
Successful Complaint Investigation and Resolution During COVID-19

May 25, 2021

We will begin in a few minutes.
COVID-19 Recovery and Reentry:
TA Open Dialogue Webinar Series

Successful Complaint Investigation and Resolution During COVID-19

May 25, 2021
Welcome!

- 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.
Have a question? Use the Q&A or Chat box.

**Question & Answer**

The Q&A window allows you to ask questions to the host and panelists. They can either reply back to you via text in the Q&A window or answer your question live.

1. Click Q&A to open the Q&A window.
2. Type your question into the Q&A box. Click Send.

**Chat**

The in-meeting chat allows you to send chat messages to and send a message to the host, panelists, and attendees (if permitted).

1. Click Chat to open the in-meeting chat.
2. The chat will appear on the right side of your Zoom window if you are not in full screen. If you are in full screen, it will appear in a window that you can move around your screen as needed.
3. To change who you are chatting with, click the drop down beside To.
4. Type your message and press Enter.
Poll Question 1

During COVID-19, did most of your complaints originate from residents or families?

- Residents
- Families
Responding to Complaints During the COVID-19 Pandemic
State Long-Term Care Ombudsmen
Updated May 2021

• Program Management Considerations

• Determine Triage Approaches

• Tracking Facility Information and Systems Advocacy

https://ltcombudsman.org/omb_support/COVID-19/recovery-and-reentry
The purpose of this resource is to provide advocacy strategies and NORS coding examples in response to common complaints during the COVID-19 pandemic.

https://ltcombudsman.org/omb_support/COVID-19/recovery-and-reentry
NORS FAQS – Documenting Activities During COVID-19

https://ltcombudsman.org/omb_support/nors/nors-faqs#documenting

NORS FAQS

https://ltcombudsman.org/omb_support/nors/nors-faqs

NORS FAQS: COVID-19

IMPORTANT NOTE ABOUT VISITS: In-person visits with residents are a core part of Ombudsman program outreach and advocacy and NORS reinforces this importance by requesting that Ombudsman programs report all visits. However, during the COVID-19 pandemic, visits have been dramatically curtailed. It is important that Ombudsman programs accurately reflect this decrease to show the impact of the pandemic on the program and residents. There is no substitute for an in-person visit, while outreach by other means is necessary, we do not want to give the impression that the program operated as usual. ACL anticipates that there will be a sharp decrease in visits, and that is appropriate, given the circumstances.

Complaint Coding

Q: After several attempts to connect with facility staff, they are not returning my calls or emails. What complaint code do I use?

A: Use complaint code 803 – Willful Interference when a facility does not return calls or emails (after multiple attempts) made by an Ombudsman program. The ACL NORS Table 4 Examples and Reporting tips for 803 says this code, “includes……interferes with the Ombudsman program having immediate access……to meet with a resident in person, in private, or by phone”.

Q: The facility is not returning calls and/or emails to family members of residents. The family contacted my office for assistance, what complaint code do I use?

A: Use complaint code 801 – Access to information and records when a facility does not return calls to family members of residents. The ACL NORS Table 4 Examples and Reporting tips for 801 says this complaint code “includes access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities.”

However, if the family member is attempting to follow-up with the facility staff regarding a concern and the facility is not returning their calls, complaint code 805 – Response to complaints may be more appropriate. ACL NORS Table 4 defines this code as “facility staff ignores or trivializes a resident complaint or there is no facility grievance process thereby limiting the resident’s ability to resolve a problem directly with the administration.”

Q: Facility staff are not answering phone calls after multiple attempts. What complaint code do I use?

A: Use complaint code 901 – Administrative oversight when facility staff are not answering phone calls after multiple attempts. The ACL NORS Table 4 Definition for 901 says, “Mismanagement including but not limited to: administrator is absent, unresponsive, inadequately trained or not supervising staff; incomplete, missing or falsified record keeping; background screening not performed; illegal policies/practices and similar complaints.”

Updated October 14, 2020
Complaint Processing

Refer to ACL’s *Emergency Preparedness and Response: Model Policies and Procedures for State Long-Term Care Ombudsman Programs* Section 600.2 Complaint Processing

Assess complaint intake, response, investigation, referral, and resolution procedures and standards applicable under normal operating conditions and determine if adjustments are necessary.

- Ensure that the complaint process during emergencies continues to reflect the primacy of the resident’s goals, wishes and determination of satisfaction with the resolution, as required by 45 CFR 1324.19(b).
- Ensure consistency of complaint processing practices regarding disclosure of resident or complainant identifying information, as required by 45 CFR 1324.19(b). The program continues to obtain informed consent to the greatest extent possible with consideration of the specific circumstances of this emergency.

The Ombudsman program may be the complainant when there is difficulty accessing resident, for example, or if there are general concerns about care or infection control and similar circumstances. Remind representatives to document all activities (e.g., complaints, information and assistance, community education) using appropriate NORS codes. Document these complaints in your state’s software; this includes activities and complaint work conducted by the state Ombudsman.

Key NORC Resources – Complaint Processing


Poll Question 2

If you have resumed in-person visitation, are you receiving less, the same, or more complaints than you did before COVID-19?

- Less
- The same
- More
Please send brief, deidentified examples of cases involving abuse, neglect, or exploitation your program addressed during COVID-19.

Ombudcenter@theconsumervoice.org
Speakers

Amanda Grooms is the Long-Term Care Ombudsman at the Buffalo Trace Area Development District in Maysville, Kentucky and covers a five-county service region. She has worked in positions related to long-term care for a total of fifteen years. Driven by a passion to protect and uplift the most vulnerable in the area, Amanda is continually advocating for resident rights and quality care for seniors. She holds a BSW from Morehead State University and lives in her hometown of Maysville, Kentucky with her husband and two sons.

Quiteka “Teka” Moten is the State Long-Term Care Ombudsman for Tennessee. Teka is from Memphis, Tennessee and is an alumna of the University of Tennessee-Knoxville with a B.A. in Interdisciplinary Studies and a B.A. in Sociology. Following undergrad and time as a caregiver for her grandmother suffering with dementia, Teka accepted a position with the Alzheimer's Association as Manager of Programs and Policy for the Mid-South Chapter. For several years, she worked providing care and support to the 13-South Central counties. Her duties included training support group facilitators, writing respite/early-stage engagement program grants, and heading up public policy initiatives. While there, she served on the AAAD Advisory Board and worked actively as a Volunteer Ombudsman Representative (VOR). From there, Teka received her Master of Public Health with a concentration in Behavioral Sciences; she is also a Certified Dementia Practitioner and PAC Dementia Coach. She enjoys listening to Audible books, trying new Air Fryer recipes, traveling, and serving the greater Nashville community in her spare time.
**Kim Boyd** is the District Long Term Care Ombudsman for district 7, rural Northwest Tennessee. Kim has been the Northwest’s DLTCO since 2017. Prior to becoming the Northwest’s DLTCO, Kim worked for over 25 years in capacities serving and advocating for children and individuals with intellectual and developmental disabilities. In 2019, she received the West Tennessee Legal Services “Steve X Award for Outstanding Work in Promoting Justice for All.”

Kim is a graduate of the University of Tennessee at Martin. She has one 11-year-old son. In her spare time, she enjoys volunteering, spending time outside, working on arts and crafts and traveling with her son.

**Melinda Lunday** is the District Long-Term Care Ombudsman Program Ombudsman in the Middle Tennessee area. She is a graduate of Western Kentucky University, where she earned a bachelor's degree, majoring in Sociology and minoring in Criminology and Psychology. She received a certification in Foundation in Aging and Disabilities through the CADER program at Boston University School of Social Work. Melinda began part-time with the Long-Term Care Ombudsman Program in October 2016. Melinda has trained, recruited, and retained a core group of approximately thirty-five volunteers. In September 2020, Melinda stepped into the role of Program Director, while continuing to work in a Volunteer Coordinator capacity. During the Covid outbreak, she enjoyed gardening, and watching Netflix with her three beautiful children: specifically, the Marvel Universe of superheroes.
Thomas Kahler is the District 2 Long-Term Care Ombudsman (DLTCO) for East TN for four years—encompassing sixteen counties and serving approximately 11,500 residents in licensed long-term care facilities. Thomas grew up in Norris TN and attended East TN State University and the University of TN where he obtained a Bachelor’s Degree. He spent much of his early adulthood working in engineering and manufacturing environments. A life altering event led him to pursue a higher level of education, and he received his Juris Doctorate from the University of TN – College of Law in 2000. After law school, Thomas chose to work in the nonprofit sector focusing on social justice issues with particular emphasis on seniors and people with disabilities. Thomas is married to Jessica Christine Kahler; they are currently foster parents of two young children. In their free time they enjoy travel, photography, exploring new restaurants, music of all types including live concerts, bicycling, kayaking, and gardening. Some of those activities weren’t necessarily an option in the era of COVID-19, so they’ve spent much of the past 15 months remodeling their house.

Zev Samuels has an M.S.W. from the Wurzweiler School of Social Work in New York, with a special focus on Social Group Work. In 2019, Zev was awarded Tennessee Social Worker of the Year by NASW-TN. Zev is the District (R9) Long Term Care Ombudsman, serving Fayette, Lauderdale, Shelby, and Tipton Counties. He has held this office for 7 years. Zev and his wife, Sherri, live in Memphis; and they have 3 adult children. Zev enjoys finding ways to make a difference. The following quote has been essential for Zev as he has managed the stressors of the pandemic, “Never, ever give up on a person. This is true of anyone; but most importantly, never give up on yourself!”

Facilitator: Carol Scott, Ombudsman Specialist, National Ombudsman Resource Center
Kentucky Long-Term Care Ombudsman Program

- 312 Nursing Facilities
  28,000 Residents
- 203 Personal Care and Family Care Homes
  8,000 residents
**Background:** 62 year old male with lung cancer that metastasized to bone, stomach, adrenals, and brain. He underwent a craniotomy on 1/5/21 and was transferred to nursing home, 2.5 hours away, on 1/26/21. Sister is POA.

**Complaints:**
- No formal care plan meeting
- Advance Directives changed
- Not honoring POA document
- Cancelled appointments
- Reoccurring falls
- Denied compassionate care visit
- Poor communication from facility staff

**Investigation:**
- Phone call with resident
- In person visit with resident
- Care conference at facility
- Multiple conversations with facility staff
- Multiple conversations with POA

**Resolution:**
- Facility respected resident’s wishes
- Facility allowed POA to be more involved in care
- Bed rails were ordered for safety
- Focused more on pain management
- Transferred to a hospice in-patient center
“Unfortunately, during COVID, our work has increased, and it has taken longer to resolve concerns, or respond to callers. No longer are we able to handle group concerns within a 2-hr visit. Now we are faced with individual calls being placed to residents, family members, and staff. We continue to experience barriers with antiquated phone systems that sometimes take about ½ hr to reach someone. It can sometimes take several days to work on one issue, which previously could’ve been resolved in a matter of minutes.”

“Case resolution in a timely manner. Resolution requires three times the time because having to contact all parties via phone or email.”
Amanda Grooms, BSW
District Long-Term Care
Ombudsman
Buffalo Trace AAAIL
agrooms@btadd.com
606-564-6894
Successful Complaint Investigation and Resolution During COVID-19

National Consumer Voice for Quality Long-Term Care
Tuesday, May 25, 2021
Tennessee, the Volunteer State has Three ‘Grand’ Regions!!
About the Tennessee Long-Term Care Ombudsman Program—ORGANIZATION

- The Tennessee Long-Term Care Ombudsman Program is **DECENTRALIZED**.
- Our state office is located (in Nashville) within the State Unit on Aging, or **Tennessee Commission on Aging and Disability** (TCAD).
- Tennessee’s Aging Programs are divided into nine (9) AAAD districts. For the Ombudsman Program:
  - Five (5) of our DLTCO Programs are contracted out of AAADs.
  - Four (4) of our DLTCO Programs are contracted with other nonprofits**.
- **NOTE:** we refer to our “Locals” as District Long-Term Care Ombudsman (DLTCOs)
TENNESSEE

Decentralized

Governor

Commission on Aging and Disability (SUA)

Office of the State Long-Term Care Ombudsman

SUA contracts with 9 Development Districts for local programs, and work through AAAD system

9 District/ local programs from contracts in AAADs. Can contract with 3rd parties

200 Volunteers
About the Tennessee Long-Term Care Ombudsman Program--**BY THE NUMBERS**

- **16 FT staff, 1 PT staff, & ~200 volunteers** work for our program statewide
  - Needs adjusting for COVID turnover and re-entry training participants

- **Count of licensed long-term care facilities in the state of Tennessee:**
  - 315 SNFs, or skilled nursing facilities commonly known as ‘nursing homes’
  - 415 ACLFs, or Assisted Care Living Facilities, known as ‘assisted livings’
  - 100+ RHAs, or Residential Homes for the Aged

- **~61,000+: TOTAL RESIDENTS IN LICENSED LONG-TERM CARE**
  in the state of TN as of our ACL submission to OAAPS.
COVID-19 in context for our state...

The TN LTCOP began meeting WEEKLY the first week of April due to COVID-19; it helped us to explore trends & brace for spread in our respective areas.

The TN LTCOP met with VORs bi-monthly to discuss numbers, encourage masks making and telephone reassurance when possible.

QSO-21-19 has made for an interesting twist dependent on region...

Our state does not allocate state funds to Adult Protective Services, or APS!!

We passed immunity legislation on COVID-19 within weeks of the pandemic’s first wave.

Our safety net SNF for compassionate release (inmates) and HIV patients was on land owned by the city of Nashville; it was shut down during COVID-19 despite our efforts to keep doors open.

We learned on May 12, 2021 that annual surveys would resume in TN on June 1, 2021.
For now, DOH is going in SNFs for infection control and IJs, or immediate jeopardy surveys...
Complaint call follow-up varies by region & surveyor team.
# Tennessee District LTCO Program

<table>
<thead>
<tr>
<th>District</th>
<th>Region</th>
<th>Contact Information</th>
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</thead>
</table>
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Dealing with concerns of care quality

- Care quality cases were difficult to work because of the inability for immediate access
- Workforce shortages throughout the state led to diminished quality of care particularly in rural areas of our state
- We learned about varying quality of care from families, skilled care residents, facility staff, and residents in skilled nursing facilities.
- For IJs, or immediate jeopardies, we alerted DOH. For lower priority complaints, we issued formal complaints with the Tennessee Regional Office administrators or through completing an online form.
- For many cases, it meant empowering residents and families to stay on facility staff or advocating for compassionate care visits
Kim Boyd is the District Long Term Care Ombudsman for District 7, rural Northwest Tennessee. Kim has been the Northwest's DLTCO since 2017. Prior to becoming the Northwest’s DLTCO, Kim worked for over 25 years in capacities serving and advocating for children and individuals with intellectual and developmental disabilities. In 2019, she received the West Tennessee Legal Services “Steve X Award for Outstanding Work in Promoting Justice for All.”

Kim is a graduate of the University of Tennessee at Martin. She has one 11-year-old son. In her spare time, she enjoys volunteering, spending time outside, working on arts and crafts and traveling with her son. To distress during COVID-19, Kim spent time in her garden and planning her fabulous, new backyard.

**Northwest TN counties (More rural area)**

**Dealing with COVID-19 surcharges and cohorting of residents**

- Issues arose earlier on in COVID-19 (March- first wave in July 2020)
- ALCF family members made contact about billing discrepancies and additional costs
- Resolved by warning ALCFs about price gouging & “fair pricing” policies
- SNF residents and families complained about being moved further NW due to CMS waivers that allowed cohorting
- Resolved, where possible, by educating family on waivers and providing reassurance of return
- Concerns on economic impact/stimulus and financial exploitation; FAQ and allowable spending
Melinda Lunday

Nashville/Davidson Co. area and surrounding counties

Melinda is the District Long-Term Care Ombudsman Program Ombudsman in the Middle Tennessee area. She is a graduate of Western Kentucky University, where she earned a Bachelor’s Degree, majoring in Sociology and minoring in Criminology and Psychology. She received a certification in Foundation in Aging and Disabilities through the CADER program at Boston University School of Social Work.

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Dealing with COVID-19 facility outbreaks

- Started COVID-19 off with a bang; received a very vague note from a facility in Sumner Co. in reference to COVID-19
- Turned out to be one of the largest (earlier) outbreaks in the country after Washington State and New York
- Maintained open communication with admin & learned working with DOH would be a challenge early on.
- Requesting face sheets was the only method to track residents that had been cohorted as allowed by CMS waiver;
- Used ER logs, when possible, but they aren’t due til the following 20th of the month.
Zev Samuels is the District 9 Long Term Care Ombudsman, serving Fayette, Lauderdale, Shelby, and Tipton Counties. He has held this office for 7 years. Zev has an M.S.W. from the Wurzweiler School of Social Work in New York, with a special focus on Social Group Work. In 2019, Zev was awarded Tennessee Social Worker of the Year by NASW-TN. Zev and his wife, Sherri, live in Memphis; and they have 3 adult children. Zev enjoys finding ways to make a difference. The following quote has been essential for Zev as he has managed the stressors of the pandemic: “Never, ever give up on a person. This is true of anyone; but most importantly, never give up on yourself!”

### Dealing with Unethical Facility Discharges

- Involuntary Discharges were most challenging issue during visitation restrictions from COVID-19.
- Cases include individuals who were sent to hospitals/behavioral health hospitals with no opportunity to return to the facilities.
- Without 30 Day Notices of Involuntary Discharge, residents had no way to appeal or to otherwise challenge these discharges.
- Many facilities would regard it as ‘cohorting’ when it was in fact ‘dumping’
- Residents with Medicaid CHOICES benefits risked losing them; and families were at a loss to advocate for residents, as communication between facilities and families were often severely disrupted.
Advocacy Partnership with Public Guardian example—Letter with Shelby County mayor

Shelby County Government

LEE HARRIS
MAYOR

August 7, 2020
Governor Bill Lee
Tennessee State Capitol, First Floor
600 Dr. M.L. King Boulevard
Nashville, Tennessee 37243

Dear Governor Lee:

As the COVID-19 health emergency continues to impact many activities of daily living, I remain deeply concerned about our disabled and senior residents in long-term care facilities across the state. While it is heartbreaking that in-person family visits must remain curtailed, this is an understandable and reasonable restriction that protects these individuals who cannot live independently. I am writing regarding access for public guardians, investigators from Adult Protective Services, and first responders in an emergency.

Public Guardians

First, my understanding is for the duration of the declared public health emergency, public guardians have been unable to see their wards in person. While the public guardians can receive reports from the facilities’ treating health care professionals, there are some determinations that require an in-person visit. This is critically important where the individual cannot communicate. Some of these individuals are more or less incarcerated, and are often non-verbal. Issues touch and impact Shelby County. Individuals employed by our Aging Commission of the Mid-South frequently act as the court-appointed public guardians for Shelby County residents who have no one else to make their health and financial decisions. Thus, in the next Executive Order, I would ask that you please consider creating a process for safe, in-person visits for court-appointed public guardians.

Adult Protective Services

Second, I have some concern about whether Adult Protective Services (APS) investigators have appropriate access to long-term care facilities when there is a claim of abuse or neglect. In more normal circumstances, my understanding is that investigations of such a claim would include a facility visit. I believe site visits should remain one of the possible components of abuse and neglect investigations, especially while family members have limited ability to collect information and advocate for their loved ones. Thus, in the next Executive Order, I would ask that you consider granting permission for APS investigators, in certain circumstances, to conduct site visits as part of abuse and neglect investigations.

First Responders

Third, our local first responders have reported delays with respect to access to facilities and delivering potentially life-saving care in an emergency. The issue is that some facilities require full screening of ambulatory personnel, even though emergency medical personnel have already screened when they report to their duty location. The full screening of each individual, often including signing forms, drastically increases response time for health emergencies including cardiac arrest and stroke, when time is of the essence. Thus, in the next Executive Order, I would ask that you permit emergency medical personnel entry without undue delay.

The roles of public guardians, Adult Protective Services investigators, and first responders each provide important protective functions for our senior and disabled community members. These are all tough times. However, I am confident that you will be able to strike the right balance of protecting nursing home residents from infection, while also creating a reasonable path for responses to health emergencies and protections from abuse and neglect. Please let me know how I may assist as we all navigate these truly unprecedented times.

Lee Harris
Mayor

Cc: Tony Niknojed, Policy Director, Office of the Governor (email only)
Lisa Paezoy, Commissioner, Department of Health (email only)
Danielle W. Ramsey, Commissioner, Department of Human Services (email only)
Jim Shulman, Executive Director, Tennessee Commission on Aging and Disability (email only)
Quineta Mason, Long Term Care Ombudsman, Tennessee Commission on Aging and Disability (email only)
Chief Administrative Officer Dian Gillm (email only)
County Attorney Mattie E. Frentz (email only)
Deputy Chief Administrative Officer LaTonya Hall (email only)
Kim Daugherty, Administrator, Aging Commission of the Mid-South (email only)
Assistant County Attorney Jessica L. Indigir (email only)
Special Assistant Franklin Dukla (email only)
Shelby County Health Director Alisa Haushalter (email only)
Major Takeaways during COVID-19
Methods used by TN DLTCOs during COVID-19

- Use of Tennessee Standards of Care in SNFs, ALCFs, and RHAs to determine eligibility for visits when compassionate care requests were pushed back on or refused by facility was imperative.
  - Use of the Non-Interference Clause to get info that backed formal complaints to DOH
- Rapport with our nursing home provider association, or Tennessee Healthcare Association (THCA), which was a repository of corporate contacts during critical compassionate care cases.
- Use of info from EDs and discharge nurses to confirm COVID in facilities and *TRY* to prevent hospital dumping due to unethical facility-initiated discharges.
- Communication with three (3) Tennessee Regional Office administrators for more serious complaints-- we have reason to believe we strongly encouraged their development of an online form.
QUESTIONS, COMMENTS, CONCERNS, CRIES?!
Tennessee District LTCO Program

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District 9 - Memphis-Delta
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• **Dr. Laura Mosqueda**, Dean, Keck School of Medicine of University of Southern California (USC) Professor of Family Medicine, Keck School of Medicine of USC operates the National Center on Elder Abuse (NCEA)

• **Karen Jones**, Chair of NALLTCO Executive Director/Program Manager Long Term Care Ombudsman Services of San Luis Obispo County, California Long-Term Care Ombudsman Program

• **Jane Brink**, Regional Ombudsman, Minnesota Long-Term Care Ombudsman Program

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**Resuming In-Person Visits During COVID-19**

Tips for Identifying Trauma, Potential Abuse, and Supporting Residents

Friday, June 18, 3:00 - 4:30 ET

Join NORC for the webinar, *Resuming In-Person Visits During COVID-19: Tips for Identifying Trauma, Potential Abuse, and Supporting Residents* on Friday, June 18, 3:00-4:30 ET

**Register Now!**
What impact do you as an ombudsman have on residents’ lives?

I am not sure; I bear witness for them. I sit by bedsides and hold their hands as they cry. I listen to them and let them know that I believe them. Too often the testimonies of people in nursing homes are dismissed or disregarded. This harms a person’s sense of worth and causes people to feel socially alienated or feel that they have experienced social death. It is an insidious form of ableism and injustice; one that is exploited to avoid accountability.

Lydia is a Texas Volunteer Long-Term Care Ombudsman who has served residents of nursing and assisted living facilities in Harris County (Houston area) for over four years.