



The National
CONSUMER VOICE
for Quality Long-Term Care

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The National **Long-Term Care**
Ombudsman Resource Center

The Role of the Ombudsman Program in Nursing Facility Closures

April 25, 2023

Welcome

- ▶ This webinar is being **recorded**.
- ▶ Use the **Q&A feature** for questions for the speakers.
- ▶ Use the **chat feature** to submit comments or respond to questions from speakers or other attendees.
- ▶ Please complete the **evaluation** questionnaire when the webinar is over.
- ▶ Links to **resources** will be posted in the chat box and will be posted to the Consumer Voice and NORC websites – theconsumervoice.org and ltcombudsman.org

Speakers

- ▶ **Amanda R. Hamilton**, FIVCO District Long-Term Care Ombudsman, Ashland, KY, ahamilton@lablaw.org
- ▶ **Pam Railsback**, Iowa Local Long-Term Care Ombudsman, Des Moines, IA, pamela.railsback@iowa.gov
- ▶ **Lori Smetanka**, Executive Director, Consumer Voice, lsmetanka@theconsumervoice.org
- ▶ **Carol Scott**, Manager, Long-Term Care Ombudsman Program and Policy, NORC
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In the news...

More NE Long-Term Care Facilities Risk Closure Without Funding

Nebraska long-term care homes still at risk of closure, plead for more Medicaid money

February 6, 2023 11:24 pm by Jessica Blum

Fast closures of nursing homes in Massachusetts raise alarms and worry over patients

Texas, Nebraska Led Nation in Nursing Home Closures in 2022

By Zahida Siddiqi | February 2, 2023

erly and disabled nursing home residents are
facilities shut down and the lack of options to

Iowa's elderly lose out as wave of rural nursing home closures grows amid staffing crunch

6 minute read

Tony Leys KHN

Published 5:30 a.m. CT Jan. 26, 2023 | Updated 4:33 p.m. CT Jan. 27, 2023

► Nationwide

- **135 nursing facilities closed in 2022**
- More than **1,000 nursing homes** have closed since 2015, including **776 closures before the pandemic** and **327 closures during the pandemic**.
- Since 2015, nearly **45,000 nursing home residents** have been displaced due to closures. Source: AHCA April 2022

Articles

<https://www.nbcnews.com/news/latino/fast-closures-nursing-homes-massachusetts-raise-alarms-worry-patients-rcna76864>
<https://www.klntv.com/nebraska-long-term-care-homes-still-at-risk-of-closure-plead-for-more-medicaid-money/>
<https://www.desmoinesregister.com/story/news/health/2023/01/26/wave-of-rural-nursing-home-closures-grow-amid-staffing-crunch/69842305007/>
<https://skillednursingnews.com/2023/02/texas-nebraska-led-nation-in-nursing-home-closures-in-2022/>
<https://www.publicnewsservice.org/2023-02-06/health/more-ne-long-term-care-facilities-risk-closure-without-funding/a82740-1>



LEGAL AID of the BLUEGRASS

— LONG-TERM CARE —
**OMBUDSMAN
PROGRAM**

If Things Could Go Wrong, They Did!

Amanda Hamilton

FIVCO District Long Term Care Ombudsman

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Notice of Closure Required



- ▶ **Written** notice of impending closure to:
 - ▶ State Survey Agency, State LTC Ombudsman, Residents and their Representatives
- ▶ At least **60 days** in advance
- ▶ Must include
 - ▶ Facility's **State-approved closure plan** for transfer and adequate relocation of the residents
 - ▶ **Assurances** that residents will be **transferred to the most appropriate facility or setting**, in terms of quality, services, and location, and considering the needs, choice and best interests of each resident
 - ▶ **Assurance** that **no new residents will be admitted to the facility** on or after the dates that the written notice of impending closure was provided to the State Agency

Closure Plan

CMS expects that the closure plan include sufficient detail to clearly identify the **steps the facility would take**, and the **individual responsible** for ensuring the steps are successfully carried out.



- ▶ Provisions for ongoing operations and management, such as:
 - ▶ Continuation of appropriate staffing to meet all residents' needs
 - ▶ Ongoing assessment of residents' care needs and provision of necessary services and care
- ▶ Provision of resident care information to receiving facility
- ▶ Labeling, safekeeping, and appropriate transfer of residents' personal belongings at the time of transfer or relocation

Sufficient preparation and orientation for a safe and orderly move

A facility must **provide and document** sufficient preparation and orientation to ensure a safe and orderly transfer or discharge in a form and manner the resident can understand.

This might include, for example:

- ▶ Interviewing residents and their representatives to determine each resident's goals, preference, and needs in planning for the services, location, and setting to which they will be moved
- ▶ Offering each resident:
 - ▶ The opportunity to obtain information regarding community options
 - ▶ Information pertaining to the quality of the providers/services they are considering
 - ▶ Psychological preparation or counseling

New Resource!

- <https://ltcombudsman.org/uploads/files/support/the-role-of-the-ltco-in-facility-closures.pdf>



REFERENCE GUIDE

The Role of the Long-Term Care Ombudsman Program in Nursing Facility Closures

Long-Term Care Ombudsman programs (LTCOPs) have an important role advocating with, and for, residents of nursing facilities that are closing. This guide reviews the federal requirements regarding nursing facility closures, highlights Ombudsman program management and advocacy considerations, and shares additional resources. More comprehensive resources are available in the [Nursing Home Closure Toolkit for Ombudsmen and Advocates](#). The toolkit includes state case studies, examples of letters to residents and families, forms, checklists, and consumer resources.

Federal Requirements

Notice Requirements¹

At least 60 days prior to the closure date, or not later than the date set by the Secretary of Health & Human Services if participation in Medicare and Medicaid has been terminated, the facility administrator must provide written notice and a copy of the facility's state-approved closure plan to the Office of the State Long-Term Care Ombudsman. At the same time, written notice of the impending closure and the closure plan must be given to facility residents, their representatives, and the state survey agency. The notice to residents and their representatives must include the plan for transferring residents. Also, the facility must provide assurances that residents will be transferred to the most appropriate facility or setting with comparable quality, services, and location by taking into consideration the needs, choice, and best interest of each resident.

From the date when the facility submits notice to the State regarding closure, it should not admit any new residents.

Transfer Procedures

The closing facility is required to facilitate a safe and orderly closure. That includes sending resident information, including contact information for the resident's doctor(s) and family (or representative); advance directive information, if relevant; special care instructions and comprehensive care plan goals; and all other necessary information, such as a copy of the resident's discharge summary to the resident's new facility or setting.²

¹ 42 CFR 483.70(f)(1)(i) – 483.70(f)(1)(ii). Note also that the temporary relocation of residents during an emergency does not constitute closure. In the case of a facility that is being terminated from participation in Medicare and/or Medicaid, notice must be communicated when the Secretary of the Department of Health and Human Services deems "appropriate." Id.

² 483.15(c)(2)(iii). See also 483.21(c)(2) for information that must be included in the discharge summary.

► Caution: Transfer Trauma

Transfer Trauma

Relocation stress is defined as “the physiologic and psychosocial disturbances caused by change in health care environment”⁴ and is also known as *transfer trauma* when the relocation is *involuntary* and the *outcomes are negative*.⁵ Symptoms may be obvious or subtle and can include: loneliness, depression, anger, apprehension, anxiety, changes in eating and sleeping habits, dependency, insecurity, lack of trust and a need for excessive reassurance.⁶

NORC Trauma-Informed issue page <https://ltcombudsman.org/issues/trauma-informed-care>

NORC Notes: **Trauma-Informed Care Resources**

http://act.theconsumervoice.org/site/MessageViewer?dlv_id=5281&em_id=1506.0

Actions for State Ombudsman

Create policies and procedures for closure that highlights federal and state requirements and explains the role of the Ombudsman, Ombudsman representatives, and how the program will work with other state and local entities.

Advocate for the creation of, or coordinate, a relocation team

Identify and train a member of the State Ombudsman Office to act as a relocation specialist.

Develop in-service training, with examples of resident experiences, for nursing facility staff about how to prevent, identify, and minimize transfer trauma.





Advocate for the facility to remain open, and Medicare and Medicaid payments to continue, until all residents have been relocated.

Urge the placement of a temporary manager or receiver if necessary to protect the health and well-being of the residents.

Contact the state employment agency and request that they provide employment resources to the staff.



Actions for Ombudsman Program Representatives

Be aware of potential warning signs of issues that may affect resident care during closures and ask residents about their experiences (e.g., significant loss of staff; major reduction in quality of services, such as activities, food, and housekeeping).

Meet one-on-one with individual residents and/or resident representatives (families) to discuss residents' rights, the closure process, and their discharge planning process.

Create opportunities for regular updates for residents, families, and staff on the status of the facility and any necessary or helpful information regarding the closure and relocation processes.

Communicate frequently with partner agencies and organizations involved in the closure process or that advocate for residents (e.g., State Survey Agency, Department of Aging, Medicaid Agency, Department of Mental Health, Money Follows the Person Program, Protection and Advocacy, Adult Protective Services, etc.).

Share information about how to prevent or minimize transfer trauma with residents and families.

Provide **in-service training for staff** of the closing and receiving facilities about how to prevent, identify, and minimize transfer trauma.

Organize and **facilitate a group meeting** with residents, families, and representatives of state agencies to discuss the closure process, residents' rights, facility responsibilities, and address questions.

Encourage the closing facility administration to assist their staff with future employment options (e.g., closing facility leadership could refer staff to their sister facilities, provide staff with a list of employment resources).

Follow up with transitioned residents after the closure and relocation to check in on their well-being and provide continuity. Ask questions about their experience and provide support and advocacy as needed (e.g., if they are experiencing transfer trauma advocate for support, ensure their belongings arrived at the new location).



Role of the LTCOP

Ombudsman program advocacy during the closure and relocation process is critical to ensuring residents' rights are protected and supported.



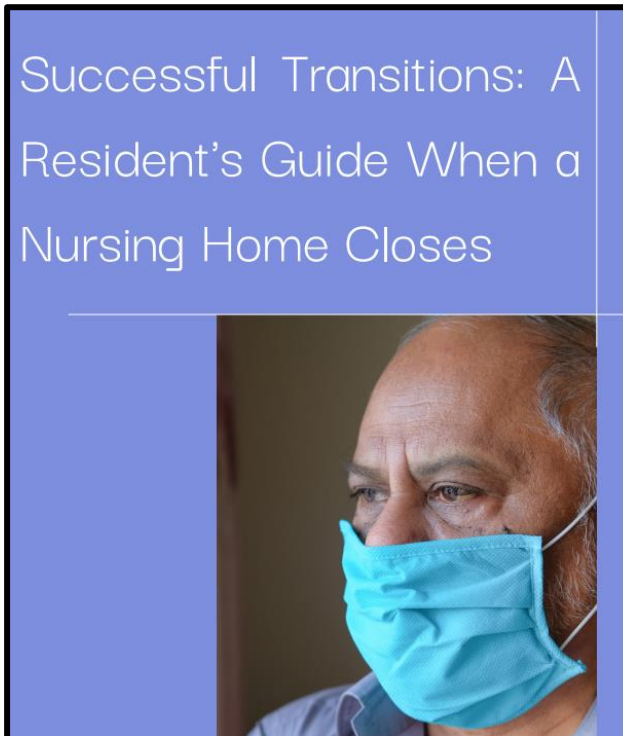
shutterstock.com · 302610482

Your work during closures remains consistent with the role and responsibilities of the Ombudsman program in that you are to ensure others do their job before, during, and after nursing facility closures, not to do their job (e.g., pack belongings, transport residents to their new location, coordinate transitions, etc.).

If you have questions about your role, review your state program policies and procedures and consult with your supervisor and/or State Ombudsman.

Resources

- ▶ Nursing Home Closures - <https://ltcombudsman.org/issues/nursing-home-closures>
- ▶ LTCOP examples - https://ltcombudsman.org/omb_support/program-examples#facility-closures





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When Nursing Homes Close

Lori Smetanka

April 25, 2023

National Study

Using online surveys and one-on-one interviews:

OBJECTIVES:

- ▶ Identify obstacles
- ▶ Identify strategies for overcoming the obstacles
- ▶ Identify best practices
- ▶ Make recommendations

SUCCESSFUL
TRANSITIONS: REDUCING
THE NEGATIVE IMPACT
OF NURSING HOME
CLOSURES

BY: CYNTHIA RUDDER, PH.D.



Ombudsman Experiences

- ▶ "...resident belongings being trashed-bagged up with no labels as to whom it belongs to."
- ▶ "Possessions, chart and meds not going with the resident."
- ▶ "Residents sent without proper discharge paperwork."
- ▶ "There was no planning."
- ▶ "Residents were not told they had choices and were transferred to facilities which would take them. Several residents were transferred to a 'sister' facility in another county..."



Primary Obstacles to “Successful” Closings

Using online surveys and one-on-one interviews:

- ▶ Lack of appropriate and nearby placements
- ▶ Poor discharge planning
- ▶ Lack of Communication
- ▶ Poor notice/Note enough time
- ▶ Staffing issues
- ▶ Transfer trauma



Best Practices

Using online surveys and one-on-one interviews:



- ▶ Relocation Team – all agencies work together
- ▶ Meeting one-on-one with residents and families
- ▶ Follow up with residents after transition
- ▶ Prevent/minimize transfer trauma
- ▶ Support staff as well as residents
- ▶ Communicating with receiving facility as well as closing facility
- ▶ Permitting state action, i.e. to deny voluntary closure
- ▶ Facilitating residents' choice

► Recommendations developed

- Centers for Medicare and Medicaid Services
- State Agencies
- Long-Term Care Ombudsman Programs

To improve policies/procedures, guidance, training, actions; and to address the primary obstacles to successful transitions for residents

► Nursing Home Closures Toolkit

- Federal and Sample State Guidelines regarding Closures
- Sample letters, information shared with residents and families
- Sample forms, checklist



See also Consumer Voice's website, www.theconsumervoice.org, for more information, including webinar recordings and additional state specific resource examples.

Addressing Obstacles Example: Create a Relocation Team

Improves the closure process for residents and has been beneficial in promoting effective and efficient response to closures for state agencies.

- ▶ Involve all relevant agencies – Medicaid, Mental Health, Disability Rights, Licensure, Ombudsman Program, Adult Protective Services, Money Follows the Person, Legal Services, etc.
- ▶ Clarify and understand each agency/program's role during a closure
- ▶ Develop process for communication, share information, making referrals
- ▶ Facilitates coordination of services, minimize effects of transfer trauma
- ▶ Monitors closure process, implementation of closure plan

Addressing Obstacles Example: Proactive State Action

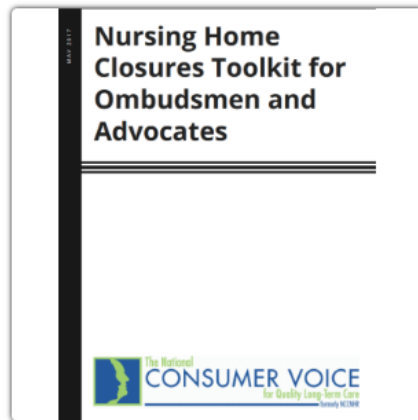
By taking initiative, States can help residents transition to an appropriate and desired location.

- ▶ Establish real time list of open beds and make it accessible to the relocation team
- ▶ Require nursing homes with vacancies to explain why they cannot care for the resident
- ▶ Assist residents who are interested in transitioning to a community-based setting
- ▶ Solve potential reasons why a facility will not admit a transitioning resident. For example:
 - ▶ Lacks necessary equipment – encourage equipment from closing facility go with the resident to the receiving facility
 - ▶ Ensure medical records of residents are up to date
 - ▶ Urge facilities to interview a resident in person before deciding they cannot care them her/him

Nursing Home Closures

Nursing home closings can have serious negative effects on residents. Many residents experience transfer trauma (also referred to as relocation stress syndrome). The response to the stress caused by a transfer or relocation may include depression, manifesting as agitation; increase in withdrawn behavior; self-care deficits; falls; and weight loss. Closures, and these responses to the stress of moving are occurring nationwide, and may be due to the fact that the closure of nursing homes seems to be inadequately addressed in state and federal laws and regulations and/or poor oversight and monitoring by states and the federal government. When closures are inevitable, better policies and practices can be implemented to minimize the negative impact, including transfer trauma, on residents.

Nursing Home Closures Toolkit for Ombudsmen and Advocates



This toolkit (2017) includes materials that will be helpful to you if you are involved in a nursing home closing. The toolkit is intended for use by Ombudsmen and advocates. [Web version](#), [PDF version](#)

Webinars and Reports

For more information

www.theconsumervoice.org



The Local Ombudsman's role in facility closures

Iowa Closure Stats

- ▶ 37 closures
- ▶ Many due to financial issues or lack of staff
- ▶ Developed closure manual
- ▶ “Receivership”
 - ▶ Management company steps in (emergency exists)

Role of the Ombudsman during a closure:

- ▶ Advocate for and support residents, tenants, and families.
- ▶ Assist with relocation efforts and monitor the daily business of the facility or program.
- ▶ Collaborate with core team agencies and participants.



What does the LLTCO do after receiving a closure notice?

Connect with:

- ▶ SLTCO
- ▶ Volunteer Ombudsman
- ▶ Regulatory agency
- ▶ Facility administrator

Encourage the facility to:

- ▶ Set up resident/family closure meeting
- ▶ Contact facilities within 100 miles to determine bed availability
- ▶ Prepare a list of facilities in the surrounding area to disperse during the closure meeting

Resident/Family Closure Meetings:

- ▶ Introduce yourself
- ▶ Bring business cards/brochures
- ▶ Circulate after the meeting

Initial Visit

- ▶ Information gathering
- ▶ Meet with residents and/or tenants
- ▶ Offer support: it can be emotional

To-do's throughout the closure:

- ▶ Participate in closure calls
- ▶ Escalate to crisis calls as needed
- ▶ Meet with residents/tenants
- ▶ Routine monitoring

Ensure the facility has plans for:

- ▶ Packing
- ▶ Transportation
- ▶ Resident Trust Funds/Refunds

After the closure:

- ▶ Follow up visits to the relocated residents/tenants
- ▶ Reach out to the responsible parties

Parting Thoughts

- ▶ Have a plan
- ▶ Ensure each agency understands their role
- ▶ Use our resources and make them your own

Thank you!

**Pam Railsback, Local Long-Term Care
Ombudsman**

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Questions?

Connect with us!



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