

Ohio Office of the State Long-Term Care Ombudsman



Report of the State Ombudsman

Calendar Year 2008

Beverley L. Laubert
State Long-Term Care Ombudsman



Office of the State Long-Term Care Ombudsman

September 2009

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 effort in the area of discharge planning, reflecting Ohio's priority to balance the long-term care system by improving access to home and community-based services; ombudsmen are a critical partner in assuring that discharge from nursing homes happens as a result of consumer choice and in ways that promote the dignity of the individual.

Throughout the year we have worked vigilantly with the help of volunteers, community and government partners, and others to improve outcomes for Ohio's consumers of 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 consumers and families.

I commend the work of the staff and volunteers who work tirelessly to protect the rights of consumers. As Ohio ages and we face 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

Unified Long-Term Care System

The Office of the State Long-Term Care Ombudsman should participate in policy development and implementation of a Unified Long-Term Care System.

Personal Needs Allowance

Ohio's Medicaid office should, with consumer input, examine the \$40.00 Personal Needs Allowance for nursing home residents and plan for an increase in State Fiscal Year 2012.

Guardianship Reform

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

End of Life Care

The Ohio General Assembly should pass legislation creating MOLST as a tool for expressing personal choice and thorough educational programs for consumers and practitioners should be developed.

Grievance Committees in Nursing Homes

The requirement for every nursing home to have a grievance committee should be updated to establish resident-led resident council standards instead.

Ombudsman Presence in Long-Term Care

Practices should be put in place to ensure that consumers receiving home and community-based services have access to the long-term care ombudsman program.

Sex Offender Notification

Consumers living in long-term care facilities must be notified when a registered sex offender is living in the same facility and may put their safety at risk.



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Mission & Structure

- As mandated by the federal Older Americans Act and Ohio law, the mission of the Long-Term Care Ombudsman Program is to seek resolution of problems and advocate for the rights of home care consumers and residents of long-term care facilities with the goal of enhancing the quality of life and care of consumers.
- The State Ombudsman designates 12 regional programs and certifies about 500 volunteers and 80 paid staff statewide as representatives of the Office.
- According to the federal Administration on Aging based on data from FFY 2008:
 - Ohio ranks 6th in the nation in the number of long-term care beds with 143,402 beds.
 - Ohio ranks 4th in the nation in the number of complaints received with 9,217 complaints.
 - Ohio ranks 11th in the nation in the percentage of long-term care facilities visited at least quarterly.
 - Ohio ranks 2nd in the nation in the total funds (federal, state local) expended on the ombudsman program with \$5,577,575.

Beyond individual advocacy, ombudsmen strive for system change such as promotion of person-centered care and passage of legislation that would improve consumers' quality of life and quality care in all long-term settings, including home.

Major Long-Term Care Issues & Recommendations

Unified Long-Term Care System

Implementation of a Unified Long-Term Care System, coupled with HOME Choice, Ohio's Money Follows the Person Demonstration, provides opportunities to enhance consumer choice. As a core ombudsman service, we advocate for and assist consumers in exercising choice in all areas of long-term care. Selection assistance and providing information about benefits, rights, and regulations are two activities through which ombudsmen contribute to diversion from nursing home admission when possible.

In the role of Transition Coordinators, ombudsmen in each of nine areas of the state have a contract with the Department of Job and Family Services to assist residents to move out of nursing homes and return to the community with home care services. The advocacy skills of ombudsmen help them to be effective partners in efforts to balance the long-term care system.

POLICY RECOMMENDATION

The Office of the State Long-Term Care Ombudsman should participate in policy development and implementation of a Unified Long-Term Care System.

Personal Needs Allowance

Nursing home residents receiving Medicaid support for their care retain \$40 of their income each month as their Personal Needs Allowance for items such as clothing, desired brand-name tissues, hair styling, books, and newspapers. Residents whose source of income is Supplemental Security Income receive only \$30 each month. Due to economic uncertainties, the Office's 2008 proposal to increase the PNA was unsuccessful.

POLICY RECOMMENDATION

Ohio's Medicaid office should, with consumer input, examine the \$40.00 Personal Needs Allowance for nursing home residents and plan for an increase in State Fiscal Year 2012.

Guardianship Reform

Ombudsmen encounter challenges with court-appointed guardianship such as consumer needs not being met, consumers not having access to legal counsel to object to guardianship proceedings, and consumers being confined to a long-term care facility against their will because a guardian believes institutionalization is the best option. Ombudsmen are often able to work with guardians to resolve problems with long-term care services but such is not always the case.

In 2008, the ombudsman program received 548 complaints about systems and other issues not related to specific providers. Of those, 61% were related to the actions of legal representatives selected or appointed to make decisions on behalf of consumers.

The State Ombudsman is a member of the Subcommittee on Adult Guardianship sponsored by the Ohio Supreme Court's Advisory Committee on Children, Families & the Courts. The ombudsman has been most involved in development of standards for professional guardians. We are looking forward to implementation of subcommittee recommendations and movement toward introduction of legislation and court rules to operationalize improvements.

POLICY RECOMMENDATION

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

End-of-Life Care

Since the implementation of Ohio's Do-Not-Resuscitate (DNR) law, providers, patients and advocates have become aware of its shortcomings in addressing the diverse needs and desires of Ohioans facing serious illness. Ohio's two-tiered DNR, i.e. DNR Comfort Care and DNR Comfort Care Arrest has been a source of confusion for both professionals and patients. Currently, there are few options for individuals who want to specify their healthcare choices. The Honoring Wishes Task Force has promoted legislation that would introduce Medical Orders for Life-Sustaining Treatment (MOLST). The legislation would instruct the Ohio Department of Health to develop a MOLST form which would allow patients to specify their health care preferences including, but not limited to: CPR, antibiotics, artificially or technologically administered nutrition or hydration, and other medical interventions.

POLICY RECOMMENDATION

The Ohio General Assembly should pass legislation creating MOLST as a tool for expressing personal choice and thorough training for practitioners should be developed.

Resident & Family Council Project

A change is needed in nursing home and residential care facility licensing law that would replace outdated grievance committee requirements with a requirement for effective resident councils. When the nursing home licensing law was written in the 1970s, the resident population was very different and dementia was less prevalent. All nursing homes have resident councils but grievance committees as required in the law exist largely on paper. Over the past two years, ombudsmen have concentrated on development of effective councils and have learned what works and what doesn't so residents can have a system of governance to promote person-centered care.

In 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

ombudsmen to develop and assist resident councils and family councils in Ohio nursing homes to be more effective.

A desired outcome of the project is that residents and families will be equipped to resolve problems through effective participation in councils, care planning, and other means. Ombudsmen accomplish this primarily through education and support including, but not limited to, the following:

- Presentations to staff, families, and consumers
- Distribution of written materials
- Specialized training for volunteer ombudsmen
- Facilitation of discussions among resident/family councils and nursing home staff
- Presentations in the community

“Through this program, I learned about the family council at the facility where my mother is a resident. At least 30 family & friends of residents attend our meetings. We are making an impact and changes are occurring.”

Ombudsmen had 4,431 contacts and spent 1,931 hours working with resident councils, a 130% increase over the hours in 2007.

Ombudsman had 1,020 contacts and spent 1,302 hours working with family councils, a 70% increase over the hours in 2007.

The time ombudsman staff and volunteers spent with resident and family councils was essential in helping consumers and their families to execute their rights and to expect excellence in the care they receive.

POLICY RECOMMENDATION

The requirement for every nursing home to have a grievance committee should be updated to establish resident-led resident council standards instead.

Ombudsman Presence in Long-Term Care

Providing consumers with access to the ombudsman program by creating a regular presence in home and community-based services (HCBS) is different from access for residents of congregate long-term care settings.

- Consumers receive services in their own homes where they may feel more vulnerable to losing services than they would in a facility-based setting.
- Providers are less familiar with the ombudsman program and are therefore less likely to refer consumers.
- Care management services are provided to consumers who receive Medicaid-funded home and community based services and consumers are likely to contact their care manager first.

“My dad was in bad shape and there was no one to help me figure out how to get him out.... It was like he was in jail, because he had no money, no home, and just wanted to go back home to his friends. I can't thank the ombudsman enough for giving time and energy that most people waste on finding ways to get out of caring anymore. I've never seen my dad happier.”

Ombudsmen provide valuable consultation and prevention when they have opportunities to communicate and collaborate with care providers and consumers and we see those opportunities increasing. Ombudsman presence in facilities helps identify consumers that are ready to return to the

community. As the ombudsman program follows consumers back into the community through the provision of transition coordination services part of HOME Choice, as well as increased focus on advocating for residents to return home, it is expected that consumers will take their awareness of the ombudsman program into the community with them. Working with professionals in the process of transition is helping to develop collaboration that should be lasting.

POLICY RECOMMENDATION

Practices should be put in place to ensure that consumers receiving home and community-based services have access to the long-term care ombudsman program.

Sex Offender Notification

Legislation introduced in both houses of the Ohio General Assembly would require long-term care facilities to notify residents and their sponsors when a registered sex offender is living in the building. The ombudsman supports these efforts as a basic right of residents to have information as citizens of a community are notified when a sex offender lives next door. In a long-term care facility, the offender could be a roommate, yet there is no clear guidance for providers on notification or assessment of risk.

POLICY RECOMMENDATION

Consumers living in long-term care facilities must be notified when a registered sex offender is living in the same facility and may put their safety at risk.

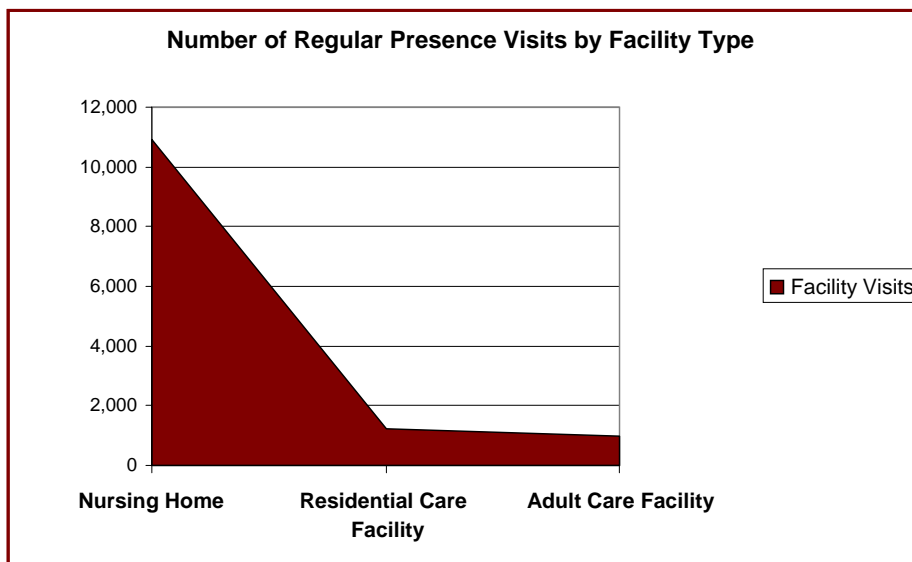
How Ombudsmen Execute our Mission

Ombudsmen are the voice of consumers on a variety of topics and activities. Representatives of the Office spent 41,100 hours providing advocacy services beyond complaint handling.

Advocacy takes many forms including, but not limited to:

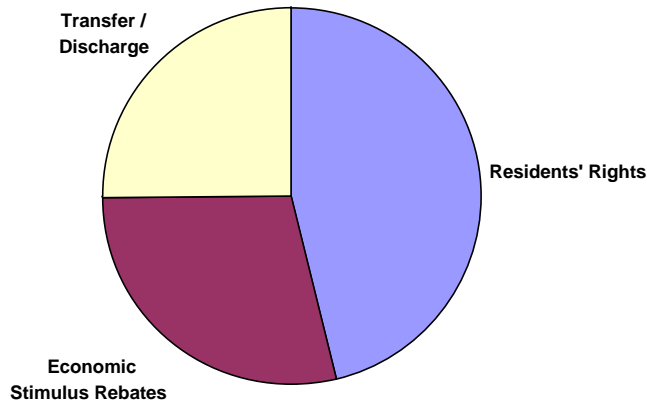
- reviewing, analyzing, commenting on, and monitoring the enforcement of laws and regulations;
- recommending policy and advising local, state, and federal government agencies on long-term care issues; and
- educating the public, consumers, providers and policy makers.

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



Ombudsmen are a resource to providers and consult with them on varied topics related to the services they provide; 75% of consultation activities in 2008 were related to Residents' Rights or Economic Stimulus Payments for consumers.

Provider Consultation - Most Frequent Topics



Information & Consultation

Ombudsmen provide information and consultation to individuals to help them make important decisions. In 2008, ombudsmen provided consultation to individuals 6,061 times. The most frequent topics are described below:

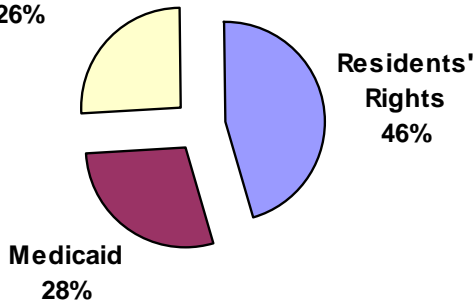
- **How to select long-term care services**

The State Ombudsman maintains the Long-Term Care Consumer Guide, a Web site at www.ltcoho.org with important information about nursing homes and residential facilities, including regulatory compliance, satisfaction survey data, and information provided by homes about the services they provide and their policies. Helping people select quality long-term care services is essential. The ombudsman program spent 1,232 hours assisting 1,620 callers in selecting long-term care services in 2008.



Most Frequent Topics

How to select
26%



- **Residents' Rights**

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

- **Medicaid**

All too often, the need for long-term care is sudden and people are forced to deal with complex matters such as Medicaid. However, Medicaid is only one of many public benefits available to consumers and ombudsmen are skilled at using a variety of resources to meet the needs of people calling for individual consultation.

- Ombudsmen provided 160 in-service education sessions to providers – 83% were about Residents' Rights or Abuse, Neglect, and Exploitation.
- Ombudsmen educated the public at 545 community education events in 2008.

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

Complaint Resolution

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

“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 closed 8,525 complaints in 4,947 cases and verified 74%.
- Ombudsmen resolved or empowered consumers to resolve 75.3% of complaints.

The Office works closely with other agencies to resolve complaints including, but not limited to, law enforcement and regulatory agencies. When ombudsmen are not successful in resolving complaints, they occasionally refer them to other agencies. In 2008, 2.3% of complaints were referred to other agencies. When ombudsmen are able to resolve complaints without regulatory intervention, we contribute to conservation of regulatory resources and reduction of the regulatory burden on providers.

Timely response leads to timely resolution. Ombudsmen respond to complaints alleging harm within one business day. For all other complaints closed in 2008, the average time between intake and initiating an investigation was four days.

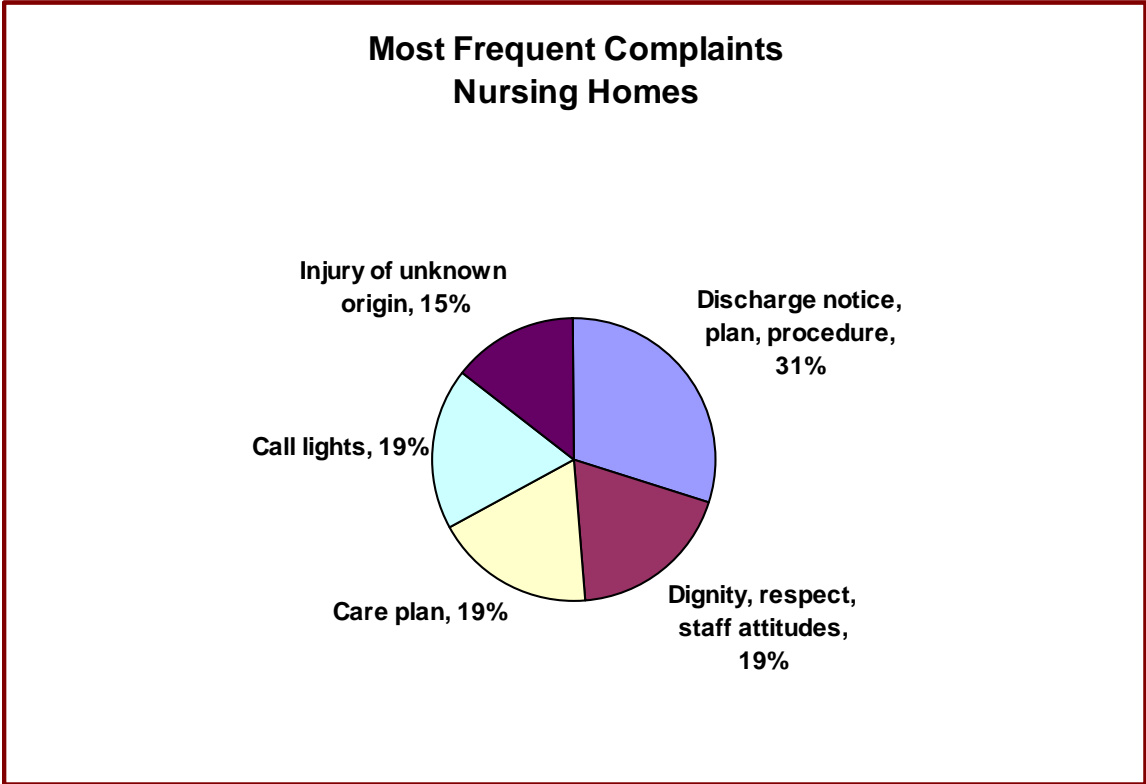
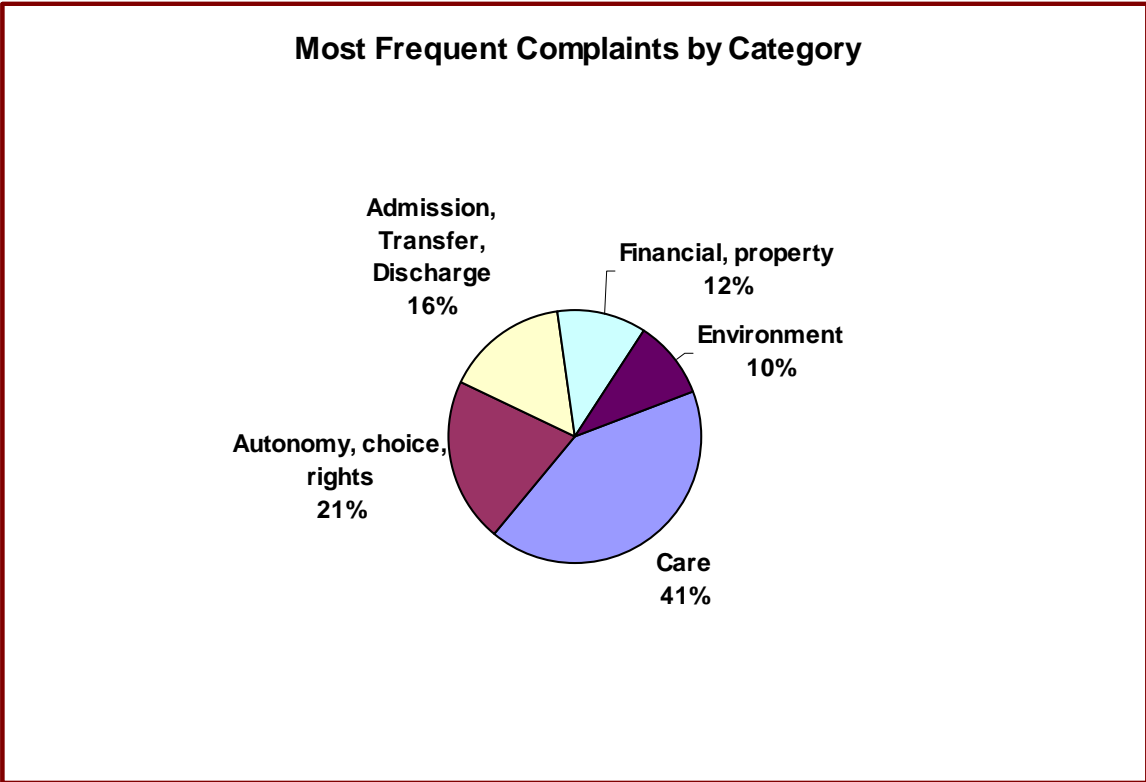
- Ombudsmen attempt to resolve complaints quickly and then follow-up to ensure that the resolution remains effective. The average length of time a case was open in 2008 was 60 days.

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

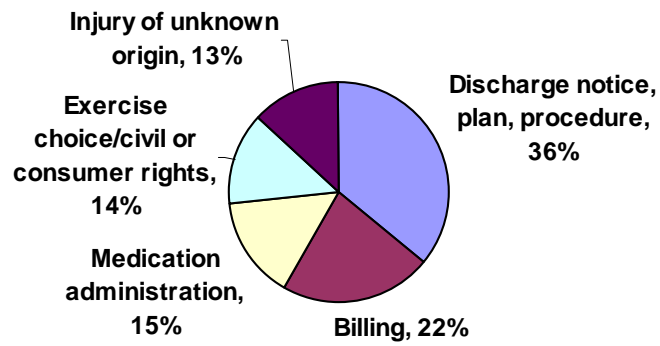
- Abuse, gross neglect, exploitation
- Autonomy, choice, rights, privacy
- Financial, property
- Care and staffing
- Activities and social services

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

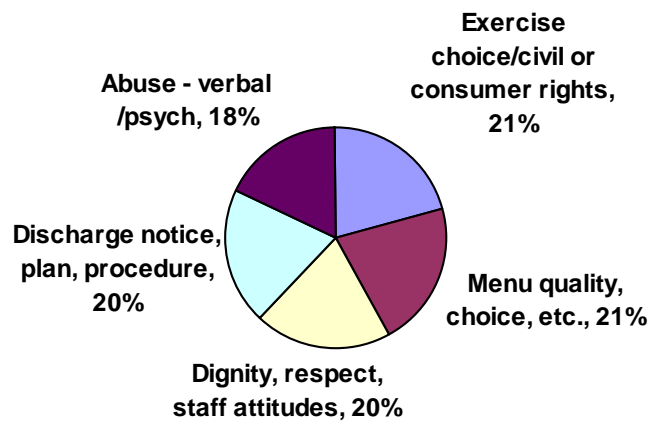
The most frequent complaints received by the ombudsman program by complaint category are represented in the following chart.



Most Frequent Complaints Residential Care Facilities



Most Frequent Complaints Adult Care Facilities



The ombudsman program received 768 complaints regarding involuntary discharge:

- 34% were about notice or procedure
- 34% were about discharge planning
- 11% were appealed through an administrative hearing and consumers prevailed at 71%, an increase of 11% over 2007

Ombudsmen resolved or empowered consumers to resolve 79% of discharge complaints.

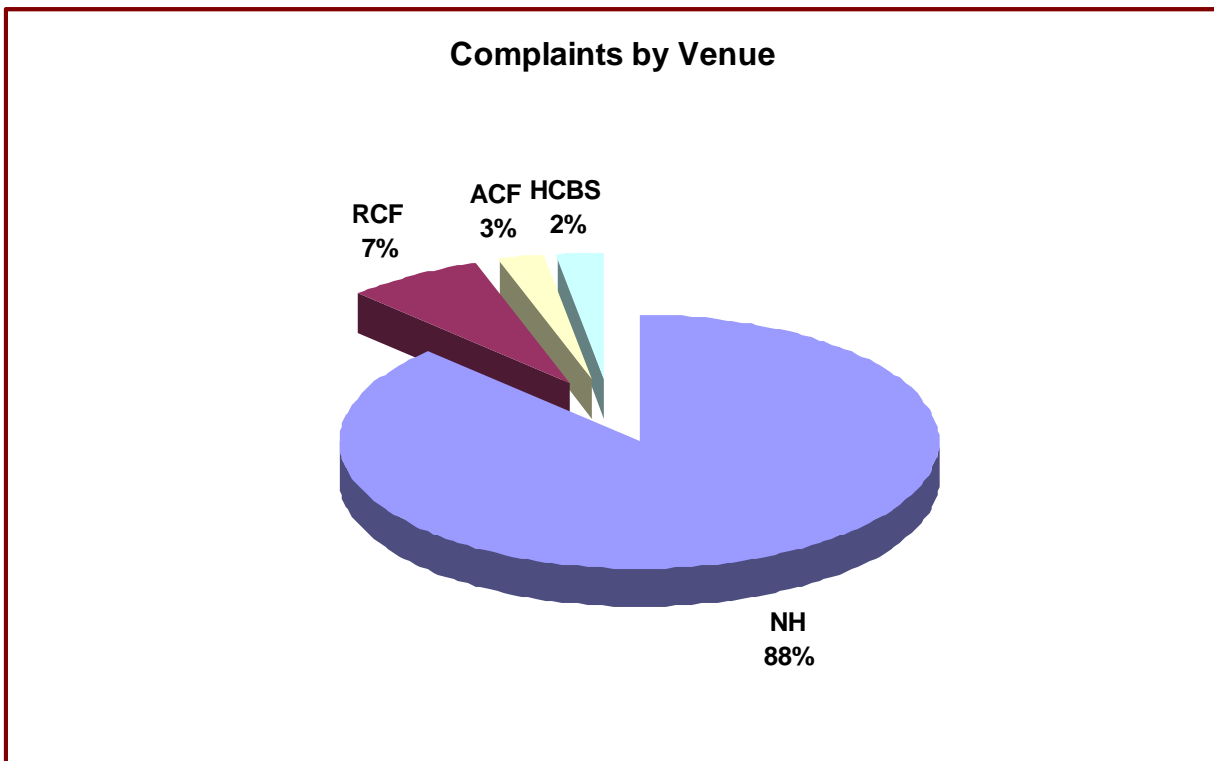
Involuntary discharge and problems with discharge planning and procedures constitute the ombudsman’s top complaint. In State Fiscal Years 2009 and 2010, the Office will devote additional effort to educate providers and consumers about rights and preventive strategies. The effort will be funded by the Resident Protection Fund (civil money penalties paid by nursing homes for violations). It would be helpful to that effort to have copies of discharge notices sent to the ombudsman so the ombudsman can intervene early to alleviate the need for an administrative hearing and disruptive move for the resident.

Source of complaints indicates visibility of the program.

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

- Consumers 32%
- Family/friend/sponsors 40%
- Guardian/legal representative 7.2%
- Ombudsman staff & volunteers 5.8%

Ombudsmen assist consumers in all types of long-term care. However, 88% of all complaints received were in nursing homes where the ombudsman program is most visible to consumers.



Ombudsman Volunteers

One of the ombudsman program's most valued resources is the 500 volunteers who are the eyes and ears of the program and are essential to our success. Ombudsman volunteers:

- contributed 20,272 hours of service & accounted for 47% of the program's advocacy hours
- spent 979 hours handling uncomplicated complaints & assisting staff with complex complaints
- made 10,000 visits to facilities – 71% of all visits
- completed intake on 308 cases in 2008

“We didn’t know our rights and 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 and did a wonderful job.”

In 2008, 107 new volunteers were certified. The average length of time a volunteer is with the program is 3.18 years.

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

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Regional Ombudsman Programs**

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Clinton, Hamilton,
Warren

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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

9 Sam McCoy
LTC Ombudsman Program
821 Anola Ave. Suite D
Dover, OH 44622
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Coshocton,
Guernsey, Harrison
Holmes, Jefferson,
Muskingum,
Tuscarawas

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

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614-221-5891 ext. 211
Fax# 614-228-1125

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Franklin, Fayette,
Licking, Madison,
Pickaway, Union

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Lorain, Medina

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Hancock, Hardin,
Mercer, Putnam,
Van Wert

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Gallia, Highland,
Jackson,
Lawrence, Pike,
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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Ashtabula,
Trumbull,
Columbiana,
Mahoning

3/09

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