



# Ombudsman Outlook: News, Resources, and Tips

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## CMS Issues Revised Nursing Home Regulations

The Centers for Medicare & Medicaid Services (CMS) issued a final rule on September 28, 2016 that revised the requirements that long-term care facilities must meet in order to participate in the Medicare and Medicaid programs. The regulations were effective on November 28, 2016 and will be implemented in three phases. Regulations included in Phase 1 were to be implemented by November 28, 2016, regulations included in Phase 2 must be implemented by November 28, 2017, and regulations included in Phase 3 must be implemented by November 28, 2019 (click [here](#) for the implementation timeframe chart).

CMS released an advance copy of the State Operations Manual (SOM), [Appendix PP -Guidance to Surveyors for Long-Term Care Facilities](#) that incorporates the revised regulations and that must be used for survey on and after November 28, 2016 (review the CMS Survey and Certification 17-07-NH [memo](#) for more information). The interpretative guidance has not been updated, but will be revised in the near future.

Some of these changes impact the operation of Ombudsman programs. For example, the new requirement that facilities must send a copy of all transfer and discharges notices to a “representative of the Office of the State Long-Term Care Ombudsman” [483.15(c)(3)(i)] will directly impact Ombudsman programs and those they serve (see the TA Hot Topic [article](#) below for more information).

NORC created a side-by-side [chart](#) with references to the Ombudsman Program in the revised regulations and related language from the preamble compared to previous regulations. The chart shows which requirements are new and indicates whether the regulations are included in Phase 1 or 2.

Also, Consumer Voice created a new [resource](#) that provides a brief overview of key changes in three sections

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**NORC is on Facebook and Twitter!**



## NORC Featured Resource

**Fact Sheet: Long Term Care Ombudsman Program - What You Must Know**

This fact sheet walks readers through what the long-term care ombudsman program is, what the ombudsman program does

of regulations in Phase 1 (Resident Rights; Abuse, Neglect, and Exploitation; and Admission, Transfer and Discharge Rights).

Additional resources and information regarding the revised regulations will be available in the future, so continue to check our [website](#) for updates and [let us know](#) if you have any questions or information to share.

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## New and Updated NORC Resources

### **NEW!** [Ombudsman References in Revised Federal Nursing Home Regulations](#)

This side-by-side chart includes references to the Long-Term Care Ombudsman Program (LTCOP) in the revised regulations and related language from the preamble compared to current regulations. The revised regulations are effective November 28, 2016 and will be implemented in three phases (regulations in Phase 1 must be implemented by November 28, 2016).

### **NEW!** [Tips for Using the NORC Website](#)

The NORC website is filled with information, resources, news from local and state long-term care ombudsman programs, best practices, and interesting stories to support and inform LTCO across the country. Learn how to better navigate the website with these helpful tips!

### **NEW!** [Fact Sheet: Long-Term Care Ombudsman Program –What You Must Know](#)

This fact sheet walks readers through what the long-term care ombudsman program is, what the ombudsman program does and does not do, links to information on residents' rights, and some helpful FAQs. This fact sheet was developed in partnership with The National Consumer Voice for Quality Long-Term Care and the National Center on Elder Abuse (NCEA).

### **NEW!** [Federal Laws and Regulations Page – Information on the New Nursing Home Regulations](#)

On October 4, 2016, the final regulations for nursing homes participating in the Medicare and/or Medicaid programs were published in the Federal Register. The regulations are effective on November 28, 2016 and will be implemented in three phases. NORC has added a page to our website dedicated to the new Nursing Home Regulations and resources that are available. NORC also added a page with a [chart](#) that shows the implementation timeframes. Additional information regarding the revised regulations will be posted in the coming months.

### **UPDATED!** [NORS Frequently Asked Questions Page](#)

This page contains answers to frequently asked questions regarding the coding and recording of Ombudsman activities. The questions are categorized by the NORS

and does not do, links to information on residents' rights and some helpful FAQs.

Click [here](#) to view the fact sheet.



## Calendar of Events

### **April 23 - 29, 2017**

National Volunteer Week. For more information, click [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](#).

## Want to receive the Ombudsman Outlook directly?

Did you receive this issue of the Ombudsman Outlook

Ombudsman Activities to which they pertain. The answers were developed with input from the Administration on Aging/Administration for Community Living. Three FAQs were added to this page. Two of the new FAQs are about facility coverage, for example, "is the Ombudsman program required to visit nursing homes and board and care facilities quarterly?" The third question is about monitoring/work on laws, regulations, policies and actions.

### **UPDATED! [Part III NORS Training Materials – Slides & Quiz Answers](#)**

The answers to questions #9 and #13 in the NORS Module III Training were revised in October, please be sure to use this version of the training [slides](#) as well as this version of the quiz [answers](#). The quiz was previously updated, but for reference you can find the quiz [here](#).

### **UPDATED! [ACL Updated FAQs About the Long-Term Care Ombudsman Program](#)**

The new questions cover ombudsman authority to resolve complaints about the guardian or other representative of a resident, conflicts of interest of supervisors, intake processes to handle inquiries, appropriateness of people conducting ombudsman program activities, ombudsman program staff with professional licensing requirements, and court orders to disclose ombudsman program information. For more information and resources on the final rule, click [here](#).

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## News from the Network...

### ***Jim McCracken, NJ State Ombudsman, on Volunteer Recruitment***

New Jersey State Ombudsman teams up with NJTV, New Jersey's public television network, to talk about the importance of the long-term care ombudsman program. Watch the video [here](#).

### ***Sherry Culp, KY State Ombudsman, Writes Blog about Domestic Violence & LTC Residents***

Have you ever considered what it must be like to be a survivor of domestic violence, aging, disabled, and living in a nursing home? October was Domestic Violence Awareness Month and Kentucky State Long-Term Care Ombudsman, Sherry Culp, wrote a [blog](#) for Green House 17 about domestic abuse later in life.

### ***Ombudsman Program has Agreements with Colleges for Students to Become Interns for Course Credit (Florida)***

The Florida Long-Term Care Ombudsman has affiliation agreements with five colleges throughout the state that allows students in certain programs to intern with the program. These students complete the same certification training that non-students complete. Once certified these students perform all Ombudsman functions and are monitored/mentored by the District Manager. After they

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.

have completed their internship (usually 120 or 240 hours) the student is required to complete a project based on an issue experienced during the internship. The instructor is then provided with an evaluation of the student's performance.

## **Residents Rights Month Activities – “My Vote Matters”**

### ***Washington, D.C.***

In recognition of Residents' Rights Month in October, Mark Miller, D.C. State Ombudsman, spoke with 'The Senior Zone' host, Shawn Perry about the rights elders should expect when receiving long-term care. The Ombudsman program is part of the Legal Counsel for the Elderly. Interview begins at 6:50 – click [here](#) to listen.

### ***Montana***

The Missoulian in Missoula, Montana wrote an [article](#) highlighting the theme of Residents' Rights Month "My Vote Matters." The article says, "during Residents' Rights Month, Missoula Aging Services will be helping to get the word out about residents' rights and Missoula Aging Services' long-term care ombudsman, available in all Missoula County nursing homes and assisted living facilities for residents, their families and caregivers."

### ***Kentucky***

Several local ombudsmen celebrated Residents' Rights Month 2016 in Kentucky. Katrina Valliant, District Long-Term Care Ombudsman (DLTCO) in Lincoln Trail used drumming as a fun way to chant about resident rights. Sheila Howard, DLTCO in Green River participated in a panel discussion for a college gerontology class where she explained and explored with students how ombudsmen advocate for resident rights. Beth Love, DLTCO in Buffalo Trace helped residents host and coordinate a local candidate forum. Vanda Chambers, Fayette County facility LTC Ombudsman individually consulted with a resident about her rights. Other DLTCOs have also been busy providing Residents' Rights education sessions for residents, families, and facility staff including Tara Little of Big Sandy, Waynne Caudill of FIVCO, Mandy Weston of Lake Cumberland, Bethany Breckel of NKY and Ceila Gutfreund of Purchase. Mayor Troy Rudder of London signed a proclamation designating October 2016 as Residents' Rights Month.

### ***Iowa***

The Iowa State Ombudsman Program put together an e-newsletter with an article explaining how facilities can assist residents when registering to vote and how they can

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encourage them to provide residents with information about upcoming elections. Read the article [here](#).

## **Alaska**

Long-Term Care Ombudsman Program partnered with AARP, League of Women Voters, Disability Law Center (P&A), and the Alaska Division of Elections to share information about residents' rights and voting and provide opportunities to residents living in long-term care facilities to participate in the election process. The following materials were created due to this partnership, visit this [page](#) for more details.

- [Registering to vote brochure](#)
- [How to vote brochure](#)
- [Letter to skilled nursing facilities about voter registration for residents](#)
- [Letter to assisted living homes about voter registration for residents](#)
- [Letter to nursing facilities about voting](#)
- [Letter to assisted living homes about voting](#)

Additional Residents' Rights Month activities can be found [here](#).

*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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## Technical Assistance (TA) Hot Topic

### **Discharge Notices to Ombudsman Programs**

Beginning November 28, 2016, all nursing homes receiving Medicaid or Medicare must send a copy of all discharge notices to a representative of the Office of the State Long-Term Care Ombudsman Program [483.15(c)(3)(i)]. This new requirement is one of many contained in the Requirements for Participation released on September 28, 2016, by the Centers for Medicare & Medicaid Services (CMS).

In response to this new requirement, State Ombudsman programs will need to consider several program management issues and advocacy strategies related to the receipt of all discharge notices, such as:

- How will the program receive these notices?
    - Will they be sent to the State Ombudsman or directly to local representatives?
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- Sent via fax, email, regular mail? Will there be a separate email address for discharge notices?
- How will this process be shared with nursing homes and the state survey agency?
- What will the program do with these notices?
  - Who will review them and determine when action is needed?
  - How will notices, and your program's response, be prioritized?
  - How will the State Ombudsman determine when the program will be proactive and contact the resident to see if he/she wants assistance based on the notice received?
  - What will the program do, if anything, if the notice is incomplete or incorrect?
- How will the program track these notices to determine trends and potential issues for systems advocacy (e.g., reasons for discharge, facilities in a specific region/city sending a large number of discharges, facilities in the same chain sending similar discharge notices, etc.)?

The revised regulations were recently incorporated into the State Operations Manual (SOM), [Appendix PP -Guidance to Surveyors for Long-Term Care Facilities](#). The provisions regarding transfer/discharge notices are found in F-tag 203 below, the new language is in **red**.

Resources and examples of Ombudsman program advocacy related to discharges is available on the NORC [website](#).

F203

§483.15(c)(3) Notice before transfer.

Before a facility transfers or discharges a resident, the facility must—

(i) Notify the resident and the resident's representative(s) of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand. **The facility must send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.**

(ii) Record the reasons **for the transfer or discharge** in the resident's **medical** record in **accordance with paragraph (c)(2) of this section**; and

(iii) Include in the notice the items described in paragraph **(c)(5)** of this section.

§483.15(c)(4) Timing of the notice.

(i) Except as specified in paragraphs (c)(4)(ii) and (c)(8) of this section, the notice of transfer or discharge required under this section must be made by the facility at least 30 days before the resident is transferred or discharged.

(ii) Notice must be made as soon as practicable before transfer or discharge when—

(A) The safety of individuals in the facility would be endangered under paragraph (c)(1)(ii)(C) of this section;

(B) The health of individuals in the facility would be endangered, under paragraph (c)(1)(ii)(D) of this section;

(C) The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (c)(1)(ii)(B) of this section;

(D) An immediate transfer or discharge is required by the resident's urgent medical needs, under paragraph (c)(1)(ii)(A) of this section; or

(E) A resident has not resided in the facility for 30 days.

§483.15(c)(5) Contents of the notice.

The written notice specified in paragraph (b)(3) of this section must include the following:

(i) The reason for transfer or discharge;

(ii) The effective date of transfer or discharge;

(iii) The location to which the resident is transferred or discharged;

(iv) A statement of the resident's appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request;

(v) The name, address (mailing and email) and telephone number of the Office of the State Long-Term Care Ombudsman;

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(vi) For nursing facility residents with **intellectual and developmental disabilities or related disabilities**, the mailing **and email** address and telephone number of the agency responsible for the protection and advocacy of individuals **with developmental disabilities** established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Pub. L. 106-402, codified at 42 U.S.C. 15001 et seq.); and

(vii) For nursing facility residents **with a mental disorder or related disabilities**, the mailing **and email** address and telephone number of the agency responsible for the protection and advocacy of individuals **with a mental disorder** established under the Protection and Advocacy for Mentally Ill Individuals Act.

#### §483.15 (c)(6) Changes to the notice.

If the information in the notice changes prior to effecting the transfer or discharge, the facility must update the recipients of the notice as soon as practicable once the updated information becomes available.

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## LTCO Volunteer Management

### ***Top Characteristics of the Best Volunteers***

Ombudsman volunteer managers across the country were recently asked to list the top characteristics of their best volunteers. Their responses are listed below. These traits describe someone who would likely excel at being an advocate for residents, resolving complaints, and building relationships.

While your goal may be to have enough volunteers to enhance access to your program and increase facility visits, due to the unique role and responsibilities of Ombudsman program representatives ensuring quality rather than quantity is critical. There are many topics and skills included in the training of volunteers; however, most of the characteristics in the list cannot be taught although some may be enhanced with training and practice. When you are interviewing potential volunteers, do you see some of the characteristics in the list? If not, perhaps the individual is not a good fit for the ombudsman role. It is better to make that determination up front rather than having to let someone go later in response to issues that arise.

### **Top Characteristics**

- Ability to make friends (helps build a cohesive group)
  - Caring
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- Committed to the mission
- Compassionate
- Curious
- Creative/thoughtful problem solvers
- Dedication
- Dependability
- Desire to learn/enhance their skills
- Eager to help others
- Empathetic
- Empowered to help
- Ethical
- Good communicator
- Good listener
- Inquisitive
- Interested
- Non-judgmental
- Passionate
- Patient
- Persistent, persuasive
- Relates well
- Reliable
- Responsible
- Seeks support
- Takes initiative
- Trusting
- Understanding

(And, just for fun, how many of these characteristics describe YOU?)

### **NORC Resources**

There are resources on the NORC [website](#) to assist you in updating your applications, as well as examples of screening tools and interview questions, that can help identify these important characteristics. Several webinars and other materials on the website also talk about the importance of screening and finding the right match for your program ([Supporting Volunteer Ombudsmen and Minimizing Risk](#) and [Modernizing Your Program to Attract and Retain Today's Volunteer](#)).

### **Additional Resources**

“Ten Time-Tested Volunteers Recruitment Tips that Still Work”, by Susan J. Ellis, on the Energize, Inc. [website](#).

“Volunteer Screening: The Interview”, by Tom Klein, on the Verified Volunteers [website](#).

Not on the Volunteer Management Listserv? Contact Carol Scott ([cscott@theconsumervoice.org](mailto:cscott@theconsumervoice.org)) with your name, title, and Ombudsman program. This listserv is only for people who manage/train volunteers.

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*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!

### **Training Videos**

Training for program representatives is critical for maintaining an effective long-term care ombudsman program. Ombudsman programs have asked NORC for available training videos and materials and the list below includes several of the most recent videos and DVDs NORC has either produced or collected. If your program has a video to share, please [let us know](#).

#### **Long-Term Care Ombudsman Casework: Advocacy and Communication Skills**

The purpose of this video is to review LTCO complaint investigation procedures and demonstrate resident-directed advocacy and effective communication skills during the complaint process that are applicable to all aspects of LTCO work. This video is intended to be used with the accompanying trainee guide during classroom training for new LTCO. The [trainer guide](#), [trainee guide](#), [trainer guide with answers](#), and link to the YouTube [version](#) of the video are available for free on this [page](#). You can purchase this video and guide [here](#).

#### **Free Video for Ombudsman Program Promotion – What is a Long-Term Care Ombudsman**

The Texas Ombudsman Program produced this video for you to use in your own programs. The video gives a short 3 minute overview of the purpose of the ombudsman program and the benefit families can gain if they call their ombudsman when they suspect a problem. The end of the video directs people to visit the NORC website so they can visit our Locate an Ombudsman page and find the contact information for their local program. Watch the video [here](#).

#### **Strength in Numbers: The Importance of Nursing Home Family Councils (DVD)**

This DVD provides an overview of the focus, techniques, and strategies of effective family council development. The DVD contains a companion booklet – Program Leader's Guide with discussion guidance, additional resources, fact sheets, and other information. This DVD can be purchased [here](#).

#### **Voices Speak Out Against Retaliation**

Connecticut's Long-Term Care Ombudsman Program (LTCOP) initiated a statewide work group and also commissioned the University of Connecticut Health Center to study fear of retaliation in skilled nursing facilities. That study concluded that Retaliation and the Fear of Retaliation

is a reality in any supportive housing situation. Retaliation can be either egregious or subtle; many forms of retaliation may not even be recognized by residents or staff. Therefore, as one part of a comprehensive awareness initiative, LTCOP designed the *Voices Speak Out Against Retaliation* training video to acknowledge that Fear of Retaliation is a reality for individuals living in skill nursing facilities. Click [here](#) to watch the video and download the resources.

**NORC also has several other videos which can be viewed [here](#).**

- Advocates for Residents Rights (YouTube version)The
- Thin Edge of Dignity by Dick Weinman
- Put a STOP to Poor Care – Advocating for Quality Care

**Other DVDs can be purchased in the Consumer Voice [store](#).**

- Giving Voice to Quality
- Dispute Resolution Skills for Long-Term Care Ombudsmen
- Basic Complaint Handling Skills for Ombudsmen
- Advocates for Residents' Rights (DVD version)

If you have trouble finding training materials on a certain topic, email [ombudcenter@theconsumervoice.org](mailto:ombudcenter@theconsumervoice.org).

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