Office of Ombudsman for Long-Term Care

2022 Annual Report

Highlights from Federal Fiscal Year (FY) 2022

October 1, 2021 — September 30, 2022
A Message from Ombudsman Cheryl Hennen

Dear Citizens of Minnesota:

I am honored to present the 2022 Annual Report of the Minnesota Office of Ombudsman for Long-Term Care (OOLTC). This report highlights: program success, problems experienced by consumers of long-term care services and supports, and defines systemic issues and recommendations for improving quality of life for those we serve.

The Office of Ombudsman for Long-Term Care advocates for people in: nursing homes, board and care homes, assisted living settings, Veterans Homes, Medicare beneficiaries who receive in-home home care services, Hospice, Adult Foster Homes, and Department of Housing and Urban Development (HUD) exempt settings.

We address a variety of complaints received by or on behalf of people receiving long-term care services and supports regarding the quality of life and quality of care. We also provide comprehensive support and training to resident and family councils. People frequently receive information and support about long-term care resources, referrals, and information.

As ombudsmen we provide a regular presence in long-term care settings. This serves to prevent problems and advocate for change at a policy level to address systemic problems.

During the reporting period, our office received 6,660 complaints. This is an increase of 55% from Fiscal Year 2018. Federal Fiscal Year 2022 complaints reveal trends in long-term care we must pay attention to. One large issue is the same issue for more than two decades: shortage of trained staff who can care for a growing population of residents who deserve quality care. Another is focus on Person-Centered Care. Ultimately, the goal of person-centered care is to keep central focus on the person receiving care, supporting their dignity and individual choices.

Gratitude and appreciation are extended to our dedicated Certified Volunteer Ombudsmen (COV). In Fiscal Year 2022 the COVs collectively provided 1,034 hours of service. Since the Long-Term Care Ombudsman program’s inception COVs have played an integral role in fulfilling the program’s mandate to advocate on behalf of residents of long-term care facilities.

The Office of Ombudsman for Long-Term Care Strategic Plan 2020-2023 includes intentional focus on equity and inclusion in our work. Over the last fiscal year ombudsman staff and COVs have received equity and inclusion training. Our office includes an Equity & Inclusion Outreach Subcommittee. The subcommittee is active and meets on a regular basis.

Thank you for reading through the Fiscal Year 2022 Annual Report. I express my gratitude and appreciation to; ombudsmen staff and COVs, residents, caregivers, the Executive Director of the MN Board on Aging (MBA), members of the MBA, collaboration with internal and external stakeholders, legislators, and community members.

Yours Sincerely,

[Signature]

Cheryl Hennen
Office of Ombudsman for Long-Term Care Overview

The office’s mission is to empower, educate, and advocate alongside Minnesotans who are receiving long-term care services and supports to ensure their rights are upheld.

Who Makes Complaints and Referrals?

Complaints come from many sources, even from facility staff. Facility staff calls to the office rose 10% compared to the prior fiscal year.

Residents themselves are the most common source of complaints. Concerns are reported by families, friends, guardians, other agencies, facility staff, and others.
How Does an Ombudsman Provide Services?

Ombudsmen provide person-centered and trauma-informed advocacy services. Ombudsmen obtain consent from residents and are directed by the resident.

- **Complainant** - A complainant is someone who reports a complaint. Anyone can call the Office of Ombudsman for Long-Term Care with a complaint, though the office serves the client or resident receiving long-term care services and must take their direction.

- **Consent** - Consent is agreement or permission expressed through affirmative, voluntary words or actions. An ombudsman obtains consent from the resident or client.

- **Investigation** - An ombudsman investigates concerns to determine root causes, explore solutions, and help identify options. The Office of Ombudsman for Long-Term Care cannot issue citations or fine a facility.

- **Trauma-Informed Care** - An approach that is mindful of signs, symptoms, and impact of trauma and integrates knowledge into policies, procedures and practices that avoid re-traumatization.

- **Person-Centered Care** - An approach that integrates the resident or client’s goals, values, preferences and needs.

- **Self-Advocacy** - An ombudsman encourages self-advocacy, which is the act of using one’s own voice and representing one’s self in addressing views, concerns, or requests.

A Look at the Ombudsman Case Process

- **REQUEST** - A complainant (resident, family, facility staff) asks for help.

- **CONSENT** - The regional ombudsman meets with the resident, learns about their concerns and asks for consent to investigate and act.

- **INVESTIGATION** - The regional ombudsman reviews records, conducts interviews and makes observations.

- **RESOLUTION** - The regional ombudsman works to solve the problem in the way the resident desires (care conferences, meetings with facility staff, identifying unmet needs, providing information/education, etc.)

- **CLOSING** - The case is closed when the resident directs us to stop our work.

- **THE RESIDENT IS THE CLIENT** - The regional ombudsman meets with the resident, learns about their concerns and asks for consent to investigate and act.
Fiscal Year 2022 Highlights
This year was particularly busy with onboarding new staff, inter-department collaboration, staff training and engagement with special emphasis on equity and inclusion, and expanding our communications.

Training and Development
Many training and development activities occurred, including:
- Additional training modules were completed by Ombudsman and Certified Ombudsman Volunteers as mandated by the Administration for Community Living.
- First in-person training after COVID occurred in June 2022, including participation at World Elder Abuse Awareness Day Conference.
- Equity and inclusion book clubs and video clubs were held.
- Onboarded ten new staff members.
- Attended additional trainings on topics such as ethics, trauma-informed care, dementia care, equity and inclusion, facility licensure and more.
- Ombudsman staff completed over 1,500 training hours in Fiscal Year 2022.

NEW Website!
A new website was launched to expand awareness of long-term care ombudsman services and long-term care resources. Check out mn.gov/ooltc/ for information, resources, announcements and more!
More Fiscal Year 2022 Highlights

- The COVID-19 pandemic and related infection control issues continued to be a concern throughout Federal Fiscal Year 2022. By using personal protective equipment (PPE) and implementing knowledge of CMS requirements, regional ombudsmen and ombudsman volunteers were able to make thousands of visits to residents.

- To help the office better understand who is currently being served, demographic data is being collected about race and gender identity in the office’s database. One of the goals of collecting this information is to determine who is being underserved so that outreach efforts can be targeted to specific communities in need.

- The office participated in the Home Care and Assisted Living Advisory Council where over $100,000 in small grants were awarded to assisted living and home care providers for a social connection grant process in winter 2021-2022. These grants funded iPads, boosted WiFi, and other technological ways to connect residents with their families and friends.

- The office provided comments on proposed amendments to rules governing veterans homes. The comments encouraged improvements to resident choices in care and planning as well as better alignment with federal nursing home discharge protections.

Ombudsman Services

Regional ombudsmen help residents during calls and visits, and support resident and family councils.

- Average Intake Calls Per Month: 906
- Average Visits to Residents Per Month: 332
- Average Activities with Resident & Family Councils Per Month: Over 33
Overall Statistics

Complaints received by the Office of Ombudsman for Long-Term Care have increased and are becoming more complex over time.

The statistics on this page show the nature and quantity of complaints, the workload of regional ombudsman, and the increasing trend of quality of care concerns.

- 6,660 complaints were received in Fiscal Year 2022, up 55% from Fiscal Year 2018.
- The most common complaint was about quality of care. Care complaints were up 26% from last year, and were up 97% from Fiscal Year 2019.
- The office assisted with 572 complaints about discharge or eviction in assisted living facilities and nursing homes. This was the largest complaint sub-type.

Ombudsman Services

Regional ombudsmen perform many activities across Minnesota to serve thousands of residents who receive long-term care services and supports.
Touching Lives

People who reside in or receive services from nursing homes, board and care homes, assisted living settings, veterans homes, hospital swing beds, hospice, licensed home care, and a variety of other settings can receive free services from the Office of Ombudsman for Long-Term Care. This includes:

1) Anyone seeking information about long-term care services
2) Individuals 18+ who are a current, prospective, or former resident of a long-term care facility
3) Individuals receiving licensed home care services
4) Medicare beneficiaries with hospital discharge concerns
5) Long-term care facility staff members and administrators with resident-related concerns

The Office of Ombudsman for Long-Term Care is a program of the Minnesota Board on Aging. It is administratively housed in the Minnesota Department of Human Services.

Funding comes from the State of Minnesota, the Older Americans Act (OAA) and other sources.
Advocacy for Residents in Nursing Homes

The staffing crisis, loneliness from circumstances linked to the pandemic, and care issues are common concerns that residents in nursing homes report to the ombudsman program.

- In Fiscal Year 2022, 816 residents attended self-advocacy training at 132 nursing homes around the state. Self-advocacy training helps residents understand how to raise concerns, and use their voices to affect change.
- 217 nursing home staff attended self-advocacy trainings.
- Regional ombudsman establish regular presence in nursing homes. Most facilities are visited at least quarterly, but due to capacity issues, 30% were not visited every quarter.
- Regional ombudsman provide support and advocacy for residents when a nursing home is closing. For example, a skilled nursing facility contacted the office as required by law when it began its closure process. The regional ombudsman participated in closure planning meetings, made sure that resident choices were included in the closing notice letter, and was present at the meetings when the closure was announced to residents. The regional ombudsman worked with individual residents who had some concerns during the closure and continued to help at the facilities where the residents relocated. Providing support and education about options helps ensure a smooth transition for residents.

Case Example

A resident of a skilled nursing facility wanted to transfer without the use of a hoyer lift as she had a traumatic experience with this equipment. The staff refused to help her get to the toilet without the lift, so the resident was expected to use the incontinence pad in bed for toileting. She did not like that. The regional ombudsman was able to advocate for the resident to safely transfer herself to a commode and for the resident to use a shower chair instead of receiving bed baths. She feels cleaner now, and her dignity was restored.
More Information About Complaints

Complaints across all categories rose in Fiscal Year 2022, with specific emphasis on care concerns.

- Of the complaints in the category of abuse, neglect or exploitation, the vast majority were allegations of neglect.
- One of the more common complaints received by the office has been about long call light wait times. “It seems like the standard call light response time used to be about 10 minutes. We see that time increasing. It seems like 30-40 minutes is now common,” said one regional ombudsman.
- The office recorded 422 complaints where residents cited staffing issues as the source of their concerns.
- Commonly reported care issues included unattended symptoms, infection control issues, medication concerns, lack of access to baths and showers, issues with care planning, and concerns about accidents and falls.
- Other concerns include dietary issues, lack of access to rehab or other services, insufficient activity programs, concerns about housekeeping services, and issues with dignity and rights.
Assisted Living Licensure established regulatory standards governing the provision of housing and services in assisted living facilities and assisted living facilities with dementia care to help ensure the health, safety, well-being and appropriate treatment of residents.

Fiscal Year 2022 aligns with the first full year of Assisted Living Licensure in Minnesota. Just over 2,000 settings became Licensed Assisted Living or Licensed Assisted Living with Dementia Care facilities in August of 2021. The law provides extra protections in these areas:

- The Assisted Living contract is a single contract that spells out what services are offered.
- Food must be prepared and served in compliance with the MN Food code.
- Providers are required to support resident and family councils.
- The law includes contract termination protections for residents, including termination appeal rights. Ombudsman services during terminations and appeals are shown below.

If an assisted living facility wants to terminate a resident’s contract, first they must conduct a pre-termination meeting.

An Ombudsman can be present at the meeting to support the resident and the resolution process.

If an assisted living facility issues an official termination notice, a resident has appeal rights.

An Ombudsman can help a resident try to resolve the basis of the termination notice, advise them of their rights, including the right to appeal the termination.

If a resident wants to appeal their termination, the resident has the right to stay until a judge decides the case.

An Ombudsman can refer a resident for legal help with the appeal, or can assist the resident to file and prepare for the appeal.

A judge will hold a hearing.

An Ombudsman can attend the hearing and advocate alongside the resident.

Regional ombudsmen help residents facing contract terminations to resolve concerns, understand their rights, and appeal terminations when the resident desires.
Advocacy for Residents in Assisted Living

Residents who live in assisted living receive a variety of services and supports. Sometimes it helps to have an advocate there to help make sure needs are met and problems are resolved.

Case Example
A person living in an assisted living facility in a small town in rural Minnesota shared her medications with another resident. When the staff discovered this, they asked the resident to meet with them to have a “pre-termination meeting” because they thought the resident should move out. Present at the meeting were the resident, facility leadership, the home and community-based services waiver case manager, and the regional ombudsman.

The ombudsman helped the resident talk about this mistake and what was important to her. The resident admitted that she made a mistake and apologized. The facility educated the resident on the risks and potential consequences of sharing medications. A discussion was held about ways to support the resident going forward. The facility agreed to provide medication management, and the resident agreed not to share medications again. The facility agreed not to proceed with an official termination notice.

At the time of this writing, no further concerns have been reported. The ombudsman helped advocate for this resident and she remains stably housed in the residential care community she chose as her home.

Assisted Living Facts

- 52% of Minnesota assisted living facilities were visited by regional ombudsmen in Fiscal Year 2022.
- Over 100 assisted living closure plans were reviewed in Fiscal Year 2022 by ombudsmen to ensure the new facility closure standards and resident protections were being upheld.
- Ombudsman staff and the Department of Health Regulation Division staff met at least weekly throughout Fiscal Year 2022 about closures and other issues.
- An assisted living facility can range from a single family home providing care to a few residents to a large facility with many units.
Certified Ombudsman Volunteers are an invaluable part of the Office of Ombudsman for Long-Term Care team.

Training and development activities included:

- Volunteers began meeting in person bimonthly. This resumed in September of 2022, for the first time since COVID-19 halted in-person meetings.
- Training on post-pandemic re-entry policies and procedures occurred. This included infection control and personal protective equipment (PPE) training.
- Volunteers learned about resident councils, how to work on cases and resolve complaints, residents rights, how to provide information and assistance, how to encourage self-advocacy, how to start conversations with new residents, and how to document their work.
- Volunteers attended the World Elder Abuse Awareness Day conference on June 15, 2022.
- LGBTQ Pride pins were provided to volunteers to wear in their assigned facilities if they so choose as a symbol of the message, “you are safe with me.”

Additional Recruitment Activities Included:

- Flyers and brochures were rewritten, redesigned, and distributed, pictured at left.
- Recruitment posters were hung across Minnesota in coffee shops, places of worship, libraries, etc.
Volunteer Case Spotlight #1
A volunteer worked with a resident for four months in 2022. The resident had a stroke and injured her shoulder when staff moved her incorrectly. The resident reported there had not been communication with her about her injury and care plan. The volunteer immediately spoke to the director of nursing to facilitate communication with the resident.

During the volunteer’s next visit, the resident told her about a hip injury that occurred when staff moved her, so the volunteer immediately spoke to the director of nursing about the need for staff training to avoid further injury. She also advocated for an x-ray of the hip, and checked to make sure that physical therapy was initiated after the shoulder injury. Further visits involved advocating for a bed bath for the resident to protect her injured hip, and assisting the resident to identify which staff had been involved in her injury and work with the nurse manager to ensure there were no further issues with that staff person.

The visits over the next three months involved making sure the resident was receiving physical therapy, bed baths and pain monitoring as well as ensuring that no further injury occurred. This volunteer is known for providing quality and detail-oriented advocacy.

Volunteer Case Spotlight #2
A long-term care facility resident had been submitting complaints to his care facility concerning inadequate care after a surgical procedure. The resident was in pain, but pain management was not provided.

When the resident was told that he required a second surgery, he reached out to the Office of Ombudsman for Long-Term Care. Because of his original concerns, and the fact that they were not addressed by his facility, the resident was fearful about having a second operation. The resident was connected to an ombudsman volunteer who worked with the regional ombudsman and the resident to ensure that this resident could go into surgery knowing that he would be cared for after the procedure. The volunteer was instrumental in coordinating a care conference with the facility and the resident.

Based on the resident’s complaints, the facility revised their internal complaint handling process and their policy related to surgical after-care. The resident had the operation and was well cared for after his surgery. The volunteer provided exemplary advocacy by helping the resident achieve his goals, including moving to a less restrictive environment!
Legislative Advocacy

The Office of Ombudsman for Long-Term Care works not only with individual cases, but also is active at the Minnesota legislature to ensure laws and regulations affecting long-term care consumers have robust resident rights and access to person-centered choices.

Often the Office of Ombudsman for Long-Term Care is working with consumer and provider stakeholders to discuss issues and persuade regulators and legislators that a law change would benefit long-term care recipients. Sometimes the work is more behind the scenes with partners such as the Minnesota Department of Health and the Minnesota Department of Human Services. In all advocacy arenas the office uses the collective experience of casework with clients around the state to highlight examples of problems clients face and to advocate for changes. Here are a few examples of legislative and systemic activity in Fiscal Year 2022:

- The office opposed some changes to the Assisted Living Licensure Law proposed in the spring 2022 legislative session that would have weakened resident consumer protection standards and direct-care staff training, which did not become law.

- Residents living in long-term care facilities suffered extreme loneliness and isolation during the COVID-19 pandemic when family and friends were not allowed to visit them in their long-term care facilities. The office drafted proposed legislation that would have enshrined the right of residents to have essential caregivers be able to enter the facility in this and future public health crises. Efforts were made to meet with stakeholders to come to agreement but ultimately the bill was not ready in time for the legislative session and was tabled.

- Deputy Ombudsman Aisha Elmquist was a guest on a Minnesota Public Radio hour-long discussion about the quality, cost, and future of long-term care in Minnesota.

- The office was an active member of a Customized Living Exempt Settings stakeholder workgroup throughout spring of 2022, providing feedback and expressing concern for unequal rights and unequal consumer protections for HUD subsidized housing settings. So far, HUD subsidized housing settings with services have not been required to apply for assisted living licensure.

- The office provided feedback on the CMS-1765-P Rule, which included comments about the importance of establishing staffing requirements in long-term care facilities.
Key Legislative Recommendations:

There are key issues facing the long-term care system as observed by the Office of Ombudsman for Long-Term Care in its casework and other advocacy efforts. These issues are barriers to Minnesota’s long-term care recipients receiving the best care and optimum choice of care statewide.

- **Consumer protections need to be preserved and strengthened in assisted living facilities.** The office has seen huge improvements for residents living in assisted living settings. Their rights to have resident and family councils, rights to clear contract terms, and their protections against indiscriminate contract termination have been beneficial for residents. The office is actively involved in discussions to preserve these resident rights and choices across assisted living settings. The office will also continue to advocate for expanding assisted living licensure protections to buildings with HUD funding (currently not required).

- **Staffing shortages continued to worsen through Fiscal Year 2022 and care complaints are increasing.** The office supports efforts to establish minimum staffing requirements. Increased transparency of facility ownership and finances are a part of the solution.

- **Resident choice needs to be protected.** Nursing homes and assisted living facilities have had a variety of quick closures that do not follow statutory protections for residents. The office is working with residents and the Minnesota Department of Health to monitor and protect resident relocation choice during closures and license revocations.

- **More funding is necessary to improve access for individuals requesting assistance from the Office of Ombudsman for Long-Term Care.** Complaints are increasingly complex. Residents care concerns are increasing. The Office of Ombudsman for Long-Term Care partners with the Department of Health and Department of Human Services to share information in licensing and complaint surveys. However, there are just not enough staff to have a strong regular presence in all of the state’s nursing homes, assisted livings, and other long-term care settings. The office works hard to meet the needs of long-term care recipients statewide. But more OOLTC staff are needed to provide the high quality of service for everyone aging into long-term care services.
Regional Ombudsman Coverage as of September 2022

Staff travel statewide to meet in person with Minnesotans receiving long-term care services.

Statewide
These maps show the regions covered by individual regional ombudsmen. These staff develop strong ties to the residents, services, and facility staff in the regions they serve. Two Regional Ombudsman Supervisors were added to help support the work of regional ombudsman throughout the state.

Metro Area
Ombudsmen working in the metro area have shorter driving times, so they are assigned higher bed counts than staff working in greater Minnesota. Still, regional ombudsman can be overwhelmed with complex casework at some facilities across the region.
# Staff Directory as of September 30, 2022

## Central Office Staff

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<tr>
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<th>Central Office Staff</th>
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<tbody>
<tr>
<td>Cheryl Hennen</td>
<td>Aisha Elmquist</td>
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<tr>
<td>State Long-Term Care Ombudsman</td>
<td>Genevieve Gaboriault</td>
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<td>Deputy Ombudsmen</td>
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<tr>
<td>Dana Manteufel</td>
<td>Sally Richter</td>
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<td>Website and Communications Specialist</td>
<td>Data Analyst</td>
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<td>Sam Chacon</td>
<td>Kristey Vang-Lee*</td>
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<td>Notice and Data Specialist</td>
<td>Intake Specialist</td>
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<td>Parichay Rudina</td>
<td>Ombudsman Specialist – Legislative VACANT</td>
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<td>Kiessa Webster</td>
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<td>Ombudsman Specialists</td>
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<tr>
<td>Cheryl Hennen</td>
<td>Marie Kessler</td>
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<td>State Long-Term Care Ombudsman</td>
<td>COV Coordinator</td>
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## Certified Ombudsman Volunteers

| Gloria Alexander   | Larry Clausen                                                                     |
| Hennepin County    | Hennepin County                                                                    |
| Gary Hennen        | Jane Kill                                                                         |
| Stearns County     | Douglas County                                                                     |
| Ronna Locketz      | Pam Maurelli                                                                       |
| Hennepin County    | Anoka County                                                                       |
| Elizabeth Spohr    | Pat McCormick                                                                      |
| Swift County       | Crow Wing County                                                                   |
| Cathy Burt         | Betty Clark                                                                        |
| Wabasha County     | Clay County                                                                        |
| Andrea Hepola      | Ruth Steffensen                                                                    |
| St. Louis County   | Olmsted County                                                                     |
|                     |                                                                                   |

* Indicates staff who joined the OOLTC in FY 2022

| Jo Hennen           | Pat Loban                                                                         |
| Stearns County      | Crow Wing County                                                                   |
| Fred Simon          | Scott County                                                                      |
| Barb Spears         | Ramsey County                                                                     |
| Rose Hansmeyer      | Dakota County                                                                      |
| Pat Westman         | Roseau County                                                                      |

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# Regional Ombudsmen

Long-Term Care Ombudsmen are assigned to regions across the state. They are familiar with their communities, and are located regionally so they can advocate alongside those they serve.

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<tr>
<th>Region</th>
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<tr>
<td>Christopher Bonander</td>
<td>Jennifer Rogers*</td>
<td>North Metro</td>
<td>Amanda Caillier</td>
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<td>Patricia Dominguez-Mejia</td>
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Report published on April 20, 2023. This annual report covers OOLTC program activities during the Federal Fiscal Year 2022 which runs October 1, 2021 through September 30, 2022. This document was prepared by Deputy Ombudsman Genevieve Gaboriault and Policy Specialist Kiessa Webster with submissions and/or editing help from State Long Term Care Ombudsman Cheryl Hennen, Deputy Ombudsman Aisha Elmquist, and staff members Marie Kessler, Dana Manteufel, Parichay Rudina, and Deb Vizecky. Best efforts were made for accuracy. Kindly contact the OOLTC intake line to request additional printed copies of this report.