

The New Mexico Long-Term Care Ombudsman Program on behalf of long-term care residents throughout the state would like to extend its appreciation to the Program's 120 dedicated volunteers, without whom residents' voices would not be heard.

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## New Mexico Long-Term Care Ombudsman Program Annual Report

Federal Fiscal Year 2013  
(October 1, 2012-September 30, 2013)



Susana Martinez, Governor  
Gino Rinaldi, Secretary  
Myles Copeland, Deputy Secretary

## From the State Ombudsman

Dear Friends of Long-Term Care Residents:

As the State Long-Term Care Ombudsman, I am pleased to present the Federal Fiscal Year (FFY) 2013 Annual Report of the New Mexico Long-Term Care Ombudsman Program.

Long-Term Care Ombudsmen are mandated by state and federal law to advocate for the respect, recognition and enforcement of rights for all residents of New Mexico's long-term care facilities. Eight staff and more than 120 Certified Volunteers strive to fulfill this responsibility every day by providing health oversight, prompt investigation of residents' complaints, advocacy for their wishes and a voice for those who often go unheard.

In 2011, persons reaching age 65 had an average life expectancy of an additional 19.2 years. According to the Administration on Aging, more than one in eight individuals is an older American and over 70 percent of people aged 65 and older will require long term care at some point in their lives. Research from the SCAN foundation in California points out that 70 percent of the public does not believe they will ever need such care, and most people overestimate that long term care will be covered by Medicare insurance alone. How do we help consumers to understand their options and adequately navigate a complex system?

Questions often asked of Ombudsmen include:

- ***What should I look for in a nursing home or assisted living facility?***
- ***How do I determine quality of care?***
- ***How do I best protect my loved one?***

One tool to ascertain quality of care is the website [www.medicare.gov](http://www.medicare.gov). This site makes annual Centers for Medicare and Medicaid (CMS) survey results and other quality measures available to the public. New to this site as part of the recent Nursing Home Transparency Act are disclosures on ownership of certain long-term care facilities, data on staffing levels, antipsychotic medication usage and any penalties assessed to a nursing home. Access to this information allows consumers to make informed choices.

Nationally, there is increased interest in how assisted living facilities are overseen by regulatory agencies. Assisted living homes operate under state regulations only and consist of 2-3 bed home-like dwellings to sites with more than 100 beds. Of concern to the Ombudsmen is the 22 percent increase in overall assisted living complaints in FFY 2013. Related to this trend, shortage of staff in these settings was listed among the top 5 complaints for the first time. It is essential that New Mexico dedicate the necessary regulatory resources to oversee these homes so they remain a safe and viable option for those wishing to leave institutional care.

In 2013, resident-initiated complaints increased by 10% in both nursing home and assisted living settings. Knowing whom to contact with problems and how to effectively advocate for oneself are crucial in preserving resident autonomy and self-determination. Ombudsmen make consumer and public education a key program priority, doubling their community outreach efforts this past year.

As we enter 2014, Ombudsman staff and volunteers continue to work toward solutions. Partnerships with federal and state agencies, long-term care industry partners, advocates and quality management entities have led to implementation of initiatives to improve the quality of care for New Mexico citizens. Two such examples, physical restraint-free care and reduction of antipsychotic medication use, are highlighted in the report's contents.

The Ombudsman Program of the Aging and Long-Term Services Department hopes that this report will be helpful in your efforts to improve the lives of New Mexico's long-term care population.

Sincerely,

Sondra Everhart  
State Long-Term Care Ombudsman

# FFY 2013 Highlights

## History and Mission

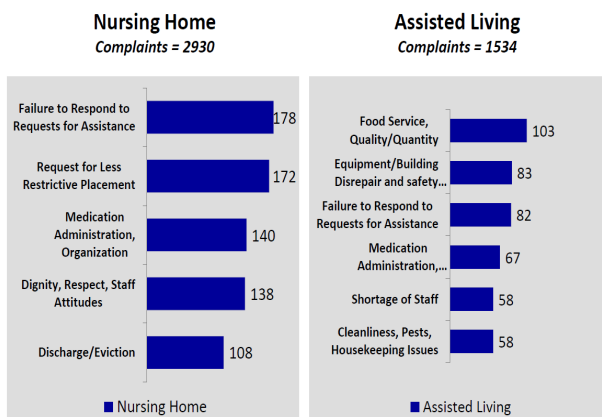
*Established in 1972 through the Older Americans Act, the Long-Term Care Ombudsman Program is federally and state mandated to provide independent oversight and advocacy services to residents in New Mexico's long-term care facilities.*

*The Long-Term Care Ombudsman Program is a resident centered advocacy program designed to protect the rights, health, safety and welfare of New Mexicans living in long-term care facilities.*

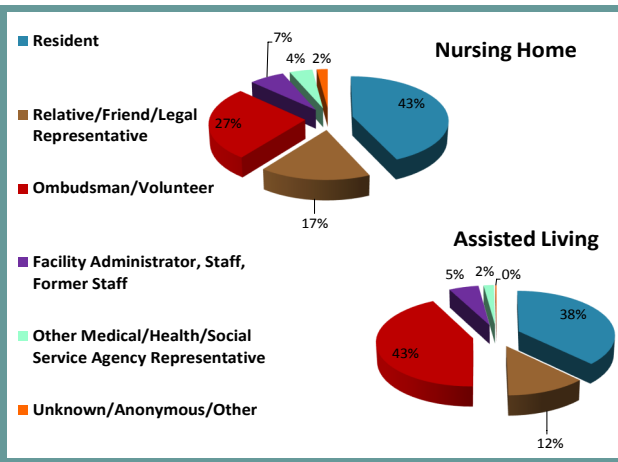
## Long-Term Care in New Mexico

- There are 70 nursing homes, 225 licensed assisted living facilities and +/- 40 known unlicensed residential care homes, that serve more than 12,000 long-term care residents.
- Ombudsmen resolved more than 4,491 complaints, an increase from FFY 2012
- 65% of complaints were in nursing home settings, 34% in assisted living settings and 1% in other settings.
- 80% of complaints pertained to rights, quality of care and discharge/transition issues.
- Complaints for assisted living/board and care homes increased by 22% while complaints in nursing home settings decreased by 4%.

## Top Complaints 2013



## Who Contacts the Ombudsman Program?



*Ombudsmen are contacted by a variety of sources about care concerns. Resident-initiated complaints for both long-term care settings increased by 10% in FFY13.*

## FFY 2013 Accomplishments

- Visited 100% of nursing homes monthly, the majority visited weekly.
- Visited 100% of assisted living facilities annually, more than 80% visited quarterly.
- Contributed 10,000 hours of volunteer service, which is valued at close to \$221,400. (using the national volunteerism hourly rate of \$22.14)
- Facilitated 170 complex transitions from nursing homes to other care settings.
- Provided 7653 consultations to residents, family members, facility staff and other individuals.
- Educated more than 6900 residents, providers, family and community members on Ombudsman services, Resident Rights, preventing Medicare Fraud and long-term care supports.
- State Ombudsman was designated as Federal Bankruptcy Court Patient Care Advocate for a facility filing for bankruptcy.

## Improving Quality in New Mexico's Long Term Care Facilities:

### Ombudsmen FFY13 Collaborative Efforts

In 2012, the Ombudsman program, Department of Health, HealthInsight New Mexico, New Mexico Health Care Association and industry partners embarked on two exciting initiatives to improve the quality of care in New Mexico's nursing homes.

### Physical Restraint Free Care Initiative

A physical restraint is an article, device or garment used primarily to modify resident behavior by interfering with a resident's freedom of movement. Examples of restraints include, but are not limited to: recliners, geriatric chairs, a lap buddy, bed rails, or any other items a resident cannot remove easily.

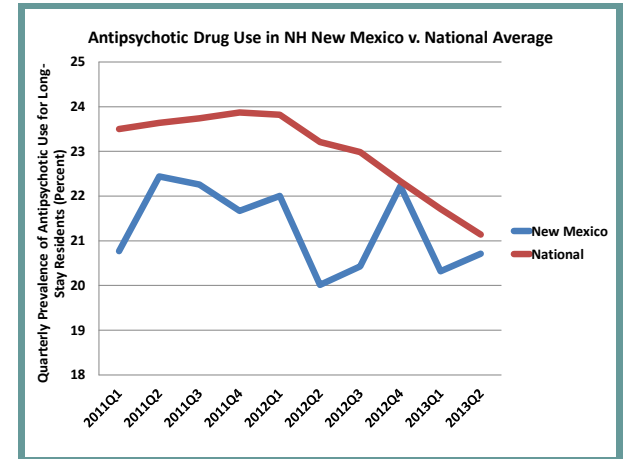
New Mexico's nursing homes may currently request an assessment to ascertain if they meet the standard of consideration as a "physical restraint free" environment and ask for a site visit from the Ombudsman for validation of this status. Thus far, two nursing homes have been designated "physical restraint free", with two more facilities requesting validation site visits. New Mexico is making active strides toward providing "restraint-free" care and continues to perform better than national averages.

### Reduction of Antipsychotic Medication Use

Overuse of antipsychotic medications to control resident behavior is a national concern. Multiple reports from the Office of Inspector General of the Department of Health and Human Services cite widespread use of antipsychotic medications (despite black box warnings) to mitigate behavioral symptoms in residents with dementia. According to OIG reports, more than 20 percent of atypical antipsychotic drugs claimed for Medicare patients in nursing homes violated Federal standards. The Centers for Medicare and Medicaid (CMS) data show that in 2010 more than 17 percent of nursing home patients had daily doses exceeding recommended levels. In response to these trends, Ombudsmen joined the CMS launch of the National Partnership to Improve Dementia Care in 2012.

CMS has issued new surveyor guidelines on the use of antipsychotic medications for individuals with dementia and established national goals of reducing antipsychotic use to 15%. The National average is currently 21.14%; New Mexico's average is 20.71%.

### Partnership to Improve Dementia Care in Nursing Homes: Antipsychotic Drug Use in Nursing Homes Trend Update



Source: CMS Quality Measure, based on Minimum Data Set (MDS) 3.0 Data

## Recommendations for FFY14

- Dedicate Ombudsman resources to increase advocacy and oversight to assisted living facilities, particularly those homes providing specialty memory care.
- Advocate for increased funding to strengthen regulatory oversight of state-licensed only assisted living facilities.
- Support changes to state statutes to remain consistent with any Federal Older American's Act direction broadening the definition of "resident" to include people not currently living in long-term care institutions.
- Identify systemic issues within single-owner and multi-chain corporate facilities. Develop plans of action to address those issues.