

# Annual Report 2015

Federal Fiscal Year 2015: Oct. 1, 2014 – Sept. 30, 2015



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January 28, 2016

The Honorable Terry E. Branstad

Members of the General Assembly

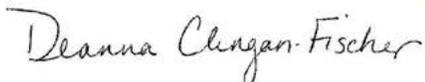
Dear Governor Branstad and Members of the General Assembly:

I am pleased to present this annual report of the Office of the State Long-Term Care Ombudsman for federal fiscal year 2015. This report is produced pursuant to Iowa Code 231.42, which requires that this Office annually report to the governor and general assembly on:

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

This report reflects the efforts of the Long-Term Care Ombudsmen by sharing program highlights and discussing issues encountered by the Office in carrying out its mandate to act as an advocate for the residents of long-term care facilities.

Respectfully submitted,



Deanna Clingan-Fischer, JD  
State Long-Term Care Ombudsman

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# Office of the State Long-Term Care Ombudsman

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*Pat Wyatt, Iowa Department on Aging*

*Meredith Funke, Seygbai Kai and Cairn Reisch, AmeriCorps VISTA Members supporting the Volunteer Ombudsman Program*

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# Table of Contents

<b>Executive Summary</b> .....	<b>2</b>
<b>Mission and Structure</b> .....	<b>7</b>
<b>Authority and Mandates</b> .....	<b>9</b>
<b>Activities of the Office</b> .....	<b>11</b>
• Advocacy .....	11
• Cases and Complaints .....	11
• Community Education .....	12
• Consultation .....	13
• Other .....	13
• Resident and Family Councils .....	15
• Resident and Tenant Visitation .....	15
• Survey Participation .....	15
• Training and Technical Assistance .....	15
<b>Recommendations</b> .....	<b>16</b>
• Quality Care and Treatment .....	16
• Resident and Tenant Rights: Autonomy, Choice, Privacy and Exercise of Rights .....	17
• Resident and Tenant Rights: Admission, Transfer, Discharge and Eviction .....	18
• Issues to Watch .....	19
<b>Appendices</b>	
<b>Appendix A: Legislative Declarations</b> .....	<b>A-1</b>
<b>Appendix B: Complaints and Case Data</b> .....	<b>B-1</b>

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# Executive Summary

The Office of the State Long-Term Care Ombudsman (Office) serves as an advocate and resource for residents and tenants residing in Iowa's long-term care facilities, assisted living programs and elder group homes. In July 2015, the Office also became the advocate for Medicaid Managed Care members who receive services and supports in health care facilities, assisted living programs and elder group homes, as well as for members enrolled in one of the seven home and community-based waiver programs. Staff was brought on board in October 2015 in anticipation of Medicaid Managed Care becoming effective in 2016.

In Federal Fiscal Year (FFY) 2015 (Oct. 1, 2014 – Sept. 30, 2015), the programs administered by the Office included the Long-Term Care Ombudsman Program, the Volunteer Ombudsman Program, the Managed Care Ombudsman Program and Involuntary Discharge Assistance. Activities of the Office can be categorized as Advocacy Efforts, Outreach Efforts and Administrative Efforts. The following is a summary of activities completed during FFY 2015:

## Advocacy Efforts

- Ensured residents' and tenants' voices were heard and their rights were maintained in the 411 Assisted Living Programs, Elder Group Homes and Residential Care Facilities within the state;
- Visited the 23,198 beds (or people) within those 411 programs and facilities;
- Ensured residents' voices were heard and their rights were maintained in the 444 nursing facilities within the state;
- Visited the 31,155 beds (or people) within those 444 nursing facilities;
- Received 1,160 complaints made by or on behalf of residents and tenants;
- Opened 667 cases on behalf of residents and tenants;
- Served more than 19,000 residents and tenants;
- Provided 8,761 hours of advocacy services beyond complaint handling;
- Assisted residents and tenants impacted by 291 involuntary discharges/evictions and 11 facility closures;
- Advocated for passage of legislation;
- Advocated for and provided education about residents' and tenants' rights;
- Monitored proposed administrative rules; and
- Monitored proposed legislation and participated in the legislative process on issues that had the potential to impact the health, safety, welfare and rights of residents and tenants residing in Iowa's long-term care facilities.



*In 2015, the Office of the State Long-Term Care Ombudsman worked to **protect the rights of more than 54,000 lowans** living in long-term care facilities across the state.*

## FFY 2015 CASE SCENARIO:

A resident had lived at a nursing home for over four years but had improved and wanted to move to his home.

The Local Long-Term Care ombudsman successfully worked with the resident and facility staff to transition the individual to an independent living facility with services.



*In 2015, the Office of the State Long-Term Care Ombudsman visited more than 19,000 Iowans living in long-term care facilities while investigating complaints.*

## Outreach Efforts

Provided a total of 18,470 program activities (11,690 hours of service), which included:

- Consulting with 855 facilities and providers of service;
- Consulting with over 19,000 individuals;
- Making 642 complaint-related visits;
- Making 2,885 non-complaint-related visits;
- Visiting 3,689 residents and tenants on complaint-related issues;
- Providing education, training and technical assistance to 11,360 individuals, including volunteers, ombudsmen, facility staff, media and the community;
- Participating in 66 facility surveys;
- Assisting residents and their families through participation in and development of 92 resident and family council meetings;
- Collaborating with other organizations and serving on committees, task forces and work groups;
- Partnering with Iowa's six Area Agencies on Aging to assist individuals transitioning from the community to a facility and from a facility back to the community; and
- Providing 372 consultations and 46 presentations on community transitions ([MDS-Section Q](#)).

## Administrative Efforts

- Collaborated with aging and disability network partners at the federal and state level;
- Implemented a Civil Money Penalty grant to produce and distribute [educational materials](#);
- Developed internal communication tools to provide updates on issues, laws, rules and interpretative guidance;
- Completed a LEAN value stream process for the Office;
- Facilitated the beginning of the [Health Consumer Ombudsman Alliance](#) workgroup;
- Finalized and disseminated revised [Family and Resident Council Handbooks](#), [fact sheets](#) and [consumer checklists](#);
- Developed and disseminated [monthly e-newsletters](#);
- Issued [press releases](#) and provided follow-up discussion with media on relevant topics;
- Provided [updates](#) to the Iowa Commission on Aging and the Iowa Department on Aging (IDA);
- Began development of a Managed Care Ombudsman Program; and
- Started the Medicaid claiming process.



## FFY 2015 CASE SCENARIO:

A resident with capacity was told to report every visitor to staff, who would contact the resident's sister to inform her of who was visiting. The sister, who was not a decision maker, was also informed every time the resident left the building.

The Local Long-Term Care Ombudsman educated the facility and sister about the resident's right to privacy.

*In 2015, the Volunteer Ombudsmen **provided 3,849 hours of service worth \$83,716** to Iowans living in 122 of the state's long-term care facilities.*

### Volunteer Ombudsman Program Efforts

- 95 volunteers were recruited, trained and certified, with 131 volunteers serving in 122 long-term care facilities;
- Conducted 15 trainings for 95 potential volunteers;
- Served residents through 2,456 volunteer visits;
- Served residents through 3,849 volunteer hours;
- Contributed a total value of \$83,716 of in-kind hours to the state;
- Provided on-site orientations for volunteers and administrators by the Local Long-Term Care Ombudsmen;
- Implemented policies to provide guidance to volunteers;
- Developed and disseminated [monthly e-newsletters](#) to volunteers;
- Partnered with groups and organizations throughout Iowa to recruit volunteers, including the Iowa Commission on Volunteer Service, AmeriCorps VISTA, RSVP, AARP and statewide media;
- Utilized an online data entry system for volunteers; and
- Implemented peer-to-peer volunteer groups, volunteer recognition and refined training/continuing education opportunities for volunteers.

## Recommendations

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

### 1

#### Quality Care and Treatment

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

- *Ensure the appropriate level of care is received when needed and that call lights are answered promptly.*
- *Review the issues of understaffing, staffing shortages, recruitment and retention of direct care workers and nursing staff.*
- *Establish and provide sufficient staff training for those working with individuals experiencing a neurocognitive disorder (e.g., dementia or aggressive behaviors).*
- *Educate all Iowans on mental health issues, behavior modification plans and access to mental health services that allow for a least restrictive placement.*

### 2

#### Resident and Tenant Rights: Autonomy, Choice, Privacy and Exercise of Rights

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

- *Inform residents and tenants of their rights to make health care and financial management decisions and implement those choices by educating guardians, conservators, agents and attorneys-in-fact.*
- *Enhance Iowans' knowledge and understanding on the rights of residents and tenants to visit with individuals of their choosing.*
- *Promote discussions and policy development surrounding residents' rights to sexual expression and the capacity to consent.*
- *Explore long-term services and supports and housing options for offenders and other individuals who are difficult to place.*

### 3

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

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

- *Assist consumers in understanding and reviewing admission contracts and occupancy agreements before signing.*
- *Educate residents, tenants and families on due process appeal rights and discuss reform of Iowa's assisted living program laws and rules to allow for third party review of involuntary discharges and transfers.*
- *Educate Iowans on financial exploitation to protect residents and tenants from discharge due to a fiduciary's lack of action to apply for Medicaid or for non-payment of care expenses.*
- *Review reductions in and closures of residential care facilities and provide an oversight structure to ensure a safe and secure environment for those who transition to the community from such settings.*

## Issues to Watch

During Federal Fiscal Year 2016 (Oct. 1, 2015 – Sept. 30, 2016), some of the key issues the Office of the State Long-Term Care Ombudsman will continue to monitor closely include:

1. Medicaid Managed Care and its impact on Medicaid members residing in long-term health care facilities or assisted living programs, as well as the general Medicaid eligibility process
2. Closures of Residential Care Facilities (RCFs) and the appropriate and safe transition of displaced residents
3. Discharges – to ensure due process rights of notice and appeal are protected and not circumvented by transfers to hospitals or discussions with family to voluntarily move a resident or tenant
4. Assisted living program transitions to verify that a mechanism is in place to assess the level of care needs of the tenant prior to proceeding with discharge or transfer
5. Mental health care treatment, supports, access to services and appropriate interventions or activities
6. Pre-Admission Screening and Resident Review (PASRR) and implementation of service recommendations
7. Staffing levels that meet the needs of residents and tenants, from direct care workers to nurses, activity directors, medical directors and doctors, such as psychiatrists
8. Staffing recruitment and retention of direct care workers and nursing staff
9. Long-term services and supports and housing options for offenders and difficult-to-place individuals
10. Issues surrounding substitute decision making – such as determining effective dates of documents, abuse of the fiduciary relationship and roles related to visitation

### FFY 2015 CASE SCENARIO:

A volunteer ombudsman discovered a resident with a severe wound. This was reported and the resident was admitted to a hospital for treatment. Without ombudsman involvement, the resident may have died.

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# Mission and Structure

## Mission

The mission of the Office of the State Long-Term Care Ombudsman is to protect the health, safety, welfare and rights of individuals residing in long-term care by investigating complaints, seeking resolutions to problems and providing advocacy with the goal of enhancing quality of life and care. In 2015, the Office also became the managed care ombudsman program for Medicaid members served through one of the seven Medicaid waiver programs or institutional care.

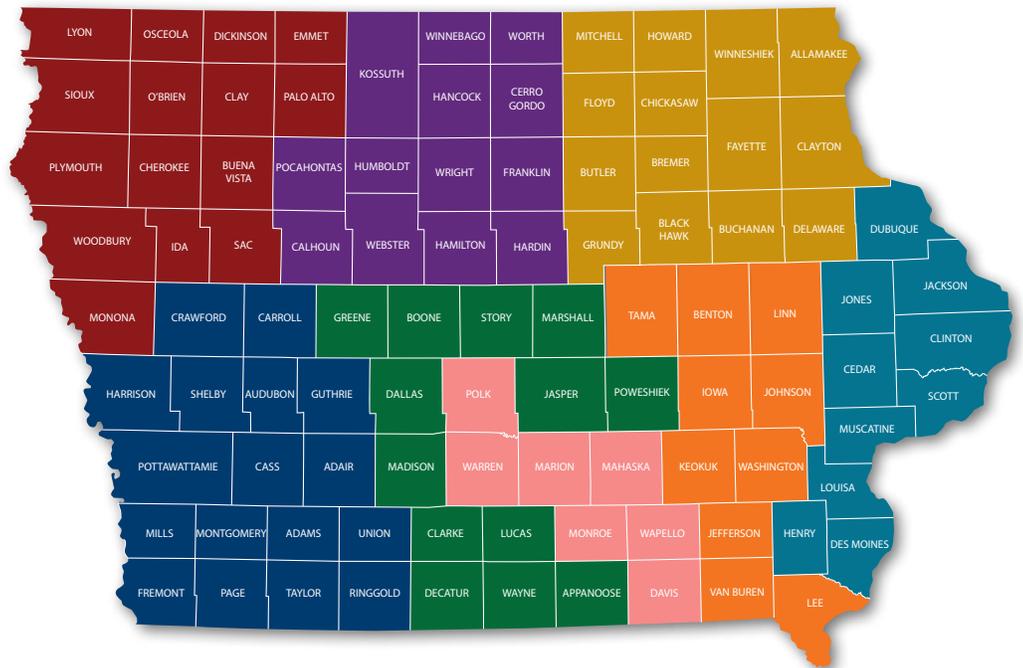
Iowa's Long-Term Care Ombudsman program is responsible, through federal and state law, for advocating for residents and tenants of long-term care facilities, including nursing facilities, residential care facilities, assisted living programs and elder group homes. The Office strives to fulfill this responsibility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



## Structure

The Office of the State Long-Term Care Ombudsman consists of the state long-term care ombudsman; local long-term care ombudsmen; a volunteer coordinator; volunteers; AmeriCorps VISTA members; a project specialist; a discharge specialist; a policy coordinator; a program manager and ombudsman under the Managed Care Ombudsman Program; and an administrative assistant.

To assist in fulfilling the long-term care ombudsman duties outlined by law, the Office has designated eight local long-term care ombudsmen to serve residents and tenants in specific areas of the state (see map). Additionally, a volunteer coordinator is dedicated to implementing a certified volunteer program to recruit, train and monitor certified volunteer long-term care ombudsmen. A discharge specialist assists residents and tenants who are being discharged or transferred from a facility.



# Long-Term Care Ombudsman Program Authority and Mandates

## Authority

The Long-Term Care Ombudsman Program is authorized by the federal Older Americans Act<sup>1</sup> and the state Older Iowans Act<sup>2</sup>. The Office of the State Long-Term Care Ombudsman operates as an independent entity within the Iowa Department on Aging and advocates for residents of nursing facilities and residential care facilities, as well as for tenants of assisted living programs and elder group homes.

## Mandates

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

- Identify, investigate and resolve complaints made by or on behalf of residents or tenants that adversely affect their health, safety, welfare or rights;
- Make referrals to appropriate licensing, certifying and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions;
- Provide services to assist residents or tenants in protecting their health, safety, welfare and rights;
- Inform residents and tenants about means of obtaining services offered by providers or agencies;
- Ensure residents and tenants have regular and timely access to the services provided through the Office and that residents, tenants and complainants receive timely responses;
- Represent the interests of residents before governmental agencies and seek administrative, legal and other remedies to protect their health, safety, welfare and rights;
- Provide administrative and technical assistance to local and volunteer long-term care ombudsmen;
- Analyze, comment on and monitor the development and implementation of federal, state and local laws, regulations and other governmental policies and actions that pertain to the health, safety, welfare and rights of residents and tenants;
- Provide training for representatives of the Office, promote the development of citizen organizations to participate in the program and provide technical support for the development of resident and family councils to protect the well-being and rights of residents and tenants;

<sup>1</sup> Older Americans Act, 42 U.S. Code, Section 3058g

<sup>2</sup> Older Iowans Act, Iowa Code, Section 231.1



## FFY 2015 CASE SCENARIO:

A resident needed a new wheelchair, but was concerned she couldn't afford it.

The Local Long-Term Care Ombudsman worked with the nursing facility to provide information about Medicaid, which the resident qualified for and covered the costs of a new wheelchair.



### FFY 2015 CASE SCENARIO:

The Local Long-Term Care Ombudsman assisted a resident council to develop a policy so all residents participating on the council would be notified about decisions.

After implementing the policy, meeting attendance for the resident council has increased.



- Establish and implement a statewide confidential uniform reporting system;
- Publicize the Office and provide information and education to consumers, the public and other agencies about the issues related to long-term care in Iowa;
- Annually report on the activities of the Office and make recommendations for improving the health, safety, welfare and rights of residents and tenants of long-term care facilities, assisted living programs and elder group homes;
- Participate in inquiries, meetings or studies that may lead to improvements in the health, safety, welfare and rights of residents and tenants;
- Recruit, train, educate, support and monitor volunteers associated with the Office;
- Coordinate ombudsman services with the protection and advocacy system for individuals with developmental disabilities and mental illness;
- Coordinate ombudsman services with the Older Americans Act legal assistance and elder abuse awareness and prevention programs;
- Coordinate services with state and local law enforcement agencies and courts of competent jurisdiction; and
- Ensure confidentiality and a program free of conflicts of interest.

# Activities of the Office

The program activities of the Office of the State Long-Term Care Ombudsman are divided into the following categories: Advocacy; Cases and Complaints; Community Education; Consultation; Other; Resident and Family Councils; Resident and Tenant Visitation; Survey Participation; and Training and Technical Assistance. The efforts within each activity are discussed in more detail below.

## Advocacy

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

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

In Federal Fiscal Year 2015, the State Long-Term Care Ombudsman monitored proposed legislation and rules and provided 55 declarations, or comments, relating to proposed laws and rules that impacted residents and tenants residing in Iowa's long-term care facilities (see Appendix A).

## Cases and Complaints

The Office is mandated to identify, investigate and resolve complaints made by or on behalf of residents or tenants of long-term care facilities that adversely affect their health, safety, welfare or rights.

A complaint is a concern brought to, or initiated by, the Long-Term Care Ombudsman for investigation and action on behalf of one or more residents/tenants (see Appendix B).

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

*In 2015, representatives of the Office provided **8,761 hours of advocacy** beyond complaint handling.*

*In 2015, representatives of the Office handled **1,160 new complaints and opened 667 new cases** on behalf of long-term care residents and tenants.*

### Most Frequent Complaints Received by the Office of the State Long-Term Care Ombudsman (FFY 2015)

Complaint	# Received
Issues related to resident/tenant care	236
Issues related to autonomy, choice, exercise of rights, privacy	193
Issues related to admission, transfers, discharge and eviction	157
Issues related to financial concerns or property lost, missing or stolen	92
Issues related to the system and concerns apart from the facility	89

## Issues Addressed by the Office of the State Long-Term Care Ombudsman (by Complaint Category)

Complaint Category	Issues Addressed through this Category
Admission, transfers, discharge and eviction	<ul style="list-style-type: none"> <li>• Admission contract &amp; procedures</li> <li>• Appeal process</li> <li>• Discharge/eviction – lack of planning or appropriate notice</li> <li>• Discrimination in admission</li> <li>• Refusal to readmit</li> <li>• Room changes or assignments</li> </ul>
Autonomy, choice, exercise of rights, privacy	<ul style="list-style-type: none"> <li>• Choice of personal physician, hospice or pharmacy</li> <li>• Confinement in facility</li> <li>• Dignity, respect – staff attitudes</li> <li>• Exercise choice and/or civil rights</li> <li>• Exercise right to refuse care</li> <li>• Language barriers</li> <li>• Participation in care planning</li> <li>• Privacy – telephone, mail, visitors and for couples</li> <li>• Response to complaints</li> <li>• Reprisal, retaliation</li> </ul>
Financial concerns or property lost, missing or stolen	<ul style="list-style-type: none"> <li>• Billing/charges</li> <li>• Personal funds mismanaged, access denied or funds not returned</li> <li>• Personal property lost, stolen, used by others, destroyed or withheld from resident/tenant</li> </ul>
Resident/tenant care	<ul style="list-style-type: none"> <li>• Injuries or falls, improper handling</li> <li>• Failure to respond to requests</li> <li>• Concerns over personal hygiene, adequacy of dressing, grooming</li> <li>• Physician services</li> <li>• Pressure sores</li> <li>• Toileting, incontinent care</li> <li>• Inadequate care plan or failure to follow plan</li> <li>• Unattended symptoms, such as pain</li> <li>• Neglect of catheter or tubes</li> <li>• Failure to monitor wandering</li> <li>• Administration of medications</li> </ul>
System/other	<ul style="list-style-type: none"> <li>• Abuse, neglect, abandonment by non-staff</li> <li>• Bed shortage – placement</li> <li>• Family conflict</li> <li>• Financial exploitation by family or friends</li> <li>• Legal – guardianship, conservatorship, powers of attorney, wills</li> <li>• Medicare</li> <li>• Mental health/disabilities</li> <li>• Operating without a license</li> <li>• Problem with resident's physician</li> <li>• Protective services agency</li> <li>• Request for less restrictive placement</li> <li>• SSA, SSI, VA or other benefits</li> </ul>

## Community Education

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

*In 2015, representatives of the Office provided **67 community education sessions and 23 media interviews** about issues pertaining to long-term care.*

## Consultation

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

*In 2015, representatives of the Office **consulted with more than 19,000 individuals and 855 facilities or providers** about long-term care issues.*

## Other

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

In an attempt to serve as a visible advocate, the Office is involved in the following efforts:

- Iowa Direct Care Worker Advisory Council
- Iowa State Bar Association Elder Law Council and Section
- Iowa Nursing Home Quality Partners
- Long-Term Care Social Workers Board
- DMACC Aging Services Management Advisory Council
- Sexuality in Long-Term Care Task Force
- Johnson County Quality Long-Term Care Committee
- Johnson County Elderly Consortium
- Linn County Elderly Consortium
- IPOST Coalitions
- Dependent Adult Abuse Protective Advisory Council
- Local multi-disciplinary team meetings on dependent adult abuse in multiple counties
- Client safety meetings
- National Consumer Voice Leadership Council
- National Association of State Long-Term Care Ombudsman Programs (NASOP)
- NASOP Appropriations Workgroup
- National Association of Local Long-Term Care Ombudsman
- Board of Des Moines Directors of Volunteers in Agencies (DOVIA)
- National Association of Local Long-Term Care Ombudsman Executive Board
- CSS I-START Advisory Board
- County Social Services planning meetings
- Iowa Caregivers Conference Planning Committee
- Dementia Care – University of Iowa Committee
- University of Iowa Aging Studies meetings
- Health Care Fraud Task Force
- Elevate Aging
- Dementia Proficient Task Force
- Dementia Task Force to Reduce Anti-Psychotic Use
- Health Consumer Ombudsman Alliance
- Board of Nursing Home Administrators meetings



Additionally, the Office meets with the following individuals and organizations to advocate on behalf of residents/tenants residing in Iowa's long-term care facilities:

- Older Iowans Legislature
- Consumer advocates
- Iowa Department of Inspections and Appeals
- Disability Rights Iowa
- Iowa Department of Human Services and Iowa Medicaid Enterprise
- Area Agencies on Aging
- Crisis/Closure Team
- Legal Assistance Developer and Title VII legal assistance providers, including the Legal Hotline for Older Iowans
- Facility administrators and program directors
- Administration for Community Living
- National Ombudsman Resource Center
- National Association of States United for Aging and Disabilities

In addition to participating in meetings, committees, and workgroups, effort has continued regarding the review and update of Iowa's Long-Term Care Ombudsman Program. Some of the efforts to fulfill this initiative include:

- Sponsoring a value stream mapping LEAN event to review our processes for efficiencies;
- Developing and implementing program protocols through policy memorandum that are sent to staff to share up-to-date information on laws, rules, regulations and issues of interest;
- Developing and implementing policies and procedures in relation to handling cases and complaints within nursing facilities, residential care facilities, assisted living programs and elder group homes;
- Developing and implementing policies and procedures in relation to the Volunteer Ombudsman Program;
- Developing and implementing policies and procedures in relation to the discharge specialist's role and responsibilities;
- Administering a listserv to share information from the Long-Term Care Ombudsman's Office to administrators of nursing facilities and residential care facilities, as well as to directors of assisted living programs and elder group homes;
- Administering a listserv to active Volunteer Ombudsman Program volunteers; and
- Developing press releases to inform and educate the general public on the efforts of the Office of the State Long-Term Care Ombudsman and bring attention to the Office as a resource for residents/tenants and their families.



### **FFY 2015 CASE SCENARIO:**

An attorney-in-fact was limiting a resident's use of a telephone. The Local Long-Term Care Ombudsman educated the facility and the attorney-in-fact on the role of a durable power of attorney for health care as well as on the resident's rights.

## Resident and Family Councils

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

*In 2015, representatives of the Office **worked with 85 resident councils and 7 family councils** across the state.*

## Resident and Tenant Visitation

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

*In 2015, representatives of the Office **made 642 complaint-related visits and 2,885 non-complaint visits** to long-term care residents and tenants.*

## Survey Participation

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

*In 2015, representatives of the Office **participated in 66 facility surveys** throughout Iowa.*

## Training and Technical Assistance

The Long-Term Care Ombudsman's Office provides education, training and technical assistance to ombudsmen, volunteers and facility/program staff. Training and education is needed to ensure staff and volunteers are eligible to maintain certifications and stay abreast of issues surrounding long-term care.

Technical assistance is provided to local long-term care ombudsmen, volunteer coordinators, the discharge specialist and volunteer ombudsmen to ensure the consistent and uniform interpretation and implementation of laws, rules and regulations statewide.

*In 2015, the Office **provided 74 training sessions and 8,591 technical assistance contacts** to long-term care ombudsmen and volunteers and **provided 29 training sessions** to facility staff.*

# Recommendations

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

## 1. Quality Care and Treatment

*Ensure residents and tenants residing in long-term care facilities receive care and services that enhance their quality of life. This is a right, not a privilege, and quality should be the rule, not the exception.*

Individuals residing in long-term care settings deserve quality of care and treatment. For this to occur, however, there must be sufficient and trained staff to deliver appropriate levels of care, to respond to requests for assistance in a timely fashion, and to competently attend to the needs of the residents or tenants.

Concerns over resident care and treatment continue to be the primary complaint that the Office of the State Long-Term Care Ombudsman receives.

### Solutions:

- a) Ensure that residents' and tenants' care needs are delivered in a courteous, professional and prompt fashion. The Office of the State Long-Term Care Ombudsman will work with facilities, programs, regulators, advocacy groups and others to develop an action plan with measurable outcomes to move toward this goal.
- b) Convene a workgroup to review and propose solutions to the ongoing issues of understaffing, staffing shortages, recruitment and retention of direct care workers and nursing staff. Quality care and treatment cannot be delivered without sufficient staff or with staff who are overextended by working multiple shifts.
- c) Establish and provide sufficient staff training for those working with individuals experiencing a neurocognitive disorder (e.g., dementia or aggressive behaviors).
- d) Educate all Iowans on mental health issues, access to services, the appropriate role of a mental health commitment and the development of behavior modification and care plans that meet the intervention needs of the resident or tenant.

*During this reporting period, **236 concerns** were brought forth regarding resident and tenant care and treatment.*

## 2. Resident and Tenant Rights: Autonomy, Choice, Privacy and Exercise of Rights

*Ensure residents and tenants residing in long-term care facilities are allowed to direct their own care and have choice, privacy and the ability to exercise their rights. These rights are provided through law and guaranteed to each and every person that resides in a long-term care facility or assisted living program.*

Too many times, individuals residing in long-term care are treated as if they cannot make a decision or voice an opinion about their needs. This means care happens to them, rather than with them. Residents and tenants do not lose their rights to make decisions simply because they move into a different environment. Some individuals are comfortable advocating for themselves, once given the tools to be an effective advocate, while others reach out to a local or volunteer long-term care ombudsman for assistance in ensuring their rights are protected.

Concerns over resident and tenant rights to autonomy, choice, privacy and exercise of rights continue to be the second largest category of complaints that the Office of the State Long-Term Care Ombudsman receives.

### **Solutions:**

- a) Inform residents and tenants of their rights to make health care and financial management decisions and implement those choices by educating guardians, conservators, agents and attorneys-in-fact.
- b) Enhance knowledge and understanding on the rights of residents and tenants to visit with individuals of their choosing. Educate residents, families, substitute decision-makers, the legal community and facility staff on the roles and responsibilities of an attorney-in-fact under a durable power of attorney for health care, as well as those of a guardian in relation to making decisions on visitation. Utilize and promote the Office of the State Long-Term Care Ombudsman's policy statement on visitation.
- c) Promote discussions and policy development surrounding the right to sexual expression and the capacity to consent. Continue the work of the Sexuality in Long-Term Care Task Force to assist facilities to better define and assess capacity to consent.
- d) Explore options, through discussions with the Department of Corrections, the Department of Inspections and Appeals and other advocacy agencies, for long-term care placement of offenders and other individuals who are difficult to place but who need a higher level of care.

*During this reporting period,  
**193 concerns** were brought  
forth regarding autonomy,  
choice, privacy and rights.*

### 3. Resident and Tenant Rights: Admission, Transfer, Discharge and Eviction

*Ensure residents and tenants residing in long-term care facilities understand their rights throughout the admission, discharge and transfer process.*

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

Concerns over resident and tenant rights to admission, transfer, discharge and eviction continue to be the third largest category of complaints that the Office of the State Long-Term Care Ombudsman receives.

#### **Solutions:**

- a) Assist consumers in understanding and reviewing admission contracts and occupancy agreements before they execute those documents.
- b) Educate on due process appeal rights and discuss reform of Iowa's assisted living program laws and rules to allow for third party review of involuntary discharges and transfers.
- c) Educate on financial exploitation to protect residents and tenants from discharge due to a fiduciary's lack of action to apply for Medicaid or for non-payment of care expenses.
- d) Review reductions in and closures of residential care facilities and, for those who transition to the community from such settings, provide an oversight structure to ensure a safe and secure environment.

*During this reporting period,  
**157 concerns** were brought  
forth regarding admission,  
transfer, discharge and  
eviction*

## Issues to Watch

During Federal Fiscal Year 2016 (Oct. 1, 2015 – Sept. 30, 2016), some of the key issues the Office of the State Long-Term Care Ombudsman will continue to monitor closely include:

**1**

Medicaid Managed Care and its impact on Medicaid members residing in long-term health care facilities or assisted living programs as well as the general Medicaid eligibility process

**2**

Closures of Residential Care Facilities (RCFs) and appropriate and safe transition of displaced residents

**3**

Discharges—to ensure due process rights of notice and appeal are protected and not circumvented by transfers to hospitals or discussions with family to voluntarily move a resident or tenant

**4**

Assisted living program transitions to verify that a mechanism is in place to assess the level of care needs of the tenant prior to proceeding with discharge or transfer

**5**

Mental health care treatment, supports, access to services and appropriate interventions or activities

**6**

Pre-Admission Screening and Resident Review (PASRR) and implementation of service recommendations

**7**

Staffing levels that meet the needs of residents and tenants, from direct care workers to nurses, activity directors, medical directors and doctors, such as psychiatrists

**8**

Staffing recruitment and retention of direct care workers and nursing staff

**9**

Long-term services and supports and housing options for offenders and difficult-to-place individuals

**10**

Issues surrounding substitute decision making – such as determining effective dates of documents, abuse of the fiduciary relationship and roles related to visitation

# **Appendix A:**

## Legislative Declarations

## Legislative Declarations (FFY 2015)

In FFY 2015, the Office monitored proposed bills and rules and provided the following 55 declarations, or comments, relating to proposed legislation that impacted residents and tenants residing in Iowa's long-term care facilities:

Bill	Topic	Explanations	Declaration	Date
HF 87	Abuse	Financial exploitation of older individuals and providing penalties	For	Jan. 27, 2015
HF 85	Abuse	Abuse of elders actions	For	Jan. 27, 2015
SF 109	Abuse	Abuse and financial exploitation of elders and providing penalties	For	Jan. 30, 2015
HF 184	Abuse	Abuse and financial exploitation of elders and providing penalties	For	Feb. 10, 2015
HF 328	Abuse	Elder abuse, financial exploitation of elders and the development of an elder abuse prevention system; providing penalties	For	Feb. 27, 2015
SF 142	Aggressive Behaviors	Elderly persons with aggressive or psychiatric behaviors in long-term care facilities (see SF 386)	For	Feb. 5, 2015
HF 178	Aggressive Behaviors	Elderly persons with aggressive or psychiatric behaviors in long-term care facilities	For	Feb. 10, 2015
HF 170	Aggressive Behaviors	Elderly persons with aggressive or psychiatric behaviors in long-term care facilities	For	Feb. 10, 2015
SF 386	Aggressive Behaviors	Establishing an interim legislative study committee relating to the establishment of one or more facilities to provide care and treatment for persons who are sexually aggressive, combative or who have unmet geropsychiatric needs (formerly SF 142)	For	March 24, 2015
HF 173	Appropriations	Making appropriations to the Office of the State Long-Term Care Ombudsman and the Department on Aging	For	Feb. 10, 2015
SF 156	Community Barriers	Interagency review to identify and address barriers to community living for elders and individuals with disabilities	Undecided	Feb. 18, 2015
HF 187	Community Barriers	Interagency review to identify and address barriers to community living for elders and individuals with disabilities	Undecided	Feb. 18, 2015
SSB1001	Dementia Task Force	Requires state agencies to establish a task force to address dementia-specific training	For	Jan. 26, 2015
SF 169	Depression Screening	Establishment of an evidence-based depression screening and treatment program for older individuals	Undecided	Feb. 18, 2015
HF 180	Depression Screening	Establishment of an evidence-based depression screening and treatment program for older individuals	Undecided	Feb. 18, 2015

Bill	Topic	Explanations	Declaration	Date
SSB1024	Guardianship Filing	Administration of combined guardianship/conservatorship proceedings	For	Jan. 26, 2015
HSB44	Guardianship Filing	Administration of combined guardianship/conservatorship proceedings (see HF159)	For	Jan. 26, 2015
SF 149	Guardianship Filing	Administration of combined guardianship/conservatorship proceedings (formerly SSB 1024)	For	Feb. 10, 2015
HF 159	Guardianship Filing	Administration of combined guardianship/conservatorship proceedings	For	Feb. 10, 2015
SSB 1167	Health Workforce	Establishment of a health workforce center	Undecided	March 4, 2015
SF 441	Health Workforce	Health workforce program analysis (formerly SSB 1167)	For	March 24, 2015
SF21	Insurance Benefits	Prohibits a person convicted of certain felonies from receiving insurance proceeds or related benefits if convicted six months prior to death	For	Jan. 26, 2015
SF 160	Long-Term Care Committee	Establishing a long-term care committee	For	Feb. 17, 2015
HF 179	Long-Term Care Committee	Establishing a long-term care committee	For	Feb. 18, 2015
HSB 82	Medicaid	Development of a prioritization policy for the awarding of openings under Medicaid home and community-based services waivers when the respective waiver is subject to a waiting list	Undecided	Feb. 5, 2015
HF 133	Medicaid	Provision of financial institution records for the purposes of determining eligibility for Medicaid; providing a penalty	Undecided	Feb. 5, 2015
SF 452	Medicaid	Medicaid program transformation and oversight (formerly SSB 1253)	Undecided	March 24, 2015
SSB1002	Mental Health	Allows a PA who examines a person in an emergency involuntary commitment to communicate the results with the magistrate before the PA's supervising physician approves	Undecided	Jan. 26, 2015
SF 201	Mental Health	Findings of an examining physician assistant for a person believed to be seriously mentally impaired in an emergency situation (formerly SSB 1002)	Undecided	March 24, 2015
HF 91	Mental Health Advocates	Appointment of mental health advocates (see Committee Bill HF 468)	For	Jan. 30, 2015
HF 468	Mental Health Advocates	Appointment of mental health advocates (see HF 91)	For	March 23, 2015
SF 308	Mental Health Facilities	State mental health institutes at Clarinda and Mount Pleasant (see SF 402)	Undecided	Feb. 27, 2015
SF 402	Mental Health Facilities	State mental health institutes at Clarinda and Mount Pleasant (formerly SF 308)	Undecided	March 24, 2015

Bill	Topic	Explanations	Declaration	Date
SF 333	Mental Health Facilities	Acceptance of eligible patients into state mental health institutes and including effective date provisions (formerly SF 140)	Undecided	March 24, 2015
HF 449	Mental Health Facilities	Mental health crisis facilities	Undecided	March 24, 2015
SSB 1212	Music Therapy	Establish a music therapy advisory council within the board of social work and provide for licensure of music therapists and providing for fees and civil penalties	Undecided	March 4, 2015
SSB 1176	Privileged Communication	Privileged communications between a physician or health facility and a patient following an adverse health care incident	Undecided	Feb. 25, 2015
SF 426	Privileged Communication	Privileged communications between a health care provider or health facility and a patient following an adverse health care incident (formerly SSB 1176)	Undecided	March 24, 2015
HF 263	Psychiatric Bed Tracker	Development and initial implementation of an inpatient psychiatric bed tracking system by the department of human services (see Committee Bill HF 449)	Undecided	Feb. 27, 2015
HSB 145	Regulatory Agency	Regulation of health care facilities, elder group homes, assisted living programs and adult day services programs (see Committee Bill HF 579)	For	Feb. 25, 2015
HF 579	Regulatory Agency	Regulation of health care facilities, elder group homes, assisted living programs and adult day services programs	For	March 24, 2015
HF 399	Sex Offenders	Establishment of one or more facilities for the housing of certain sex offenders in need of medical and personal care	Undecided	Feb. 27, 2015
SSB1007	Support of the Poor	Eliminates liability of relatives of a poor person for money spent by county on behalf of the poor person	For	Jan. 26, 2015
HSB32	Support of the Poor	Eliminates liability of relatives of a poor person for money spent by county on behalf of the poor person (see HF157)	For	Jan. 26, 2015
HF 157	Support of the Poor	Eliminates support of the poor by certain relatives (formerly HSB 32)	For	Feb. 10, 2015
SF 223	Support of the Poor	Eliminates support of the poor by certain relatives (formerly SSB 1007)	For	Feb. 18, 2015
SF 141	Sustainable Living Task Force	Iowa Finance Authority to convene a multigenerational and sustainable living task force	Undecided	Feb. 5, 2015
HF 306	Tobacco Products	Tobacco products	For	Feb. 27, 2015
HF 510	Transportation	Transportation of persons with a substance-related disorder or a mental illness (formerly HF 251)	Undecided	March 24, 2015
SF2	Veterans Home	Related to spouse admission eligibility	Undecided	Jan. 26, 2015

Bill	Topic	Explanations	Declaration	Date
SF 192	Veterans Home	Establishing a voucher program for members of the Iowa Veterans Home	Undecided	Feb. 17, 2015
SSB 1162	Visitation	Communication and visitation between an adult ward and another person	For	Feb. 11, 2015
HF48	Voting	Permits on-going absentee voter status	Undecided	Jan. 26, 2015
HF49	Voting	Authorizes electronic voter registration	Undecided	Jan. 26, 2015
SSB 1152	Voting	Permitting electronic voter registration and including penalties and effective date provisions	Undecided	Feb. 10, 2015

# **Appendix B:**

## Complaints and Case Data

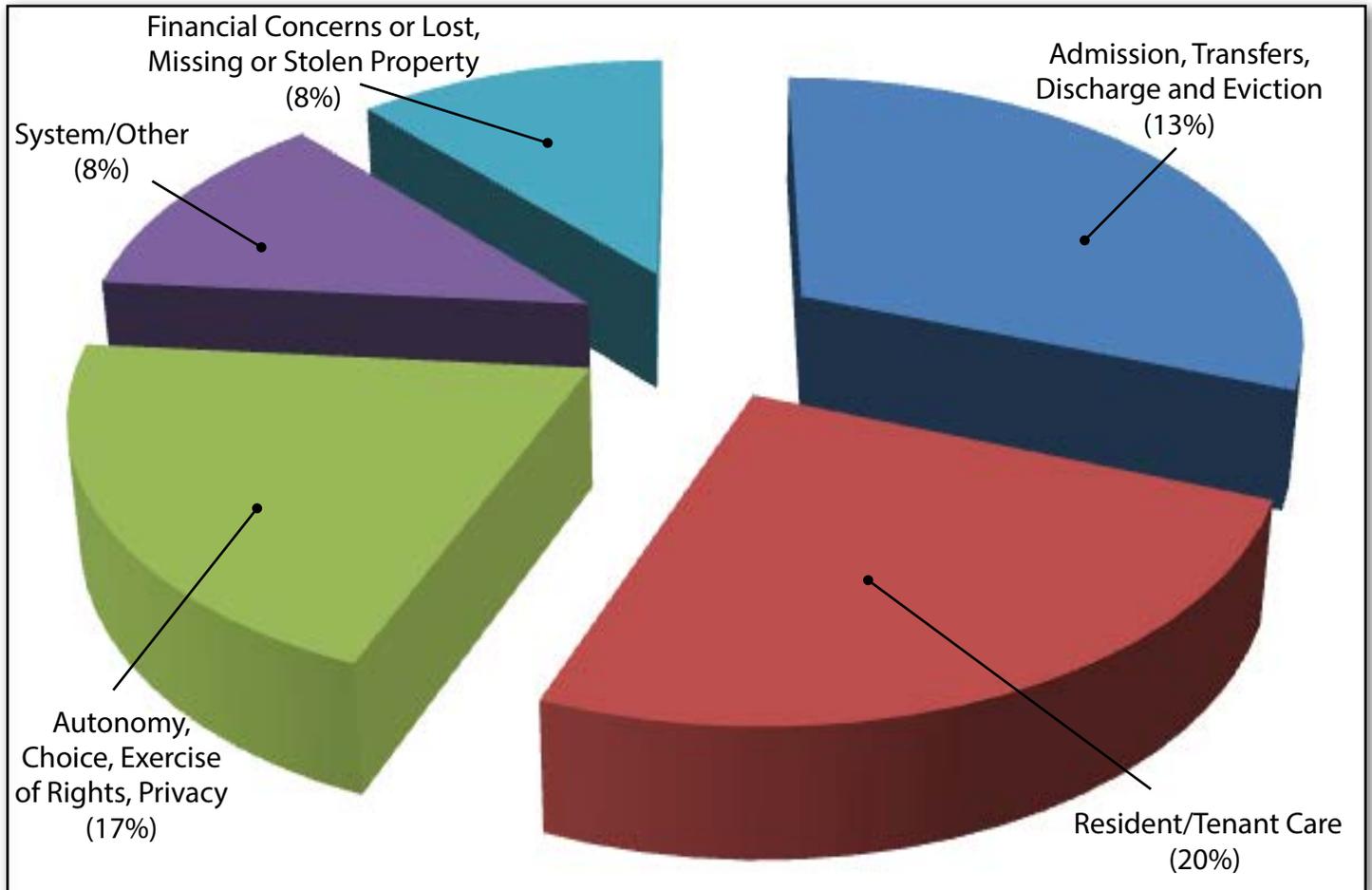
## Complaints and Case Data (FFY 2015)

In FFY 2015, the Office investigated 1,160 new complaints that resulted in opening 667 new cases. Details pertaining to the types of complaints the Office received are reflected in the table below:

Complaint Category	Issues Addressed in this Complaint Category	# of Complaints Received in FFY 2015	% of Total Complaints Received in FFY 2015
Resident and Tenant Care	Injuries, response to requests for assistance, care plan/resident assessment, contracture, medications, personal hygiene, physician services, pressure sores, symptoms unattended, incontinent care, tubes, wandering	236	20%
Autonomy, Choice, Exercise of Rights, Privacy	Physician, pharmacy, hospice, other health care provider, confinement, treated with dignity & respect, smoking, refuse care, language barrier, participate in care plan, privacy to visitors/telephone/mail/couples/treatment/confidentiality, response to complaints/retaliation	193	17%
Admission, Transfer, Discharge, Eviction	Admission contract & procedure, appeal process, bed hold, discharge/eviction notice & procedure, discrimination due to disability, Medicaid status, room assignment	157	13%
Financial, Property Lost, Missing or Stolen	Billing/charges, personal funds, personal property	92	8%
System/Others	Abuse by family member/friend/guardian, bed shortage, facilities operating without a license, family conflict, legal, Medicare, mental health/developmental disabilities/PASRR, physician/assistant, protective service agency, SSA/SSI/VA/other health benefits/agencies, request for less restrictive placement	89	8%
Dietary	Assistance in eating, hydration, food service, snacks, temperature, therapeutic diet, weight loss	76	7%
Environment/Safety	Air temperature/quality, noise, housekeeping, equipment/buildings, furnishings, infection control, laundry, odors, space for activities/dining, supplies, ADA accessibility	73	6%
Rehabilitation or Maintenance of Function	Assistive devices, bowel/bladder training, dental & mental health services, ambulation, therapies, vision & hearing	54	5%
Activities and Social Services	Choice, community interaction, resident conflict, social services availability/appropriateness	49	4%
Staffing	Communication barrier, shortage of staff, staff training/turn-over/unresponsive, supervision, eating assistants	42	4%
Access to Information	Access to records, to visitors, information on services/benefits/medical/advance directives/rights	34	3%
Policies, Procedures, Attitudes, Resources	Abuse investigation/reporting, administrator unresponsive, grievance procedure, inappropriate or illegal policies, insufficient funds to operate, operator inadequately trained, offering inappropriate level of care, resident or family council interference	25	2%
Abuse, Gross Neglect, Exploitation	Physical, sexual, verbal, seclusion, financial and resident to resident willful deprivation	15	1%
State Medicaid Agency	Access to information application, denial of eligibility, non-covered services, personal needs allowance, services	13	1%
Certification/Licensing Agency	Access to information including survey, response to complaint, decertification/closure, sanction, survey process/ombudsman participation, transfer/eviction hearing	9	1%
Restraints – Chemical and Physical	Physical restraint and psychoactive drugs-assessment use, monitoring, evaluation	3	0%
Services Other than NF/RCF/ALP	Home care, hospital/hospice, congregate housing not providing care, services from outside provider	0	0%

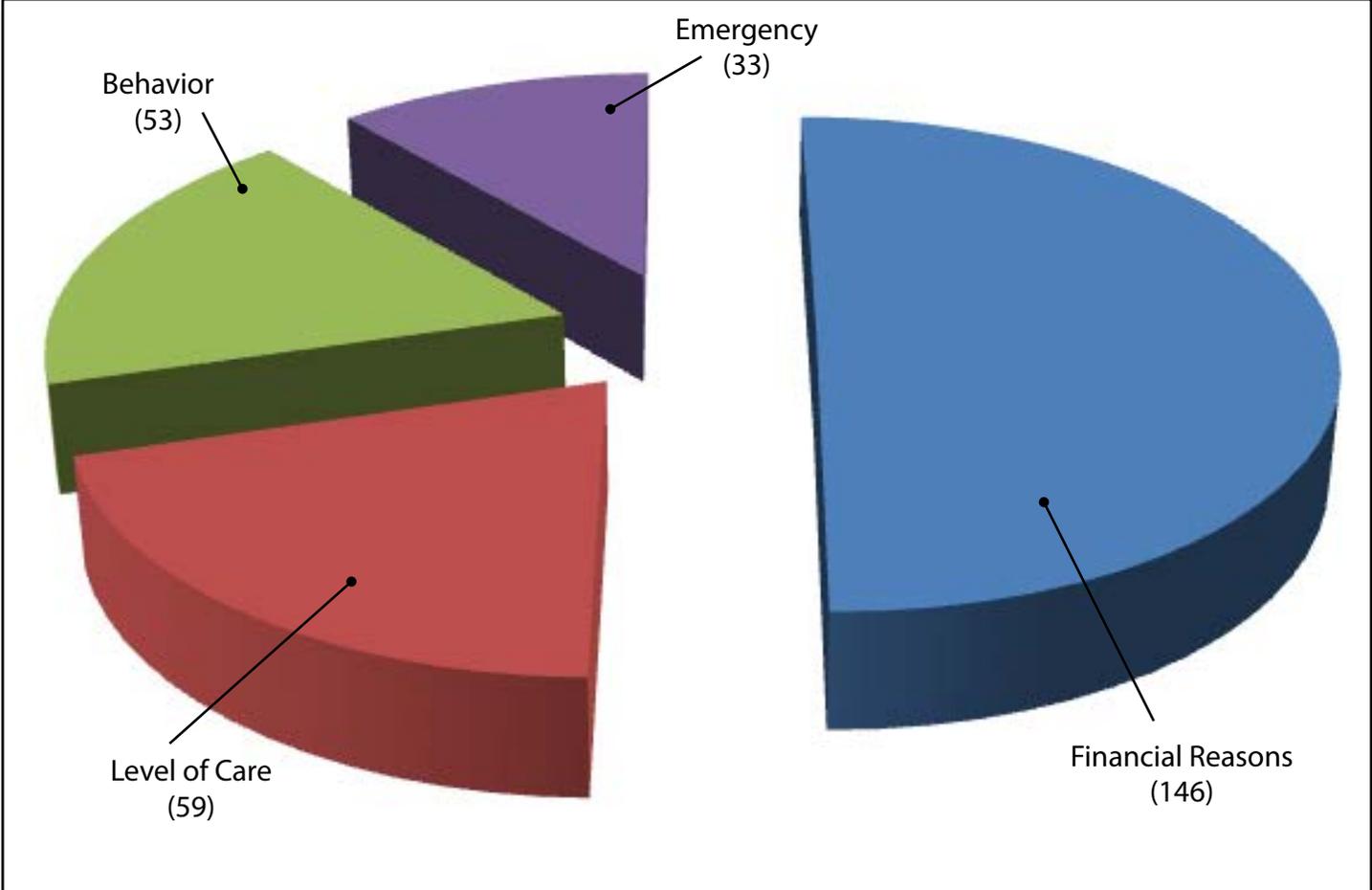
## Top Five Complaints Received in FFY 2015 (by Complaint Category)

In FFY 2015, the Office investigated 1,160 new complaints. Most complaints fell into one of the top five Complaint Categories:



# Involuntary Discharge Notices Responded to in FFY 2015 (by Reason)

In FFY 2015, the Office responded to 291 notices of involuntary discharge from across the state. The top five reasons given for involuntary discharge included the following:



## Top Five Program Activities Completed in FFY 2015 (by Percentage of Time)

In FFY 2015, the Office provided 8,761 hours of advocacy beyond complaint handling. According to time spent, the following program activities were the top five to which the Office allocated its resources:

