

Ohio Office of the State Long-Term Care Ombudsman



Report of the State Ombudsman

Calendar Year 2007

Beverley L. Laubert
State Long-Term Care Ombudsman



Office of the State Long-Term Care Ombudsman

July 2008

Barbara E. Riley, Director, Ohio Department of Aging
The Honorable Ted Strickland, Governor
Members of the Ohio General Assembly &
Fellow Ohioans

I am pleased to submit this report of the Office of the State Long-Term Care Ombudsman. The report will provide you with a comprehensive picture of long-term care through the eyes of consumer advocates as we continue our work to improve the quality of care and quality of life for all long-term care consumers.

Ombudsman work representing the voice of consumers, major long-term care issues, and resulting policy recommendations is summarized at the beginning and is highlighted throughout the report. The report notes the increased ombudsman presence in home health care reflecting Ohio's priority to balance the long-term care system by increasing home and community-based services.

Throughout the year we have worked vigilantly with the help of volunteers, community and government partners, and others to improve outcomes for Ohio's citizens receiving long-term care services. As we continue to mature as a program and increase our efficiency, we greatly value our role as a voice for the consumers and families in the great State of Ohio.

I commend the work of the staff and volunteers who work tirelessly to protect the rights of consumers. As Ohio ages and we face growing economic challenges, the dedication and commitment of the certified staff and volunteers of the Office is essential to our success.

Please know that we will continue to rely on your leadership and support in the future. Thank you for contributing to the quality of life of Ohio's long-term care consumers.

Respectfully,

Beverley L. Laubert
State Long-Term Care Ombudsman



Policy Recommendations from the State Long-Term Care Ombudsman

HOME Choice

Ohio's evaluation of home care must include the role of the Office of the State Long-Term Care Ombudsman & resource needs for effective advocacy in a modernized long-term care system.

Personal Needs Allowance

Ohio's \$40.00 Personal Needs Allowance for nursing home residents should be increased & equalized for recipients of Supplemental Security Income (SSI).

Advancing Excellence in America's Nursing Homes

Providers participating in the campaign should tell the public which goals they have selected to ensure a level of accountability & should prioritize goals related to staff retention & consistent assignment.

Guardianship Reform & Advance Directives

Ohio should implement standards & certification for professional guardians & make every effort to use less restrictive alternatives to guardianship whenever possible.

Arbitration Agreements

Consumers should be educated & empowered to avoid waiving their rights prior to or at the time of admission & they should have the choice of arbitration but only post-dispute.

Ombudsman Presence in Long-Term Care

Consumers receiving home & community-based services must have access to the long-term care ombudsman program.



Office of the State Long-Term Care Ombudsman State Long-Term Care Ombudsman Report Calendar Year 2007

Mission & Structure

Ohio's Office of the State Long-Term Care Ombudsman is a program mandated by the federal Older Americans Act & the Ohio Revised Code. The mission of the program is to seek resolution of problems & advocate for the rights of home care consumers & residents of long-term care facilities with the goal of enhancing the quality of life & care of consumers.

- The State Ombudsman designates 12 regional programs & certifies about 550 volunteers & 80 paid staff to be representatives of the Office.
- According to the National Ombudsman Reporting System for FFY 2006, Ohio ranks 5th in the nation in the number of nursing home beds with 98,496 beds. Only New York, Illinois, Texas, & California have more nursing home beds.

Major Long-Term Care Issues & Recommendations

HOME Choice

Ohio was awarded an Money Follows the Person (MFP) grant from the Centers for Medicare and Medicaid Services (CMS) to help people relocate from institutions to the community & to balance the long-term care system.

Ohio's grant goals are to transition 1,428 older adults, 584 people with MR/DD, 158 people with physical disabilities, & 61 people with mental illnesses over the five-year demonstration period.



At the same time, Ohio embarked on development of a unified long-term care budget.

We believe that the organizations & institutions that deliver long-term care should do so in a way that upholds & enhances the dignity & individuality of Ohioans.

Both initiatives required vigilance by the State Ombudsman & staff as we represented the interests of consumers in facility-based settings. Ohio's MFP operational protocol envisions utilizing ombudsman programs to assist with transition coordination & we look forward to testing whether the ombudsman program is a viable resource for transition & whether the work will increase ombudsman visibility in the home care arena as authorized in Ohio law.

The most frequent complaints received in the ombudsman program are those involving discharge & 29% of those complaints are related to a lack of discharge planning. Consumers deserve the opportunity to receive services in the environment they choose.

POLICY RECOMMENDATION: Ohio's evaluation of home care must include the role of the Office of the State Long-Term Care Ombudsman & resource needs for effective advocacy in a modernized long-term care system.

Personal Needs Allowance

At the state ombudsman's request, Ohio's single state Medicaid agency added language to the PNA rule prohibiting nursing homes from using PNA for costs owed to the facility for care (such as after discharge or death) & from using PNA for the costs associated with guardianship.

State budget constraints have thus far prohibited an increase. Ombudsmen have assisted residents of nursing homes to contact their legislators to advocate for an increase in the PNA.

POLICY RECOMMENDATION: Ohio's \$40.00 Personal Needs Allowance should be increased & equalized for recipients of Supplemental Security Income (SSI).

Advancing Excellence in America's Nursing Homes is a coalition-based campaign that promotes excellence in care giving, acknowledges the critical role staff has in providing care, & monitors key indicators of care.



Ohio promoted the campaign by:

- distributing flyers geared toward consumers, resident councils, & family councils
- the State Ombudsman, who is a member of the National Steering Committee, contacting consumers who registered on the campaign Web site

Participating nursing homes work on at least three of eight goals:

- Reduce pressure ulcers;
- Reduce use of physical restraints;
- Improve pain management for long-stay residents;
- Improve pain management for short-stay residents;
- Establish individual targets for improving quality;
- Assess resident & family satisfaction;
- Increase staff retention; &
- Improve consistent assignment of staff so residents receive care from the same caregivers.

We believe that long-term care services should reflect a concern for both the quality of care & the quality of life for those who are served. We believe that the delivery of long-term care should be driven by the needs of the consumers of these services.

The goals set by providers are currently not available to the public. Too few providers have set goals related to staff retention & consistent assignment; ombudsman outreach efforts have focused on those two aspects of improving quality of life of residents.

POLICY RECOMMENDATION: Providers participating in the campaign should tell the public which goals they have selected to ensure a level of accountability & should prioritize goals related to staff retention & consistent assignment.

Guardianship Reform & Advance Directives

The State Ombudsman works with an Ohio Supreme Court subcommittee to make changes to Ohio's adult guardianship policies, including establishing standards & certification for professional guardians, modeled on the standards of the National Guardianship Association. Guardianship is often a barrier to facility-based residents returning to the community.

We believe that older persons should have choices in the setting in which they receive long-term care services & in the daily decisions that affect their lives such as activities, meals, treatment & other services.

The State Ombudsman is the consumer voice regarding surrogate decision-making, the subject of work on regulations governing do-not-resuscitate orders & a legislative proposal to implement Medical Orders for Life-Sustaining Treatment. Advance directives should be clear

to those executing & to medical professionals implementing them. Ombudsmen promote autonomy & self-determination in these important policy discussions.

POLICY RECOMMENDATION: Ohio should implement standards & certification for professional guardians & make every effort to use less restrictive alternatives to guardianship whenever possible.

Arbitration Agreements

Nursing homes & residential care facilities frequently include binding arbitration clauses in admission agreements. Under arbitration agreements, consumers & their families agree to settle disputes through a third-party arbiter & forfeit their right to pursue other remedies.

While under the stress of admitting a loved one to a long-term care facility, consumers often do not understand the ramifications of an arbitration agreement & it is an unfair practice given the imbalance of power between the facility & the consumer seeking long-term care services.

“We didn’t know our rights & thought we had to accept what the facility told us but thanks to the ombudsman, we didn’t have to. The ombudsman was such a comfort & did a wonderful job.”

The Office of the State Long-Term Care Ombudsman advocated that residents of nursing homes & residential care facilities be guaranteed rights relating to safety, treatment & care, privacy, & the exercise of civil rights. Facilities that require binding arbitration are demanding that consumers waive their statutory rights set forth in Ohio law to seek redress in an administrative or judicial forum for resident rights violations. The Director of the Ohio Department of Aging (ODA), Barbara Riley, supported this position to Dr. Alvin Jackson, Director of the Department of Health (ODH) then ODH provided direction to facilities after communication with ODA & the State Ombudsman.

POLICY RECOMMENDATION: Consumers should be educated & empowered to avoid waiving their rights prior to or at the time of admission & they should have the choice of arbitration but only post-dispute.

Advocacy

Ombudsmen are the voice of consumers on a variety of topics & activities. Representatives of the Office spent 40,263 hours providing advocacy services.

“The ombudsman took care of the problem almost at once & stayed with it until it was totally resolved. They was very helpful to my mother & my family was relieved.”

Advocacy takes many forms including, but not limited to:

- reviewing, analyzing, commenting on, & monitoring the enforcement of laws & regulations;
- recommending policy & advising local, state, & federal government agencies on long-term care issues; &
- educating the public, consumers, providers & policy makers.

The primary role of the Office, and of the State Ombudsman in particular, is being the consumer voice in the monitoring & development of law, regulation, & policy affecting long-term care.

Resident & Family Council Project

For the 2008 - 2009 state biennial budget, the Governor and Ohio General Assembly provided resident protection funds (from nursing home civil monetary penalties) to the Office in order to equip the ombudsmen to develop & assist resident councils & family councils in Ohio nursing homes to be more effective.

An anticipated outcome of the project is that residents & families will be equipped to resolve problems through effective participation in councils, care planning, & other means.

- Ombudsmen had 1338 contacts & spent 1,931 hours working with resident councils including 218 presentations
- Ombudsman had 600 contacts & spent 1011 hours working with family councils

“Through this program, I learned about the Family Council at the facility where my mother is a resident. At least thirty family and friends of residents attend our meetings. We are making an impact and changes are occurring.”

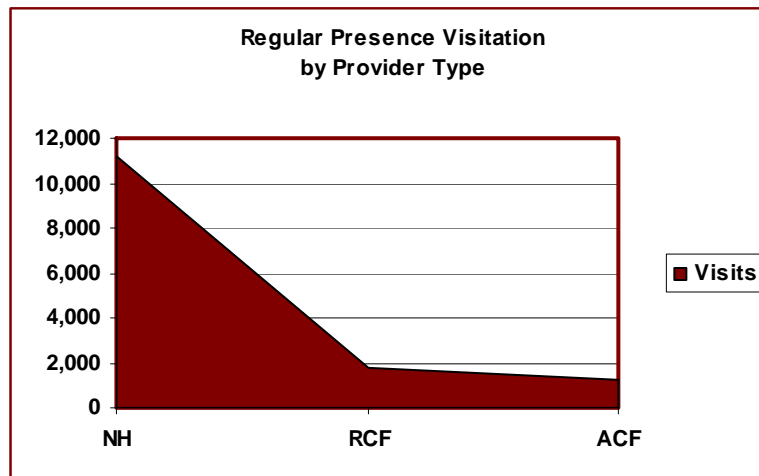
Each regional ombudsman program developed a plan of action for implementation of the project including, but not limited to:

- Presentations in nursing homes to staff, families, & residents
- Distribution of written materials
- Development of a resource library in each regional ombudsman office
- Specialized training for volunteer ombudsmen
- Facilitation of discussions among resident/family councils & nursing home staff
- Presentations in communities

It is our hope in the second year of the project to identify family council leaders who could be effective in developing a statewide citizen advocacy group.

Regular Presence

Ombudsman staff & volunteers have a regular presence in long-term care facilities. Regular presence is achieved through a variety of activities & provides consumers with access to their advocate.



- Ombudsmen provided 219 in-service education sessions to providers - 82% were about Residents' Rights or Abuse, Neglect, & Exploitation.
- Ombudsmen are a resource to providers & consult on various topics - 84% of consultation activities were related to Residents' Rights or Transfer/Discharge.

Regular Presence (continued)

- Providing consumers with access to the ombudsman program by creating a regular presence in home & community based services (HCBS) is difficult for several reasons:
 - Consumers receive services in their own home where they may feel more vulnerable than they would in a facility-based setting.
 - Consumers are fearful that if they complain about services, they will lose their services.
 - Providers are less familiar with the ombudsman program & are therefore less likely to refer consumers.
 - Care management services are provided to consumers who receive Medicaid-funded home & community based services & consumers are likely to contact their care manager first.

POLICY RECOMMENDATION: Consumers receiving home & community based services must have access to the long-term care ombudsman program.

Information & Consultation

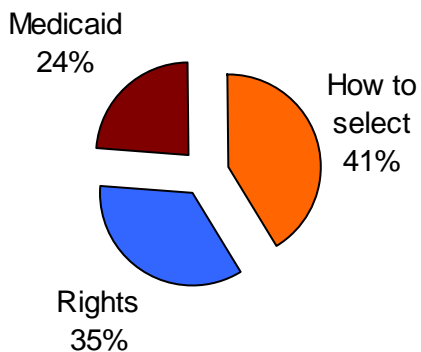
Ombudsmen provide information & consultation to individuals to help them make important decisions. In 2007, ombudsmen provided 9,960 individual consultations. The most frequent topics are described below:

- ***How to select long-term care services***

The State Ombudsman maintains the Long-Term Care Consumer Guide, a web site at www.ltcoho.org with important information about nursing homes & residential facilities including regulatory compliance, satisfaction survey data, & much more. Helping people select quality long-term care services is essential. The ombudsman program spent 1461 hours assisting 2,314 callers in selecting long-term care services.



Most Frequent Topics



- ***Residents' Rights***

Ombudsmen support autonomy & self-determination by educating people about their rights regarding choice, privacy, treatment, & the right to be treated with dignity & respect at all times.

- ***Medicaid***

All too often, the need for long-term care is sudden & people are forced to deal with complex matters such as Medicaid. However, Medicaid is only one of many public benefits available to consumers.

BenefitsCheckUp is an online questionnaire used by the Office at www.benefitscheckup.org that informs people of services for which they are eligible & how to access those services. The Office intends to explore the use of the Ohio Benefits Bank as an alternative resource to help consumers determine eligibility for various supports.

Complaint Resolution

The ombudsman program works with consumers, providers, regulators, & others to resolve complaints about services. Empowerment of residents is a priority & providing information & resources so a person is able to work through the system by him/herself is crucial to the promotion of resident rights.

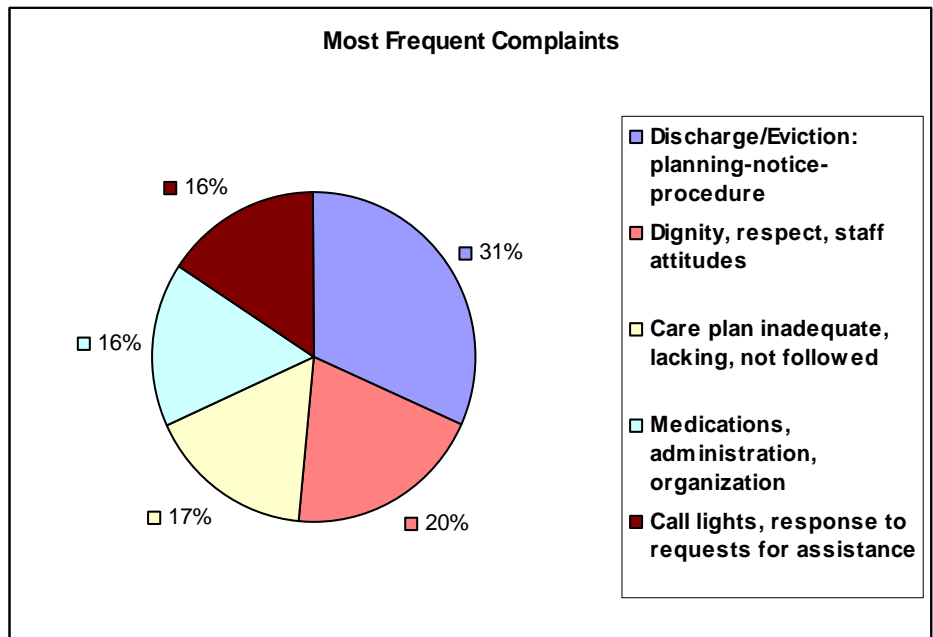
- Ombudsmen closed 9,629 complaints & verified 73.2%.
- Ombudsmen resolved or empowered consumers to resolve 73.8% of complaints.
- The Office works closely with other agencies to resolve complaints including, but not limited to, law enforcement & regulatory agencies. When ombudsmen are not successful in resolving complaints, they occasionally refer them to other agencies. In 2007, 1.7% of complaints were referred to other agencies. When ombudsmen are able to resolve complaints without regulatory intervention we contribute to conservation of regulatory resources & reduction of the regulatory burden on providers.
- Timely response leads to timely resolution. Ombudsmen respond to complaints alleging harm within 1 business day. For all complaints closed in 2007, the average time between intake & initiating an investigation was 4 days.
- Ombudsmen attempt to resolve complaints quickly & then follow-up to ensure that the resolution remains effective. The average length of time a case was open was 60 days.

“I was very impressed with the work the Ombudsman did for us. We would recommend them to anyone. Their help was appreciated and the results were what we had hoped for.”

Ombudsmen handle more than 150 different types of complaints in 16 different categories including, but not limited to, the following:

- Abuse, gross neglect, exploitation
- Autonomy, choice, rights, privacy
- Financial, property
- Care
- Activities & social services
- Staffing
- Environment
- Dietary
- Policies, procedures, attitudes

The most frequent complaints received by the ombudsman program are displayed in the following chart:



Complaints about “discharge/eviction: planning-notice-procedure” accounted for nearly one-third of all complaints received.

The ombudsman program received 821 complaints regarding discharge:

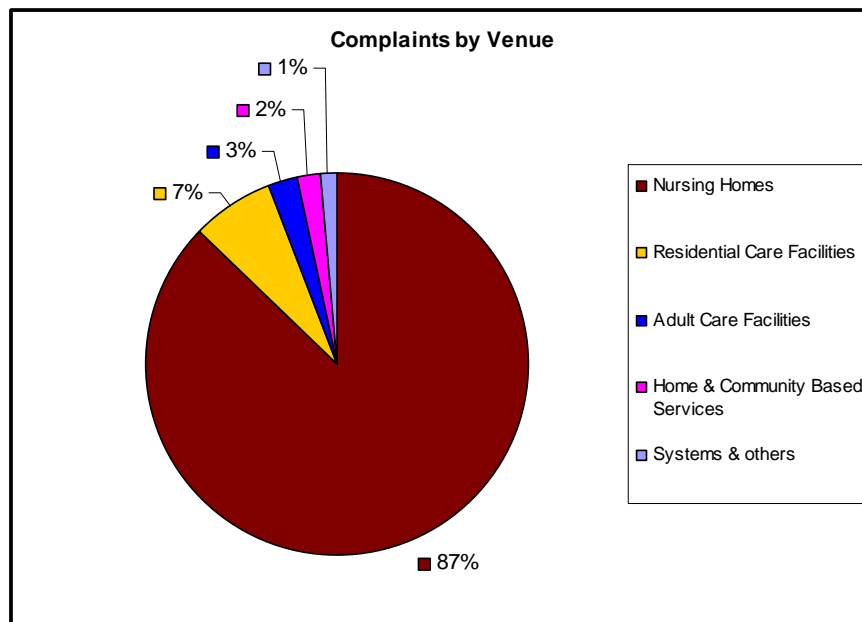
- 11% were appealed through an administrative hearing - consumers prevailed at 59%
- 18% were resolved without a hearing
- 37% were about notice or procedure
- 29% were about discharge planning

Ombudsmen resolved or empowered consumers to resolve 84% of discharge complaints.

Complaints come from many sources but the ombudsman presence in facilities is increasing the number of complaints where consumers & ombudsmen are the source.

- Consumers 32%
- Family/friend/sponsors 41%
- Guardian/legal representative 7.2%
- Ombudsman staff & volunteers 5.7%
- Provider staff 5.9%
- Anonymous 3.6%

Ombudsmen assist consumers in all venues. However, 87% of all complaints received were in nursing homes where the ombudsman program is more visible to consumers.



Ombudsman Volunteers

One of the ombudsman program's most valued resource is the 550 volunteers who are the eyes & ears of the program & are essential to our success. Ombudsman volunteers:

- contributed 30,593 hours of service & accounted for nearly 30% of the program's advocacy hours
- spent 616 hours handling 496 uncomplicated complaints
- made 10,242 visits to facilities - 72% of all visits
- contributed 1,608 hours to assisting ombudsman staff with complex complaints
- completed the intake on 414 cases in 2007

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Regional Ombudsman Programs

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 Pro-Seniors
 LTC Ombudsman Program
 PNC Bank Tower
 7162 Reading Road
 Suite 1150
 Cincinnati, OH 45237
 1-800-488-6070
 513-345-4160
 Fax# 513-621-5613

Butler, Clermont,
 Clinton, Hamilton,
 Warren

5 Betty Thompson
 LTC Ombudsman Program
 780 Park Avenue West
 Mansfield, OH 44906
 1-800-860-5799
 419-524-4144
 Fax# 419-522-9482

Ashland, Crawford,
 Huron, Knox,
 Marion, Morrow,
 Richland, Seneca,
 Wyandot

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 LTC Ombudsman Program
 821 Anola Ave. Suite D
 Dover, OH 44622
 1-800-967-0615
 330-364-3465
 Fax# 330-364-5209

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 Coshocton,
 Guernsey, Harrison
 Holmes, Jefferson,
 Muskingum,
Tuscarawas

2 Sandy Cherry
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 15 E. Fourth Street
 Suite 208
 Dayton, OH 45402
 1-800-395-8267
 937-223-4613
 Fax# 937-228-1183

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 Darke, Greene,
 Logan, Miami,
 Montgomery,
 Preble, Shelby

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 Catholic Social Services
 197 E. Gay Street
 Columbus, OH 43215
 1-800-536-5891
 614-221-5891 ext. 211
 Fax# 614-228-1125

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 Franklin, Fayette,
 Licking, Madison,
 Pickaway, Union

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 2800 Euclid Avenue
 Suite 200
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 216-696-2719
 Fax# 216-696-6216

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 Geauga, Lake,
 Lorain, Medina

3 Marianne Bradshaw
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 419-222-0563 or
 419-222-7723 (AAA)
 Fax# 419-222-2832

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 Hancock, Hardin,
 Mercer, Putnam,
 Van Wert

7 Kaye Mason-Inoshita
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 Portsmouth, OH 45662
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 740-355-3145
 Fax# 740-355-8519

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 Ross, Scioto, Vinton

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 Summit, Wayne

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 Fulton, Henry,
 Lucas, Ottawa,
 Paulding, Sandusky,
 Williams, Wood

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 P. O. Box 370
 Reno, OH 45773
 1-800-331-2644
 740-373-6400
 Fax# 740-373-1594

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 Meigs, Monroe,
 Morgan, Noble,
 Perry, Washington

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 330-746-2938
 Fax# 330-746-6700

Ashtabula,
 Trumbull,
 Columbiana,
Mahoning

7/08

* A.B.L.E. – Advocates for Basic Legal Equality