCO can contribute to the integrity of the survey process by sharing concerns or complaint data with surveyors before or during a survey. CMS requires surveyors to reach out to ombudsmen as they complete their offsite preparation for a survey. For more information about communication and consultation requirements between surveyors and the LTCOP read the Technical Assistance Hot Topic [article](#).

Encourage Provider Improvement

or feedback about this issue? If so, please [let us know](#).

Save and Share

We encourage you to share this newsletter with your LTCO program. You can forward this email or save and share the PDF version saved on our [website](#).

Want to receive the Ombudsman Outlook directly?

Did you receive this issue of the Ombudsman Outlook from a colleague or your LTCO supervisor? [Let us know](#) if you want to subscribe and receive our newsletter directly.

Review a nursing home's Quality Measures ratings on Nursing Home Compare. How does the rating compare with what you see in the nursing home? The complaints you receive from residents? If a facility is struggling around a particular measure, are there resources you are aware of that can be shared with the administration – such as trainings, or workgroups? For example, CMS just added Antipsychotic Medication use as a Quality Measure. Is the facility administration aware of the dangers in use of these medicines? Identify ways to incorporate what you've learned into your advocacy and share resources, such as the CMS [Hand-in-Hand training program](#), the Consumer Voice [toolkit](#), and/or resources from the [Advancing Excellence](#) in America's Nursing Homes Campaign.

For more information about the NH Compare, visit the NORC Licensing and Certification issue [page](#).

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News from the Network...

Examples of Outreach and Training Materials

Colorado (Northeastern Colorado AAA)

Jonelle Roberts, a local LTCO from the Northeastern Colorado Area Agency on Aging, serves Morgan County and recently started writing a column about long-term care and issues impacting older adults for the Fort Morgan Times. The Fort Morgan Times is a local publication and her column is featured in the Times of Your Life section. In the [first column](#) titled "Aging with Respect and Dignity," Ms. Roberts introduces readers to the LTCOP, shares how they can find information about long-term care services and supports, and explains that she will "present a resident right with a fictional story that illustrates why the right is important" in future columns. In addition to her first column regarding residents' right to being treated with respect and dignity she has written about the [right to fall](#) and the right to [individualized care](#).

Kentucky (NH Ombudsman Agency of the Bluegrass)

The Nursing Home Ombudsman Agency of the Bluegrass has issued a revised version of their Prevention and Detection of Sexual Assault of Nursing Home Residents [manual](#). This manual was developed by the Nursing Home Ombudsman Agency of the Bluegrass and the Bluegrass Rape Crisis Center and is intended for use by LTCO in collaboration with local rape crisis programs.

Maryland State LTCOP

The Maryland State LTCO program developed two documents LTCO may find useful for their state and local programs. The [Quality Advocacy Visit Tip Sheet](#) was designed to emphasize the importance of establishing relationships and the focus on the resident in LTCO visitation. The tip sheet is used for volunteer and staff LTCO and a session on visitation based on this document is required as part of initial orientation. The [LTCOP](#)

[Fact Sheet](#) is updated annually after submitting the NORS (National Ombudsman Reporting System) report and is used to educate legislators, the media, the public, and other agencies about the program. The top complaints are included to be used as an advocacy tool.

This "News from the Network" article will appear in every issue in order to highlight your work and news. We invite and encourage you to [send](#) your advocacy successes, best practices, program management examples, and resources so we can learn from you and share your experience with your peers.

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LTCO Volunteer Management

National Volunteer Appreciation Week (April 12-18, 2015)

[National Volunteer Week](#) is April 12-18, 2015 and the theme is "Celebrate Service." National Volunteer Week is a great time to recognize current volunteers and encourage future volunteers to join your program. [Points of Light](#) has a free marketing resource [guide](#) to help promote National Volunteer Week, a free service to post and search for volunteer opportunities ([All For Good](#)), and other [resources](#) for organizations that work with volunteers.

Do You Want to Recognize a Volunteer LTCO?

In honor of National Volunteer Week, Consumer Voice and NORC would like to give your program the opportunity to recognize your most outstanding volunteers. Please [send](#) the LTCO volunteer's name, years of service, your program name, and other highlights of their service and we will recognize them during National Volunteer Week. For additional tips and examples of volunteer recognition, visit the NORC volunteer management [page](#), the [retention](#) chapter of the LTCO Compendium, and the [appendices](#).

Volunteer Recruitment and Social Media

Greg Shelley and Carmen Castro of the Harris County Long-Term Care Ombudsman Program (University of Texas School of Nursing) are coauthors of a recent article published in the Geriatric Nursing Journal titled, "[Utilizing Online Tools to Increase Volunteer Ombudsmen Presence in Long-Term Care](#)." The article shares their analysis of a survey intended to examine the impact of "internet-based communication on the recruitment and retention of volunteer LTCO." They found that since they starting using online tools for recruitment and communication in 2010 the number of volunteers increased by 50% and overall volunteer satisfaction improved.

Tips for delivering an effective message using social media and traditional media are available in this [toolkit](#).

[Join](#) the LTCO Volunteer Management Network today to connect with your peers, exchange ideas, share resources and talk about

Technical Assistance Hot Topic: Surveyor Consultation and Coordination with the LTCOP

As mentioned in the above [article](#) regarding the revised Nursing Home Five Star Quality Rating system, CMS requires surveyors to reach out to ombudsmen as they complete their offsite preparation for survey and complaint investigations.

According to the CMS State Operations Manual the survey team leader is responsible for:

- Contacting the LTCO office regarding the start of the survey (according to the protocol determined by the State survey agency and the State LTCO office).
- Interviewing the LTCO regarding his/her visits and advocacy.
- Asking about LTCO availability if residents participating in individual or group interviews want the LTCO to attend.
- Inviting the LTCO to the exit conference.
- Discussing observations with the LTCO (as appropriate).
- Sharing resident concerns with the LTCO (after receiving resident permission).

Additionally, the state survey agency should:

- Share information and consult with the LTCOP.
- Ask the LTCO if he/she has been involved in the facility's care plan meeting as the resident advocate and about the process.
- Gather available information from the LTCOP in order to ensure the facility has an appropriate Quality Assessment and Assurance process and committee.
- Disclose results of inspections (including form CMS-2567), investigation activities, proposed remedies, the facilities' request for informal dispute resolution, appeal and results of the appeal.
- Contact the LTCOP to discuss the nature of the complaints and potential history of similar complaints during offsite preparation for complaint investigation.

What Can A LTCO Do?

Information and observations shared by LTCO enhances the survey process and communication between LTCO and surveyors is essential for effective advocacy.

- LTCO should become familiar with surveyor requirements regarding communication and coordination with the LTCOP. Review the State Operations Manual [Appendix P](#) and the NORC Ombudsman References in Federal Nursing Home Requirements [Chart](#).
- Share information (as appropriate and with resident consent) with surveyors regarding individual complaints as well as systemic issues.
- Participate as much as possible in the survey and complaint investigation process.
- Train your program representatives regarding the role of the LTCO in the survey process and required communication and consultation between surveyors and LTCO.
- Speak with your LTCOP supervisor and/or State LTCO if you feel current communication with surveyors does not meet federal requirements and could be improved.

For additional information visit the NORC Licensing and Certification [page](#) and [share](#) any tips, challenges, and resources you have regarding communication and coordination with surveyors.

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Quick Tips!

While advocating for residents LTCO often need to work with family members. Unfortunately, on occasion a family member's interest may conflict with a resident's wishes, a family member may monopolize the ombudsman's time, or there is a family conflict regarding the resident's care and the resident cannot speak for herself.

For example, a family member may call frequently and the calls take so much time that the ombudsman is not able to give other cases the attention they need. In this situation, the key is to set boundaries. Possible approaches include the following:

- Set a regular time to speak with the family member by phone. This approach guarantees the family member has the opportunity to communicate any new information or concerns and that s/he feels heard. This strategy also allows the ombudsman to control the amount of time spent on this one case.
- Request that the family member submit information in writing. Therefore, the family member can provide you with detailed information in a manner that is time efficient. You can respond by email, in writing or schedule a time to talk with the family. Make sure any scheduled time includes an ending time and hold firmly to that time.
- Suggest that the family member join or create a Family

Council to see if other family members have similar concerns.

For more tips review the Working with Families: Tips for Effective Communication and Strategies for Challenging Situations webinar [recording](#), [paper](#), and [appendices](#).

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