



## Annual Report 2016

**Federal Fiscal Year 2015: October 1, 2015 – September 30, 2016**

*Prepared by: Penny Clark, State Long-Term Care Ombudsman*

The Long-Term Care Ombudsman Program serves 16,615+ people in Nursing Homes and 12,348+ in Assisted Living Facilities through:

- The Office of the State Long-Term Care Ombudsman at the Nebraska Department of Health & Human Services with a State Ombudsman and two Regional Ombudsmen
- 4 Local Programs (2 FTEs) located in the Area Agencies on Aging
- 60+ volunteers contributing \$90,342 worth of time

**In FY16, the Long-Term Care Ombudsman Program provided:**

- 1,961+ Facility Visits
- 698 Complaints addressed
- 2,261 Consultations to individuals
- 1,583 Consultations to facilities
- 46 Community education sessions
- 74 Trainings for facility staff
- 150 Meetings with resident councils
- 47 Participation in long-term care facility surveys

**492 cases received from:**

- Residents – 242
- Relative/Friend – 84
- Facility/Staff – 126
- Anonymous – 25
- Other, nonrelative, guardian, bankers, clergy, public officials, other agencies - 15

**Most frequent complaints in Nursing Homes and Assisted Living Facilities:**

1. Failure to respond to requests for assistance.
2. Exercise preference/choice and/or civil/religious rights, individual's right to smoke.
3. Personal hygiene, includes nail care & oral hygiene, and adequacy of dressing & grooming.
4. Medications-administration, organization.
5. Dignity, respect – staff attitudes.
6. Resident conflict, including roommates.
7. Discharge/eviction-planning, notice, procedure, implementation, abandonment.
8. Personal property lost, stolen, used by others, destroyed, withheld from resident.
9. Family conflict; interference.
10. Food service – quantity, quality, variation, choice, condiments, utensils menu.

*The Office of the State Long-Term Care Ombudsman is independent in its representation of the interests of long-term care facility residents, and acts without interference from the Nebraska Department of Health & Human Services, or any other government entity to carry out the Ombudsman duties listed in the Older Americans Act.*

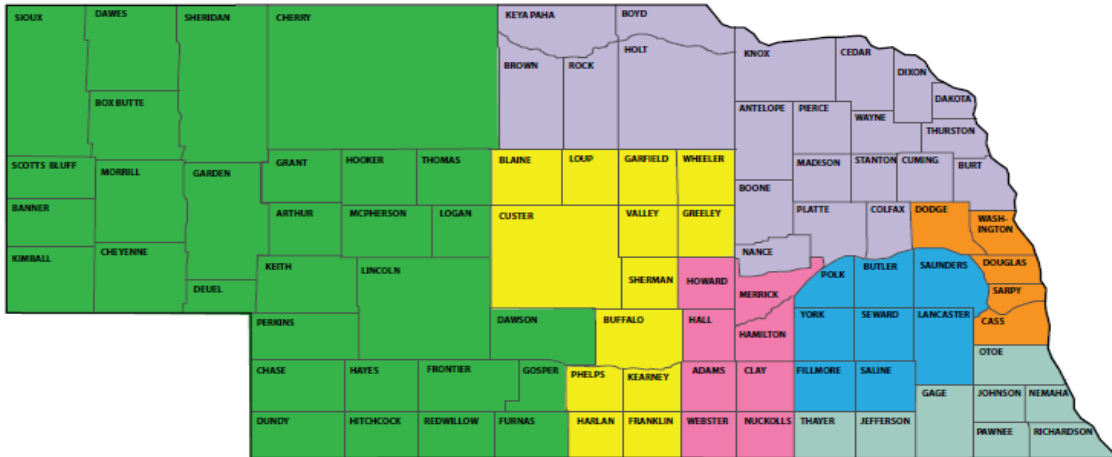
# Office of the State Long-Term Care Ombudsman

**Penny Clark**  
 State Long-Term Care Ombudsman  
**C.J. Roberts**  
 Regional Long-Term Care Ombudsman  
 Karen Miller  
 Regional Long-Term Care Ombudsman

## Nebraska Long-Term Care Ombudsman Program Nebraska Department of Health and Human Services

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## **Mission and Structure**

### **Mission**

The mission of the Nebraska Office of the State Long-Term Care Ombudsman is to empower, and enhance the lives of residents in long-term care facilities by seeking resolution of issues and advocating for residents' rights.

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

### **Structure**

The Office of the State Long-Term Care Ombudsman consists of the state long-term care ombudsman; two regional long-term care ombudsmen, local long-term care ombudsmen and volunteers. To assist in fulfilling the duties outlined by law, the state long-term care ombudsman has designated four local long-term care ombudsmen to serve residents in specific areas of the state. These local long-term care ombudsmen recruit, train and monitor certified volunteer long-term care ombudsmen.

## **Authority and Mandates**

### **Authority**

The Long-Term Care Ombudsman program is authorized by the federal Older Americans Act, 45 CFR Parts 1321, 1324 and the Nebraska Administrative Code. The Office of the State Long-Term Care Ombudsman operates as an independent entity within the Nebraska Department of Health & Human Services and advocates for residents of long-term care facilities.

### **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 in protecting their health, safety, welfare and rights;
- Inform residents about means of obtaining services offered by providers or agencies;
- Ensure that residents have regular and timely access to the services provided through the Office and that residents 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;
- 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;
- 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 Nebraska;
- Annually report on the activities of the Office and make recommendations for improving the health, safety, welfare and rights of residents of long-term care facilities;
- Participate in inquiries, meetings or studies that may lead to improvements in the health, safety, welfare and rights of residents;
- Recruit, train, educate, support and monitor volunteers associated with the Office;
- Coordinate ombudsman services with the protection and safety 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 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 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 are impacted; or educating residents, family, providers, policymakers and the general public on issues of concern to individuals residing in long-term care facilities.

### **Cases and Complaints**

The Long-Term Care Ombudsman’s Office is mandated to identify, investigate and resolve complaints made by or on behalf of resident 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.

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

<b>Complaint Category</b>	<b>Issues Addressed through this Category</b>
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</li> </ul>
Resident 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>
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## 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; how to advocate on behalf of or empower residents; and various subject matter topics, including powers of attorney, guardianship, conservatorship, visitation, admissions, discharges and evictions from long-term care facilities.

## 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; the role of the 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.

## Other

The Long-Term Care Ombudsman’s Office participates in federal, state and local efforts to ensure the rights of and issues impacting residents in long-term care facilities are communicated. 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, as well as work toward resolution of these very issues.

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

- Developing and implementing program protocols 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 with long-term care facilities;

- Developing and implementing policies and procedures in relation to the volunteer Ombudsman Program;
- Administering a checklist to nursing facilities on the rules of involuntary discharge;
- 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 and their families.

## **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.

## **Resident Visitation**

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

## **Survey Participation**

The Long-Term Care Ombudsman's Office participates, as needed, in surveys conducted by the Department of Health & Human Services. The role of the Office is to provide comment; share concerns on behalf of residents and family members; and ensure residents' voices are heard. Participation by the Office may include pre-survey briefing or attending the exit interview.

## **Training and Technical Assistance**

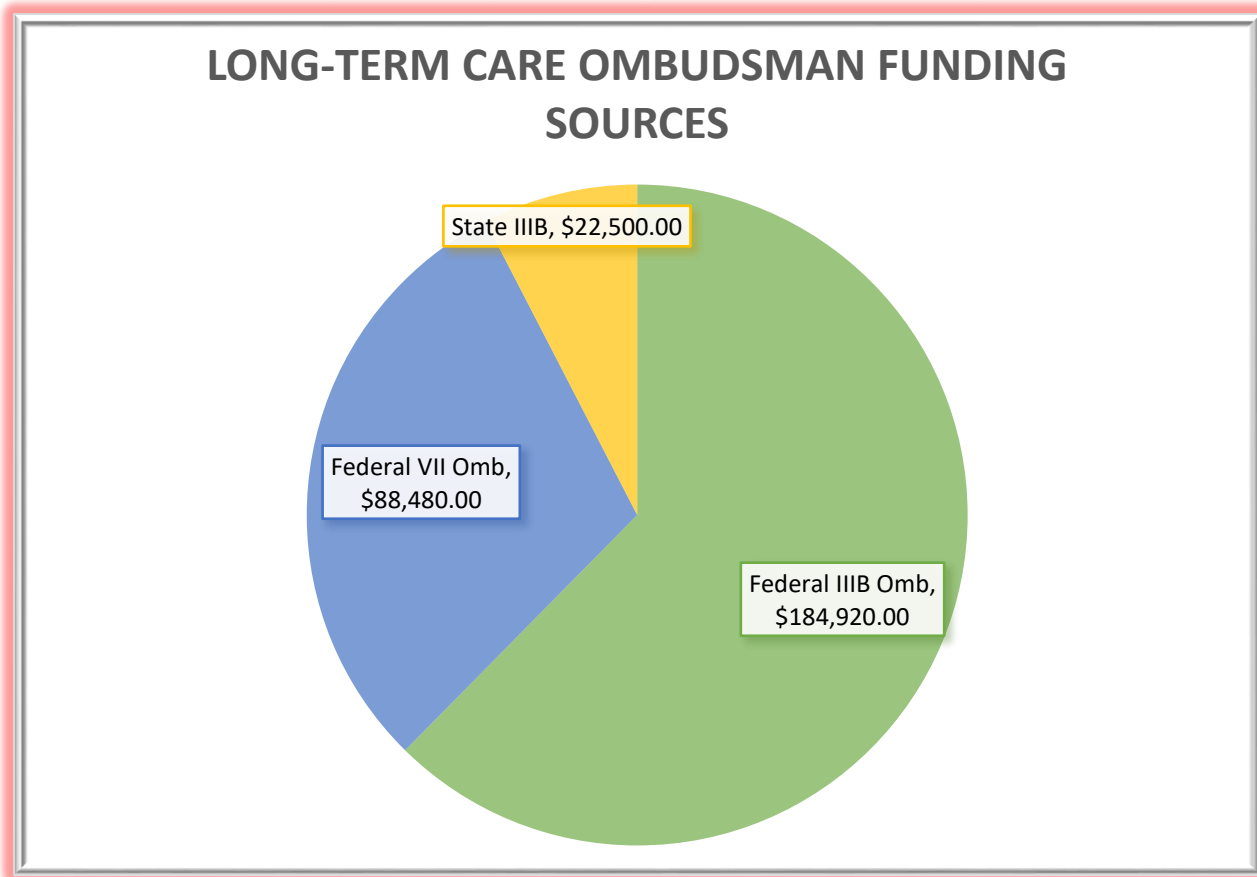
The Long-Term Care Ombudsman's Office provides education, training and technical assistance to ombudsmen, volunteers and facility staff. Training and education is needed to ensure staff and volunteers are eligible to maintain certifications and stay abreast of issues surrounding long-

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

## **Other**

The Long-Term Care Ombudsman program strives to meet all the required ombudsman activities and are constantly challenged due to the limited number of full-time Long-Term Care Ombudsmen. Nebraska currently has three full-time ombudsmen. To meet the Institute of Medicine's recommendation of one ombudsman per 2,000 licensed beds, the program would need 14 full-time staff solely dedicated to serving residents of long-term care facilities. Meeting this requirement would require state funding to supplement what is received from the Administration on Aging federal funding. The lack of any state funding presents significant challenges to the program and impacts the lives of all residents in long-term care facilities.

## Funding the Long-Term Care Ombudsman Program



The chart above shows the funding that is used for the Nebraska Long-Term Care Ombudsman Program. This funding is what is used to advocate for the rights of the more than 28,000 residents in long-term care facilities across the state, as well as providing education to staff at these facilities and to support the volunteer ombudsmen that provide such a valuable service to these residents. As the population continues to age, and the federal funding does not increase, more state funds will be needed to help the aging population in Nebraska.