

# PA's State LTC Ombudsman Office—Bankruptcy Cases

## State Office and Local Ombudsmen

### Roles & Responsibilities

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 went into effect on October 17, 2005. One of the provisions of this new law is a provision for the appointment of an ombudsman to act as a **patient advocate** when a health care business files for bankruptcy.

If the health care business provides long-term care services, the State LTC Ombudsman may be appointed by the Bankruptcy Court as the "Patient Care Ombudsman." **The role of the patient care ombudsman is to "monitor the quality of patient care and represent the interests of the patients."** A copy of the bankruptcy law is attached. Issues to consider regarding the Patient Care Advocate are:

- **Corporations that have facilities in multiple states** –The out-of-state U.S. Trustee's Office will contact SLTCO requesting appointment and they will coordinate in each state in which the corporation operates.
- **Facilities that do not provide long-term care services** --- the language of the law provides that the State LTC Ombudsman may be appointed if the debtor is a health care business that provides long-term care. Otherwise, the court trustee is to appoint a "disinterested person to serve as such ombudsman."
- **Can the State LTC Ombudsman choose not to serve as Patient Care Ombudsman?** – This is not clear in the law. The authority to appoint lies with the U.S. Trustee. The SLTCO likely would have to provide support for why s/he should not, or cannot, serve in this capacity.
- **Potential Compensation** – There is compensation for ombudsman services that is outside of the scope of what local ombudsman already do in their counties. These will be handled on an individual basis, and the SLTCO can facilitate with the Court.
- **What is the role of other agencies, such as Licensing and Certification?** – Licensing agencies play no role other than performing their regular survey duties. CMS asked states, as long ago as 1999, to be prepared to address the possibility that some national chains, due to financial difficulties, may find themselves in situations which adversely affect resident care. Licensing agencies should continue to monitor their facilities in cases where there could be affects in the health and safety of residents.

## Pennsylvania's Bankruptcy Case Process

The State LTC Ombudsman Office has defined the “*patient care ombudsman*” roles and responsibilities for both the State Office and local ombudsmen program in advocating for residents living at a facility who has files for bankruptcy—communication between SLTCO office and the court, and the SLTCO Office and the local ombudsman program, which requires written documentation of plans of correction and actions taken to resolve complaints and issues raised by the local ombudsman.

- U.S. Trustee's Office contacts the State LTC Ombudsman
- State LTC Ombudsman contacts the local AAA:
  - Discusses case(s), and background of affected facilities.
  - Once AAA confirms support, the SLTCO contacts the U.S. Trustee's Office and accepts appointment in collaboration with the local ombudsman program for purposes of meeting with residents, scheduling site visits, and if any issues or concerns arise from visits, investigate any complaints.
  - SLTCO schedules initial visit with the area agency on aging and the local ombudsman, and if required, schedules other visits to meet with residents and facility staff.
  - Local ombudsman monitors case, and contacts the SLTCO regularly including submission of weekly reports via email.
  - Local ombudsman and volunteer (assigned to facility) schedules weekly visits for the first 60-days, and every other week afterwards until case is closed. This can change depending on issues/concerns reported in the 60-day report to the Court.
  - SLTCO files 60-day report and is submitted to the Courts which includes all weekly reports submitted by the local ombudsman where issues and/or concerns may arise from the monitoring visits.
  - SLTCO continues to monitor the case to ensure no further report is required by the office to the Courts. If this occurs, SLTCO will contact the local ombudsman on additional requirements. In some cases, a second 60-day report may be required (120 days after the appointment).

**Wilmarie González, State LTC Ombudsman**  
Tel. (717) 783-7096  
wigonzalez@state.pa.us