



OFFICE OF THE STATE

Long-Term Care Ombudsman

2013

ANNUAL REPORT



*Reaching Out
for Quality Care*

Office of the State Long-Term Care
Ombudsman
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Barbara J. Hickert, State Ombudsman

Sam Brownback, Governor

December 2013

The Honorable Sam Brownback, Governor,

Members of the Legislature and Fellow Kansans,

The Office of the State Long-Term Care Ombudsman is pleased to submit the 2013 Annual Report. This report provides a snapshot of the Kansas Long-Term Care Ombudsman program. It contains not only the statistics gathered by the Ombudsman, but it also contains information about the program and its purpose. The Kansas Long-Term Care Ombudsman is part of a national program, funded by state and federal funds, which works toward ensuring that long-term care residents are afforded their rights and that their quality of life is the best it can be.

The Office of the State Long-Term Care Ombudsman Program performs a vital resident advocacy and empowerment role. This past year has seen an increase in our presence in long-term care facilities. This is demonstrated by the increases in number of facility visits, participation in resident and family council meetings, and training for facility staff. We have made efforts to increase our visibility in the community by increasing the number of community education programs and were successful in increasing the number of volunteers working with our program. Our staff and certified ombudsman volunteers have answered thousands of questions, provided consultations to hundreds of people and made a difference in the lives of countless residents.

We hope this report will be informative and helpful to you as we work together to improve the quality of life for our fellow Kansans. I look forward to our future service and your support.

Respectfully submitted,

A handwritten signature in black ink that reads "Barbara J. Hickert". The signature is written in a cursive, flowing style.

Barbara J. Hickert

State Long-Term Care Ombudsman



Purpose & Organization

Program Overview

The Mission of the Long-Term Care Ombudsman Program is to advocate for the well-being, safety and rights of residents of Kansas long-term care facilities, by assisting them in attaining the highest possible quality of life

Kansas's Long-Term Care Ombudsman Program is a volunteer-based organization seeking to improve the quality of life of vulnerable elders who live in long-term care facilities, including nursing homes, assisted living facilities, adult day care, boarding care homes, residential care homes and long term-care units of hospitals.

The primary purpose of the program is to investigate and resolve complaints on behalf of residents of long-term care facilities. Certified ombudsman staff and volunteers investigate and work to resolve complaints made by or on behalf of residents. Ombudsmen regularly visit long-term care facilities to be accessible to residents and monitor conditions.

In addition, ombudsmen provide education regarding long-term care issues, for residents, facility staff and the community; identify long-term care concerns; and advocate for needed change.

Program History

The Long-Term Care Ombudsman Program is authorized by the federal Older American's Act and the Kansas Long-Term Care Ombudsman statutes 75-7301 through 75-7314.

Long-Term Care Ombudsman programs were created in the mid-1970's to advocate for the rights and needs of Long Term Care Residents. The program operates in all fifty states and two U.S. territories as required by the Older Americans Act. Every state has a Long-Term Care Ombudsman Office which guides efforts to improve the lives of residents in Long-Term Care Facilities.

The Kansas Long-Term Care Ombudsman Program was implemented in 1975 upon receiving federal grant funding from the Administration on Aging. The program was located within the Division of Aging.

The Certified Ombudsman Volunteer program was created in August of 1996, The volunteer program started as a pilot program in Shawnee and Johnson Counties.

Legislation in 1998 moved the Ombudsman program out of the Department of Aging and made it an independent agency attached to the Department of Administration.

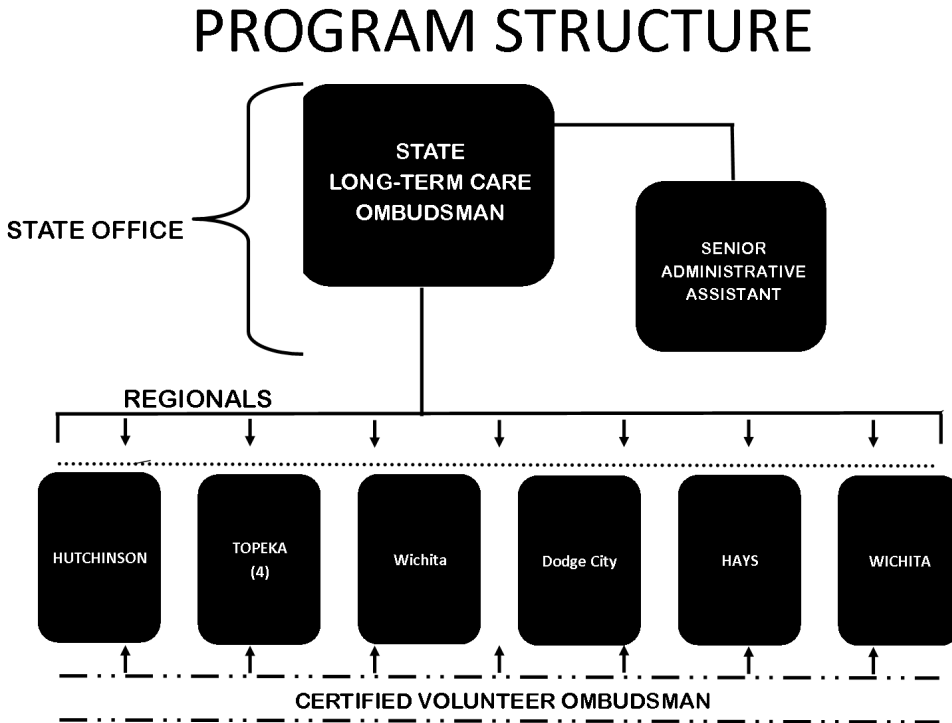
What is an Ombudsman?

The word "ombudsman" is Swedish and means "one who speaks on behalf of another". The Ombudsman is an advocate for residents of long-term care facilities

Structure

The Office of the State long-term Care Ombudsman operates as a separate agency within Kansas Department of Administration. The State Ombudsman is appointed by the governor and confirmed by the Senate. The program is supported by a Senior Administrative Assistant. Additionally there are 9 Regional Long-Term Care Ombudsman in offices across

the state: Wichita, South Hutchinson, Topeka, Hays, and Dodge City. From these locations, the regional ombudsman investigate, handle complaints and visit all long-term care facilities in Kansas. In addition, the staff also provides support and guidance to certified ombudsman volunteers, consult with facility staff, and conduct in-service training. One of the programs most valued resource is the 126 Certified Ombudsman Volunteers throughout the state. During this reporting period, volunteers provided 7,445 hours of services to our program.



Certified Ombudsman Volunteers

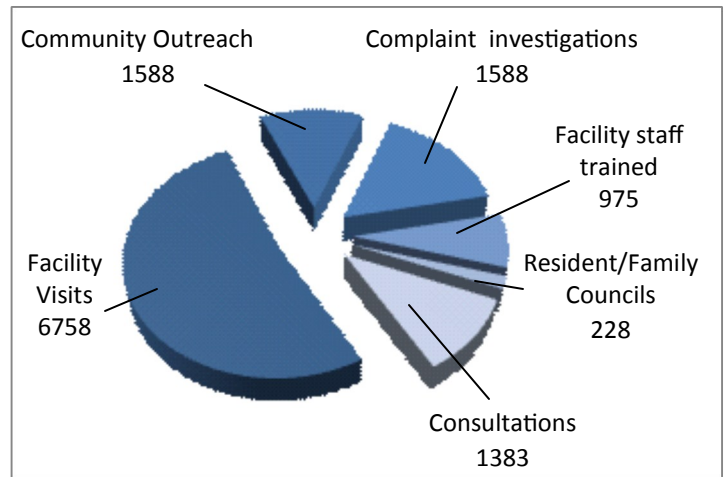
Volunteer ombudsmen are the heart of our program. We believe every Kansas long-term care resident deserves to have access to the services of a volunteer ombudsman. While FY13 saw an increase in the number of volunteers, we see plenty of opportunity for growth of our volunteer corps and continue to work on recruitment and retention efforts.

Each certified ombudsman volunteer is assigned to one facility near his or her home. We ask that volunteers visit the facility once a week with the purpose of meeting with residents. Every ombudsman encourages self-advocacy and interaction among residents, staff and community. The volunteer ensures that the legal rights of the residents are being honored and receives, investigates and resolves concern made by or on behalf of residents.

We provide new volunteers with 30 hours of classroom and on-site training regarding elder rights, the regulatory process, plans of care, advocacy, the aging process, communication, problem solving and facility staff structure. Once a volunteer has successfully completed training, the volunteer and the regional staff match the volunteer to a facility. Following placement, regional staff provide ongoing support and training for the volunteer. Our goal is to help each volunteer to be a successful advocate for residents.

Overview of Accomplishments

- Received and worked to resolve 2078 complaints on behalf of long-term care facility residents.
- Made 6,758 facility visits to long-term care facilities, a 33% increase.
- Assisted all residents of a nursing facility through closure and relocation after facility's license was revoke.
- Assisted all residents of an assisted living facility through relocation after facility was evacuated due to flooding.
- Promoted quality improvement in long-term care facilities through participation in Advancing Excellence in America's Nursing Home Campaign; co-convenor of the Local Area Networks of Excellence; Kansas Partnership for Better Dementia Care; and as a Member of Kansas Culture Change Coalition Board of Directors.
- Trained 26 new volunteers, resulting in a 13% increase in the total number of volunteers. Volunteers donated 7,445 hours of service to our program.
- Attended 228 resident and family council meetings, a 25% increase.
- Provided community education on long-term care issues to 76 organizations, reaching over 1,588 persons.
- Provided 46 in-service training sessions to 975 facility staff members.
- Achieved overall positive outcomes for 94% of complaints.
- Facilitated six new family councils in nursing homes.
- Provided education to the Kansas Adult Care Executive's Administrator in Training class, Johnson County Community College's Assisted Living/Operators course, and Kansas Healthcare Association/Kansas Center of Assisted Living's Operators Course.
- Provided information and assistance to 803 individuals, and to 580 long-term care facilities.
- Organized annual volunteer appreciation days in Topeka and Dodge City.
- Member of numerous advisory committees and workgroups in a effort to improve care in the Kansas adult care homes.





Operations & Funding

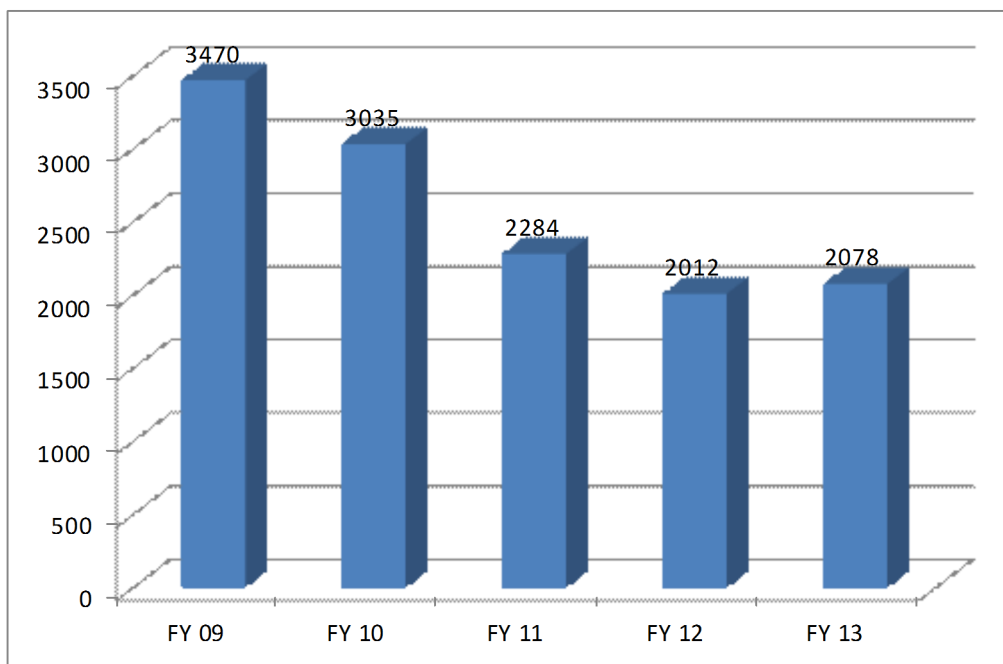
2,078 Complaints Handled in FY13

Complaint: a concern brought to, or initiated by, the ombudsman for investigation and action by or on behalf of one or more residents of a long-term care facility relating to the health, safety, welfare or rights of a resident

A principal function of the ombudsman program is to investigate and work to resolve complaints made by or on behalf of residents of long-term care facilities. In handling complaints, Ombudsmen respect resident and complainant confidentially, encourage resident empowerment, and focus complaint resolutions on the resident's wishes.

Ombudsmen completed a total of 2078 complaint investigation in FY13. Often, a single complaint may affect more than one resident; in fact, a group or even the entire population of a long-term care facility may be affected. For example, a complaint regarding the quality of food served at a facility may affect the entire resident population.

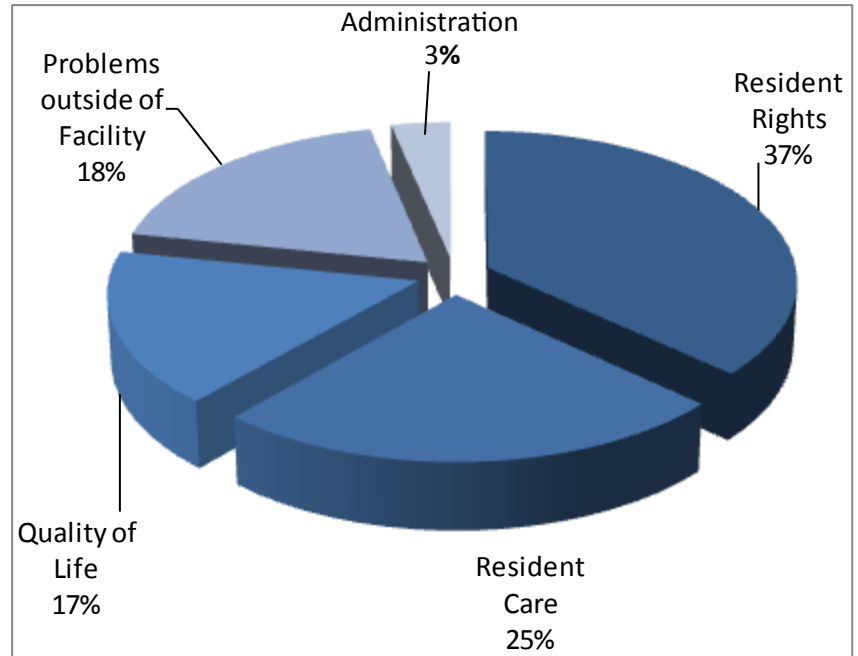
Total Nursing Facility Complaints for FY09 through FY13



Complaint Groups

Ombudsmen investigate a wide variety of complaints each year. Complaints regarding a long-term care facility, its employees, providers of long-term care services, public or private agencies, guardians, representative payees and other agencies or persons who are in a position of ensuring residents' rights may be investigated. Specific complaints range from privacy, dignity and care issues to improper medication administration and discharge planning procedures.

The Administration on Aging defines 133 types of complaints grouped into five categories: Resident Rights, Resident Care, Quality of Life, Administration and Problems outside of Facility. The graph to the right shows these five categories and the percent of each to the total number of complaint handled in FY13. The largest number of complaints handled during this report year concerned resident rights (37%) and the smallest number were complaints about administration (3%). The following pages have more detailed information on each of these five categories.



The chart below list the top ten complaints handled by ombudsmen in FY13 across all categories.

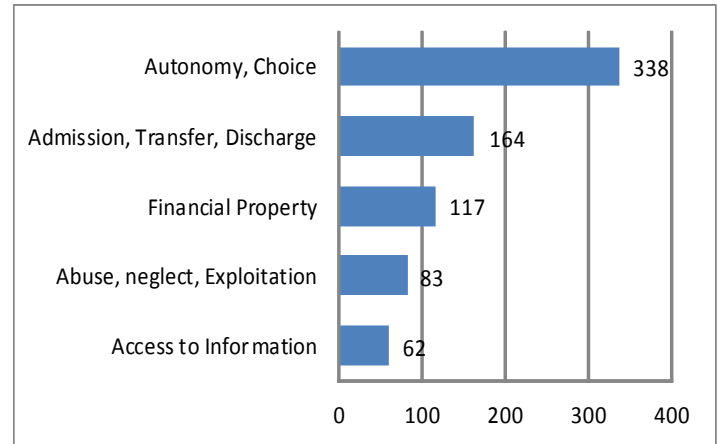
Most Frequent Types of Complaints in FY13

Type of Complaint	Number of Complaints	Percentage of all Complaints
Discharge, Eviction—Planning, Notice	127	6%
Family Conflict; interference	127	6%
Dignity, Respect — Staff Attitudes	124	6%
Legal — Guardianship, conservatorship, Power of Attorney	100	5%
Failure to Respond to Requests for Assistance	99	5%
Exercise preference/choice	81	4%
Medications—Administration, organization	74	4%
Resident Conflict, including roommates	68	3%
Personal Property lost, stolen used by others	55	3%
Food Service—quality, quantity choice, temperature	53	3%

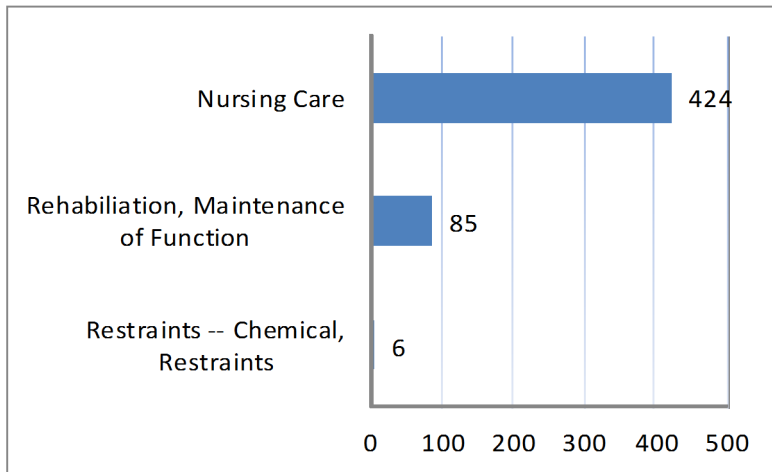
Resident Rights-764 Complaints

One of the two largest number of complaints handled in FY13 concerned resident rights. Involuntary Discharge continues to be the largest complaint that ombudsman in Kansas work each year (127 complaints). Ombudsman assist residents and their families by reviewing discharge notices, informing them of their right to appeal and helping them navigate the appeal process, often with positive results.

The third largest overall complaint is also a Resident Rights complaint: Dignity, Respect and Staff Attitudes (124 complaints). Ombudsman also helped residents with complaints about their rights to exercise their preferences and make choices (81 complaints). The right to choose when to get up in the morning, when to take a bath and what to eat are examples of choices we take for granted but are sometimes denied residents in long-term care.



Resident Care-515 Complaints



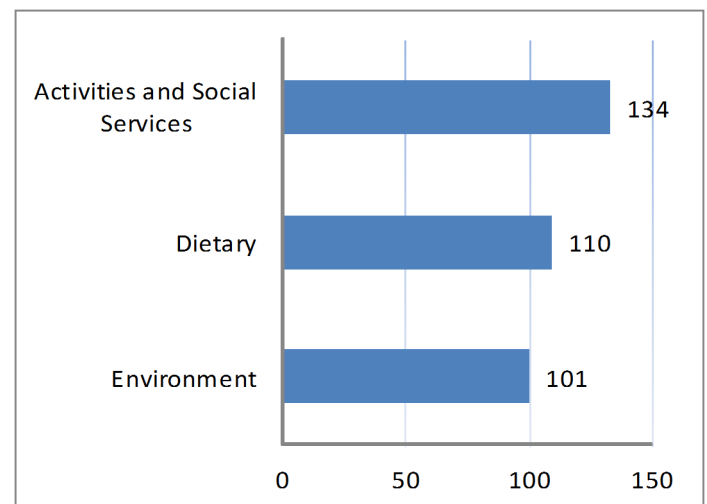
Unfortunately, in FY13 we experienced a 23% increase in complaints about resident care. Resident care issues range from call lights not being answered timely (99 complaints) to the administration of medications (74 complaints) to issues about personal hygiene (57 complaints). Ombudsmen work with facility staff providing education and awareness to facilitate prompt corrections and a better understanding by all involved on these care issues.

Maintaining and regaining the ability to function at one's highest possible level of independence is important to all involved in long-term care. Ombudsmen follow up with residents and staff to ensure appropriate services are being provided.

Quality of Life-334 Complaints

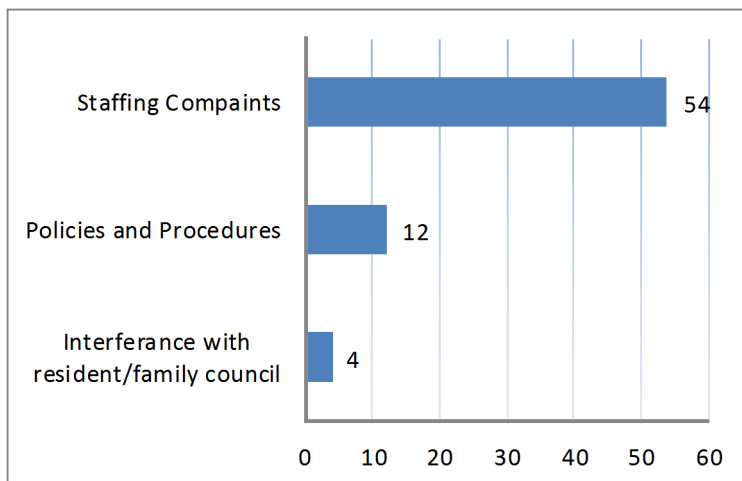
Long-term care residents have the right to psycho-social services, as well as individual choice of activities. Residents continue to lead meaningful lives when resident, staff and family come together to discover and support what gives each individual resident meaning and pleasure.

The largest number of complaints about quality of life dealt with resident conflict, (68 complaints) a significant number of which concerned roommate issues. A number of homes in Kansas have enhanced their dining services to include expanded meal service hours and menus. However, we still receive complaints surrounding food quality, quantity, and choices (53 complaints). Environmental concerns range from cleanliness (27 complaints) to lost laundry (14 complaints) to equipment being in disrepair (22 complaints).

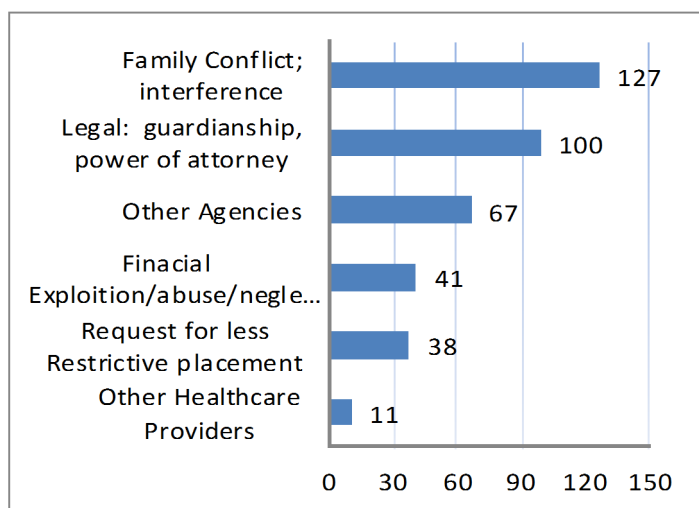


Administrative-70 Complaints

Ombudsmen received 70 complaints about administrative concerns, the largest number of which were about staffing problems. Having a sufficient numbers of staff (23 complaints) that are well trained, (6 complaints) and who know the residents and their care (17 complaints) is one of the most important keys to providing quality care. Consistent staff assignments rather than rotating assessments is shown to improve the quality of care and life for residents. Consistent assignment occurs when residents are consistently cared for by the same caregivers, particularly CNAs and nurses. Consistent assignment has been shown to increase caregivers' familiarity with residents and to strengthen relationships between caregivers and both residents and their family members.



Outside of the Facility-384 Complaints



Kansas Ombudsmen received 127 complaints in FY13 about family conflict or interference; tying with involuntary discharges as the largest overall complaint. In addition, we assisted in 100 complaints about issues surrounding power of attorneys, guardianships and conservatorships.

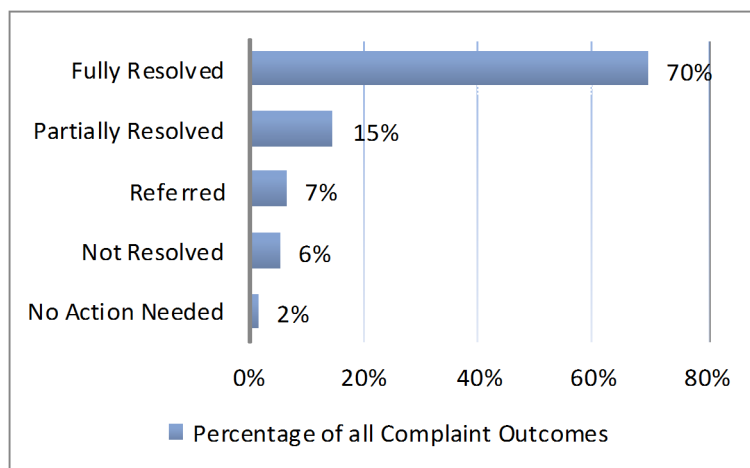
Ombudsmen encourage family member to be active in the daily activities of their loved one, but at times family dynamics are such that they may be perceived as a barrier to providing care. Ombudsmen listen to both sides in these cases and play a key role in reaching resolution on behalf of the resident.

Ombudsman also work to provide education and resources on issues sounding advance directives, and the responsibilities of agents and fiduciaries.

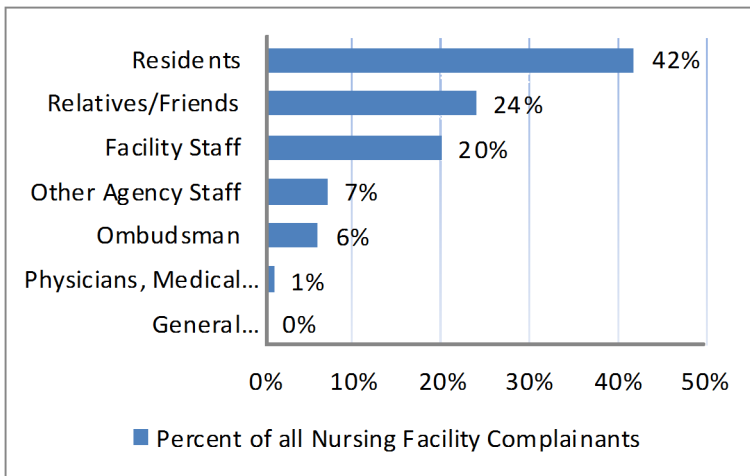
Complaint Resolution

Complaint investigations may result in any number of outcomes, including recommendations to resolve the issue, referral to another agency when appropriate or making recommendations on policy changes to appropriate agencies. Ombudsmen continually strive for the highest level of resolution possible keeping in mind that residents' rights are the foundation of the program. Resident do not always give us permission to work on their behalf or re-draw permission during the process.

A complaint is "resolved" when the complaint/problem is addressed to the satisfaction of the resident or complainant if the resident is not able to make their wished known.



Origin of Complaints



Complaints may be made by any person or group concerned about the rights, care and treatment of long-term care facility residents and, in fact, are received from many sources.

Most complaints in FY13 (42%) were received from the residents themselves. Concerns were also reported by relatives and friends (24%); and from facility staff (20%). Medical personnel, other agency staff, and even ombudsmen also filed complaints.

When complaints are received from someone other than the resident themselves, ombudsman first work to determine the residents wishes and focus complaint resolutions on those wishes.

Other Services

Ombudsmen Provide In-service Education to Facility Staff

Through in-service trainings and presentation, ombudsman staff trained facility staff on topics such as residents’ rights, abuse neglect and exploitation, the ombudsman program and other relevant issues affecting the health, safety and well being of Kansas’s long -term care residents. In FY13, ombudsmen made 46 presentations to 975 facility staff.

Ombudsmen Provide Information

Ombudsmen provided 580 consultations to long-term care facility staff during FY13, and answered 803 requests for information from consumers, and the friends and family who care for them. Ombudsmen provided information regarding residents’ rights, care issues admission and discharge procedures, abuse and neglect, and many other long-term care issues.

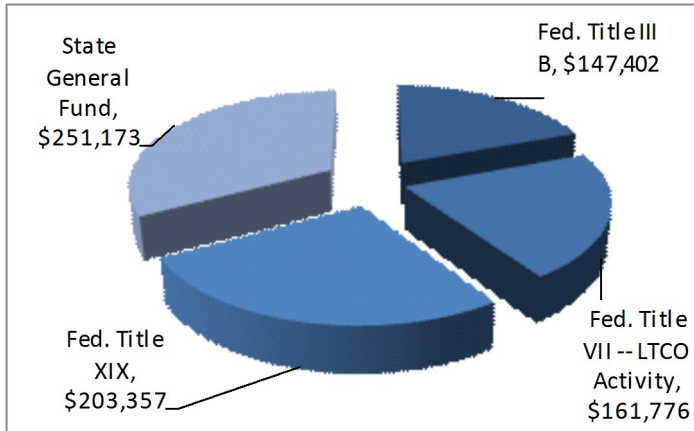
Ombudsmen Assist with Resident & Family Councils

Ombudsmen help work to promote and support the formation of resident and family councils. In FY13, ombudsman we successfully assisted in the development of 6 new family councils. Ombudsman also participated in 198 resident council meetings, and in 30 family council meetings on behalf of residents and family members in all facility settings.

Ombudsmen provide Community Outreach and Education

Ombudsmen conducted community outreach throughout the state through participation in health fairs, presentations at local senior centers, church and civic groups, and involvement in various community events. Ombudsmen provided education at these events on the rights of residents, the services of the ombudsman program, resident care practices, and elder abuse. In FY13, ombudsman provided 76 educational and other outreach activities.

Funding for FY13



The chart to the left shows a breakdown of the total funding for the Ombudsman program in SFY13. Funds supporting the Ombudsman Program were comprised of federal (67%), and state (33%) Funds.

Recommendations

Elder Abuse: Law enforcement and prosecutors are becoming increasingly aware of the problem of elder abuse in their communities—including in long term care facilities—but this awareness needs to increase. Too often elder abuse is treated as only a social service concern or a regulatory matter, rather than a criminal complaint. More law enforcement entities need to be trained to recognize the crime and how to investigate it; prosecutors must be trained on how to prosecute the cases; and providers, consumers and the public need to be trained to report.

Financial Exploitation: Financial exploitation is the taking of property, income or resources for one's own profit or propose. Unfortunately, too many times, the individual appointed as an attorney-in-fact under a financial power of attorney, or representative payee for Social Security benefits or a conservator breaches their fiduciary duty and does not manage the income or resources for the best interests for the resident. Many of the concerns brought to the Long-Term Care Ombudsman office regard involuntary discharges are due to lack of payment by the fiduciary, and is frequently the first sign that exploitation has occurred. Strengthening the elder abuse laws to better allow for prosecution in these cases is needed to help protect our elders and to curb this growing problem.

Discharge Protection: Involuntarily discharging and relocating residents often adversely affects the mental and physical health of the resident. Kansas should strengthen the regulations designed to protect residents from inappropriate involuntary discharges. Kansas should implement an administrative appeal process for residents in all adult care homes to challenge involuntary discharges; develop and implement a Uniform Disclosure Statement to provide consumers upfront with services that can be provided by the facility; develop and implement a uniform involuntary discharge notice. Facilities should be required to send the ombudsman office a copy of each discharge notice given to residents.

Ombudsman Program: The Long-Term care Ombudsman program needs continued commitment through funding and state support to remain a vital program dedicated to advocating for the health, safety, welfare and right of residents in long term care facilities. While our agency is working to increase our capacity through the growth of our volunteer corps; recruiting, training, and supporting volunteers requires tremendous effort. The ombudsman program must have sufficient resources to maintain and grow the volunteer corps. One way our program has provided on-going education, support and recognition has been through our annual volunteer conference. This two day event has been funded through a grant from the Civil Monetary Penalty fund, which we are no longer able to access. This funding needs to be replaced. We also need to increase the number of paid program staff. We currently have nine regional ombudsman, one of which is part-time. As the volunteer base grows, we will need to take steps to increase the number of program staff in order to provide sufficient guidance, support and oversight of volunteers.

*For more information, or to secure the
services of an Ombudsman,*

Call or write

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