



Ombudsman Outlook: News, Resources, and Tips

Brought to you by:



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LTCO Advocacy in Assisted Living Facilities

The first installments of the **LTC Ombudsman Advocacy in Assisted Living Facilities Compendium** are now available on the NORC [website](#). The compendium is intended to assist long-term care ombudsmen programs (LTCOP) in increasing their effectiveness in advocacy for and with residents in assisted living facilities (e.g., residential care, board and care).

All of the LTCO functions, duties, and other requirements (e.g., facility visits, complaint resolution, systems advocacy, community education, information and assistance) outlined in the Older Americans Act and LTCOP rule apply to LTCO services for residents of all long-term care facilities. However, the National Ombudsman Reporting System (NORS) data indicates that most LTCO programs provide more complaint investigation and resolution services, and visits to residents of nursing facilities than to residents in assisted living facilities. In 2014, 69% of nursing homes and 28.7% of assisted living facilities received a quarterly visit and there were 51,152 complaints in assisted living (0.039 complaints per bed) compared to a total of 136,795 complaints in nursing facilities (0.080 complaints per bed).

There are a variety of reasons for the discrepancy in regular LTCO visits to these facilities, such as a lack of volunteer LTCO visiting ALFs, the sheer number of facilities, advocacy challenges due to the absence of federal regulations and possibly minimal state regulations and enforcement, and insufficient program funding to support regular visits. Despite these challenges and explanations for the differences in LTCO services in these settings LTCO programs need to analyze their data, evaluate their activities, and identify and address barriers in order to enhance LTCO services in this setting.

The first section of the new Compendium provides tips and resources for program assessment for both state and local LTCO in order to determine current activities in ALFs and enhance program services in this setting. For LTCO programs to ensure they are maximizing their resources and to identify program strengths and areas for improvement, regular program self-evaluation and assessment is critical.

Some points for LTCO to consider when assessing current program activities in assisted living facilities include:

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NORC Featured Resource

Assisted Living Compendium

This Compendium is intended to assist LTCO Programs in increasing their effectiveness in advocacy for and with residents in assisted living facilities. Click [here](#) to view the Compendium.

NOTE: The list below does not include all of the points for assessment provided in the compendium for more details review the [program assessment](#) tip sheets.

Understanding Assisted Living Facilities

Licensed Facilities

- What are the license types for assisted living facilities in your state?
- How are the license types defined?
- Are there specialty designations that are part of this license type, such as the provision of specialized care for persons living with dementia, with mental illness or developmental/intellectual disabilities?
- Is there a defined set of residents' rights in statute? In regulation?

Unlicensed Facilities

- According to state statute does your program have authority to assist residents living in unlicensed ALFs? If so, what is your role, if any, in visiting and/or identifying unlicensed ALFs? If not, how does your program proceed if they receive a complaint regarding an unlicensed ALF or learn of an unlicensed ALF?

Facility Coverage

- How are your program resources allocated in order to ensure that residents living in ALFs have access to and knowledge of the ombudsman program and how to contact it?
- Have you developed an annual plan for conducting routine visits and meeting visitation standards or benchmarks set for your program (if applicable)?
- How do you decide which ALFs to visit and how do you prioritize your visits (e.g., number and/or type of complaints, facility size and/or type, location, residents using waiver services)?
- Do volunteer LTCO visit ALFs?
- Are there additional training requirements specific to LTCO advocacy in this setting?

Data Review and Performance Goals

- Review your program's report data for information such as:
- Number of assisted living beds compared to nursing home beds.
- Percent of NHs and ALFs visited regularly. How do they compare?
- Analyze ALF complaint data compared to NHs (e.g., number of closed cases, total complaints, percent verified, resolved complaints per 100 beds).
- What are the top complaint issues in ALFs? How do they compare with complaint issues in NHs?

Access and Outreach

- How do residents of ALFs learn about the LTCO program and how to contact the program?
- Are LTCO program posters and/or other program materials distributed to ALFs? By whom?
- Does your program provide community education regarding the role of the LTCOP in ALFs (e.g. community presentations, media outreach)?

Calendar of Events

June 15, 2016: World Elder Abuse Awareness Day. It's an opportunity to share information and spread awareness about abuse, neglect, and exploitation in later life. Everyone can make a difference, but together, we can unite as one nation. Take a stand against elder abuse! More information is available [here](#).

October 2016: Residents' Rights Month (RRM). This year's theme is My Vote Matters. More information about RRM and the Residents' Voice Challenge is available [here](#).

November 2-5, 2016: Consumer Voice Annual Conference. The theme of this year's conference is My Voice Matters. More information about the conference is available [here](#).

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 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](#).

- How do you communicate with other stakeholders and represent the interests of ALF residents?

Systems Advocacy Agenda

- Have you identified systems issues experienced by residents in ALFs? If not, review your program data to identify trends (e.g., what are the top complaints, consultations) and develop priorities and strategies to address systemic issues.

Check the [Compendium](#) on a routine basis as additional information will be shared as they are developed. Contact [NORC](#) with questions, comments, or to share your program management approaches, best practices, systems advocacy strategies, outreach materials, and training examples related to LTCO program advocacy in assisted living with [NORC](#).

References

Older Americans Act of 1965. Section 102 (a)(35) and Section 712 (a)(3)(D) 2014 National Ombudsman Reporting Systems Data. Administration for Community Living, Administration on Aging, http://www.aoa.acl.gov/AoA_Programs/Elder_Rights/Ombudsman/National_State_Data/Index.aspx and <http://www.agid.acl.gov/>

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New and Updated NORC Resources

NEW! [LTCO Program Advocacy in Assisted Living Compendium](#)

The LTCO Program Advocacy in Assisted Living Facilities Compendium is intended to assist long-term care ombudsmen programs in increasing their effectiveness in advocacy for and with residents in assisted living facilities (e.g., residential care, board and care). The Compendium is a work in progress, beginning with the section on [program assessment, development, and management](#). The tools and resources will be posted on the NORC website as they are developed. Check the Compendium on a routine basis and share your best practices and information related to this topic with NORC.

NEW! [Resident-to-Resident Elder Mistreatment in Nursing Homes: Findings from the First Prevalence Study Webinar](#)

This webinar, hosted by Consumer Voice in collaboration with the National Center on Elder Abuse (NCEA), discusses resident-to-resident mistreatment and how to prevent and respond to these incidents. Dr. Karl Pillemer, Director, Bronfenbrenner Center for Translational Research, Hazel E. Reed Professor in the Department of Human Development, Professor of Gerontology in Medicine at the Weill Cornell Medical College, shared findings, recommendations, and best practices from his research regarding the prevalence of resident-to-resident elder mistreatment in nursing facilities. Consumer Voice staff shared information and resources to help increase awareness of these incidents and demonstrate how individualized care is critical in preventing and responding to resident-to-resident mistreatment. The slides can be downloaded as a [PDF](#).

NEW! [Final LTCOP Rule Resource List](#)

There are several resources available for ombudsmen to help work with the Final Rule. NORC compiled every resource on our website into an easy to read resource list with description and purpose of each resource.

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.

Do You Miss The Voice?

LTCO no longer receive The Voice (the Consumer Voice weekly enewsletter) automatically. If you miss the long-term care news from The Voice [subscribe for free](#) or become a [member](#) to receive this publication.

UPDATED! [Final LTCOP Rule Page](#)

The implementation date for the Final Rule is quickly approaching. New resources were added to the Final Rule Page such as two LTCOP Rule Issue Briefs: [Local Ombudsman Entity \(LOE\) Organizational Conflict of Interest](#) and the [Grievance Process](#). The LTCOP Rule Issue Brief regarding LOE organizational conflict of interest was developed to assist the State Ombudsman in identifying and remedying or removing conflicts of interest (COI) within an agency hosting a local Ombudsman entity. The grievance process brief assists states to address requirements regarding a grievance process related to the determinations or actions of the Ombudsman (State Long-Term Care Ombudsman) and representatives of the Office of the State Long-Term Care Ombudsman (the Office). The Final Rule page was reorganized and now separates each resource into section based on who produced the resource, making finding each resource easier.

UPDATED! [Older Americans Act Reauthorization Issue Page](#)

The Older Americans Act Reauthorization Act of 2016 was signed by President Obama in April. NORC has added a "News and Updates" section to our Older Americans Act Reauthorization Issue Page so ombudsmen can stay up-to-date with the impact on the ombudsman program.

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News from the Network...

Legislative and Systems Advocacy

Local LTCO Speaks to the HHS Senate Committee About Assisted Living Facilities (Texas)

Karen Magruder, a Local Long-Term Care Ombudsmen from Dallas, Texas, testified before the Texas Senate Committee on Health and Human Services about the need for better protections for residents in assisted living facilities. Karen developed the testimony along with her Managing Local Ombudsman (MLO) and the Texas State LTCOP Office. Click [here](#) to hear the testimony.

Note: Play the 2/18 "Senate Committee on Health and Human Services" hearing; Karen's testimony begins at about 6 hours and 56 minutes.

Local LTCO Testimony and Advocacy on Behalf of Veterans (Michigan)

Two local Michigan ombudsmen, Kaye Scholle and Jerry Stevens, have been providing testimony, background, and advocacy to legislators on behalf of the Veterans at the Grand Rapids Home for Veterans. The Michigan Auditor General recently released a very troubling audit report about care and conditions at the home. Kaye and Jerry have been working with the State LTCO to get the residents' issues front and center in the thinking of the legislators who are looking for ways to make improvements at the home and support the residents there.

Guidance for SNF Reported Incidents (Michigan)

Elaine Hearn, a local Michigan ombudsman, is serving on a workgroup put together by the MI Department of Licensing and Regulatory Affairs (LARA) to review and create guidance on SNF facility reported incident requirements. She and the State LTCO will be working with LARA and facility representatives to

develop understandable guidelines for facilities that meet the regulations on what does and does not need to be reported.

Information and Outreach

Long-Term Care Ombudsman Talks to WGVU Radio (Michigan)

Laura Foerster, a local Long-Term Care Ombudsman in Michigan talks to WGVU radio about the LTCOP. She encourages residents and family members to call the ombudsman office when they think a facility is not in line with a resident's rights. Click [here](#) to hear the segment.

Introducing the Medicaid Director to Residents (Michigan)

Dakima Jackson, a local Michigan ombudsman, hosted the State LTCO and the state Medicaid Director on visits to two nursing homes in her region. The director met residents, saw the problematic level of quality, and some of the issues that LTCO deal with every day.

Use of Antipsychotic Drugs Outreach Materials (Washington)

The Washington LTCOP developed several outreach materials with the goal of informing residents about the medications they are being given and their right to approve their care plan. The materials include a mailer titled For You to the Resident: Know Your Legal Rights about Medications. The mailer is available in several languages including; [English](#), [Spanish](#), [Chinese](#), [Somali](#), [Ukrainian](#), and [Vietnamese](#). The Washington Ombudsman Program also developed a postcard titled, [Very Important Things to Know about Dementia that touch Your Well-Being](#) along with a [fact sheet](#) and [brochure](#). These materials will allow residents to have a better understanding of antipsychotic drugs and their right to quality care and to live at their highest functional abilities.

This "News from the Network" article appears 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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TA Hot Topic

Responding to allegations of abuse in Assisted Living Facilities (ALFs)

As with all LTCO work, advocacy strategies in response to allegations of abuse vary depending on the situation (e.g., type of abuse allegation, type and size of long-term care setting, identity of the perpetrator). For example, a LTCO's approach in response to an allegation of abuse in a small personal care home may differ from their approach in response to a similar allegation in a large nursing home. Fear of retaliation or the amount of power an individual caregiver has may be greater in a small setting. Refer to the [Quick Tips](#) section for information on key similarities and differences in LTCO advocacy in nursing homes and in assisted living facilities.

Most states have mandatory reporting laws that require certain individuals (e.g., facility staff, social workers) to report suspected elder abuse. However, as reiterated in the Administration on Aging's [Frequently Asked Questions](#) for the

LTCOP, "both the Older Americans Act and the Rule prohibit reporting of resident-identifying information without the resident's consent" and "Ombudsman program policies and procedures must exclude the Ombudsman and representatives of the Office from abuse reporting requirements when such reporting would disclose identifying information of a complainant or resident without appropriate consent or court order (45 CFR 1327.11(e)(3))."

Whether or not a referral is made to another agency regarding suspected abuse, there are many appropriate actions that LTCO can take to support residents. Refer to the "What Can A LTCO Do in This Situation" section of the *Responding to Allegations of Abuse: Role and Responsibilities of LTCO* [brief](#) for ideas and examples. LTCO have the responsibility to support residents even if a referral cannot be made.

Facilities are required to protect residents from all forms of abuse and to investigate reports of abuse. Due to the lack of federal regulations for assisted living (e.g., board and care, personal care homes) LTCO need to be familiar with the applicable requirements in your state and know how the process works.

You can use the [state](#) and [local](#) *LTCO Program Assessment: Current Activities in Assisted Living Facilities* tip sheets when assessing program activities to support residents in assisted living facilities (ALFs). Regular program self-evaluation and assessment is critical to ensure that resources are maximized and to identify program strengths and areas for improvement. The lack of federal regulations for ALFs and reliance on often minimal state regulations and enforcement means increasing LTCO presence in these facilities and systems advocacy to strengthen the laws, regulations, and policies responsible for these settings is critical. These tools can be useful in assessing LTCOP services in Assisted Living, including the need for systems advocacy related to abuse.

Resources

- [Responding to Allegations of Abuse: Role and Responsibilities of Long-Term Care Ombudsmen](#)
- [Technical Assistance \(TA\) Guide Assisted Living Facility Inspection Guidelines by State Ombudsman Advocacy](#)
- [Challenges in Assisted Living: Outreach and Discharge](#)
- [Resident-to-Resident Abuse Fact Sheet](#)

Ombudsman Best Practices: Residents' Rights Month - My Vote Matters

South Carolina

The State Ombudsman recently participated in the Protection and Advocacy (P&A) Voting Coalition and one of the coalition's products is a series of videos about voting (links below). These new voting rights videos are from [SC Protection and Advocacy](#) and The South Carolina Disability Voting Coalition.

Each video addresses a different voting topic to include how to register to vote, the different ways a person with a disability can vote, and accessibility challenges that may exist at polling places.

- Registration: <https://vimeo.com/158411946/cd39097244>
 - Ways to Vote: <https://vimeo.com/158471063/78677a7ddc>
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- Accessibility Issues: <https://vimeo.com/158440380/6f470dc4f5>

Alaska

In Alaska, the State Ombudsman had a meeting with their state AARP office to ask them to partner for a mailer to all the assisted living home and nursing home residents about the things they need to do to be able to vote in the upcoming election. The state AARP office immediately agreed to pay for the printing and postage and expanded SLTCOP's idea to include voter registration events at large assisted living/nursing homes using the league of women voters and providing coffee and donuts. AARP also offered to do another event with food to explain how people can vote using absentee ballots and will print a brochure for LTC facility staff about how to assist residents with cognitive disabilities to vote.

Residents' Rights Month 2016: My Vote Matters

This year's theme focuses on residents' right to vote and be engaged in the political process. Consumer engagement, including the right to vote, is a cornerstone in our society. Consumers receiving long-term services and supports retain their voting rights no matter where they live or what type of care they receive. Click [here](#) for additional resources and information about Residents' Rights Month.

Participate in Residents' Rights Month activities and show your support of long-term care consumers' voting rights with this year's Residents' Rights Month products! A toolkit includes 25 Resident President posters (plus instructions), two large My Voice, My Vote, My Right posters and 50 My Vote Matters stickers - \$35. Toolkits are available to purchase [here](#).

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LTCO Volunteer Management

Communication Tips for Challenging Discussions

When working with volunteers and supervising paid staff you may encounter performance issues that need to be addressed. It is critical to address problems directly and promptly in order to support the volunteer in improving performance and protect the integrity of your program's services.

Communication tips for addressing challenging situations were included in last year's *Supporting Volunteer LTC Ombudsmen and Minimizing Risk* [webinar](#) and the June 2015 issue of the Ombudsman Outlook ([under Quick Tips](#)). In addition to those tips the Pennsylvania Department of Aging [Volunteer Engagement Toolkit](#) provides "Scripts for Crucial Conversations with Volunteers" to help volunteer managers prepare for challenging discussions in order to ensure it is a "mutually respectful" and productive interaction (Chapter 6: Resourcing and Supervision). The scripts include guides for conversations with volunteers about performance coaching, disciplinary warning, re-assignment, and termination. Examples of scripts for discussing volunteer performance from the toolkit are:

- *"If you have a minute, I'd like to talk with you about a program issue. This is an uncomfortable but necessary part of my job. We value your work here and want you to be successful. I've noticed that you appear to be struggling with [insert description of current performance gap]. [pause to see if they agree or want to explain.]*

- *For your volunteer position, we expect [insert specifics about desired behavior]. What support do you need to meet this expectation? [pause to see if they can arrive at a solution on their own.]*
- *OK. Starting right way, I'd like you to [insert description of desired performance; if it is an attitudinal issue, you must translate it into something that is observable]. I will [insert support that will be provided]. Let's check back on [insert date] to see how you're doing. In the meantime, feel free to check in with me if you have any questions or need additional direction or resources. Sound good?"*

Connect with Your Peers

Join the LTCO Volunteer Management Network listserv to connect with other LTCO that manage volunteers. It is a free, private listserv created to promote discussion about LTCO volunteer management successes, challenges, and best practices. NORC staff facilitates the listserv, shares resources, and responds to questions. The group is only open to staff Ombudsmen that manage volunteer Ombudsmen, not volunteer Ombudsmen, family members, residents, or facility staff. Send us an [email](#) to join and connect with your peers across the country.

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

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Quick Tips!

LTCO programs serve individuals living in nursing homes, assisted living facilities, and some programs serve individuals receiving home and community based services. Despite the differences in the settings and regulations the same fundamental ombudsman principles for individual advocacy apply.

Ombudsmen use the same general methods and techniques to solve complaints on behalf of individual residents in assisted living as they do in their nursing home work. The *Translating Nursing Home Ombudsman Skills to Assisted Living: Something Old, Something New* [resource](#) and [teaching guide](#) reviews the similarities and differences of LTCO advocacy in nursing homes and assisted living facilities and demonstrates how to translate LTCO advocacy strategies such as:

- **Self-advocacy:** Empowering residents and families to take action themselves, including helping a resident or family member take a concern to a resident or family council.
- **Resolution approaches:** Working with the resident/family and others to reach a resolution agreement that is satisfactory to the resident. The LTCO may use negotiation skills, mediation, or other techniques to achieve resolution.
- **Education and promoting best practices:** Sharing information and knowledge that has proven successful in a similar situation.
- **Referral to another agency/entity:** With resident and/or complainant consent, sending the relevant information to an appropriate agency for investigation.
- **Community action:** Working with citizens and organizations in a community , to bring pressure to bear on the facility to correct problems.

- **Legal action:** Connecting the resident to a private attorney or a legal assistance organization. Sometimes, the LTCOP may pursue legal action on behalf of residents.
- **Media:** Informing local newspapers, radio and/or television stations about the problem in the facility and the facility's unresponsiveness. The intent is to generate enough attention to create an incentive for the home to fix the problem.

Differences between Ombudsman Work in Nursing Homes and Assisted Living

While ombudsman work in nursing homes and assisted living facilities clearly have much in common, there are also significant distinctions due to the differences in the settings and regulations. In the absence of federal regulations, regulations differ from state to state and are generally not as comprehensive as nursing home regulations.

- Oversight mechanisms, such as the survey process, are less stringent for assisted living. There may be far fewer residents in an assisted living facility than in a nursing home. Some small assisted living homes may only house 2-3 residents.
- Assisted living facilities may be operated by only one caregiver who may or may not employ staff. As a result, there are fewer professional staff - if any - on hand or available to advise the operator.
- The majority of assisted living facilities that offer private occupancy units are private pay and not Medicaid-certified.
- There is generally a larger percentage of younger residents in small assisted living facilities than in nursing homes. The age, physical, and mental abilities of residents in assisted living differ from the typical nursing home resident.
- A large number of residents in small assisted living homes are involved in community based services, such as senior centers, adult day centers or day treatment centers.
- Admission/discharge criteria vary from state to state and sometimes within a state.

Strategies to address the uniqueness of assisted living

- **Using "advocacy by analogy."** This involves finding a similar situation in another setting and then applying it to the assisted living arena.
- **Applying the "community standard."** This approach consists of convincing an operator to take a particular action because it's the "right thing to do" within the context of the community.
- **Providing education/technical assistance and promoting best practices.** Ombudsmen help operators to identify potential solutions to a problem and may include identifying the resources, information and training to implement those solutions. One way to do this is by sharing "best practices" so providers can learn how their peers were able to successfully address the same issue.
- **Connecting with the community.** LTCO connect with other professionals, such as case managers, home health staff, hospital workers and health department personnel who go into an assisted living facility or come into contact with the residents of a facility. LTCO may visit with residents outside of the assisted living facility when the residents are in community settings, e.g. a senior center, sheltered workshop, or day treatment facility. Residents may talk more freely with

the LTCO about conditions and any problems they might be experiencing.

- **Applying contract provisions.** LTCO review the contract to determine if the problem stems from a failure of the facility to live up to the contractual provisions. **Ensure regular ombudsman presence.** Visitation is very important in assisted living facilities for several reasons. The small size of some homes tends to make residents even more **fearful of retaliation than in nursing homes**. Frequent ombudsman visits can reduce this fear and provide better resident protection.

To read more about translating nursing home strategies to assisted living, click [here](#). To read the teaching guide, click [here](#). Click [here](#) for additional tips and tools for LTCO advocacy in assisted living.

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