

**KANSAS LONG-TERM CARE OMBUDSMAN  
ANNUAL REPORT Year 2021  
Oct. 1 2020 - Sept. 30 2021**



*Advocacy*  
*Education*  
*Empowerment*

*AD ASTRA PER ASPERA*  
**Kansas**  
Department of Administration  
Office of the State  
Long-Term Care Ombudsman

Dear Residents, Legislators, and other Stakeholders,

The Kansas Long-Term Care Ombudsman program is resident directed; thus is a historical model for person-centered practices. Our goal is to influence a systemic culture that will mimic ombudsman requirement and practice of supporting people in their right to have control over their daily lives and their inalienable right to life, liberty, and the pursuit of happiness.

The aging population is growing at a much faster pace than our workforce. Attempting to meet the needs through existing practices is not working well and is destined to get worse. We must be willing to create a new path using true person-centered practices to provide a good balance of quality of life and quality of care.

There are limited resources and more people who will need to access them. By empowering people with information, honoring and utilizing their strengths, relationships, and other existing resources first, then providing only the supports people truly need and want...more individuals can live richer, fuller lives. Lives of "their" choosing.

The recent past has been ever more challenging to people living and working in long-term care. The disruption of the pandemic during 2020 and 2021 greatly impacted the work of ombudsmen and the residents they serve. Residents' rights violations were the leading complaints ombudsman were requested to address. Emergency orders suspended ombudsman in-person visits in March of 2020. Various strategies to provide continued access, information and advocacy were immediately employed. With family, friends, ombudsmen, other advocacy and protection agencies and even surveyors restricted from entry many facilities ownership enacted policies and practices contrary to federal and state regulation. Some let go necessary housekeeping, dietary or other staff creating poor conditions for residents and the nursing staff attempting to do too much with too little already.

In March 2021, the Kansas Long Term Ombudsman Office implemented a plan for ombudsmen to return to in-person visiting. Criteria to resume visits included: additional training on infection control, the proper use of personal protective equipment (PPE), education on current state emergency rules, and preparation for encountering grief and loss experienced by residents and facility staff. All paid staff and some remarkable volunteers who also completed specialized training and agreed to follow all additional safety protocols resumed in-person visits in April 2021.

Living and working in an adult care home continues to be difficult. Illness, isolation, and insufficient staffing have resulted in abuse, neglect and increased mortality. It has been a year that genuinely embodies our state motto, "Ad Astra per Aspera".

However, no matter how difficult, Kansas Ombudsmen will continue to stand with residents to support their voice be heard and ensure they receive the dignity, respect and care they deserve. It truly is an honor to serve in that role.

*Camille K Russell*

Kansas State Ombudsman



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# What is an Ombudsman?

An ombudsman is an independent resident advocate. Ombudsmen investigate complaints concerning the health, safety, welfare and rights of long-term care residents, and work to resolve these complaints to the satisfaction of the residents of long-term care services.

Ombudsmen also offer information and consultation about the rights of residents and the regulations pertaining to nursing home, assisted living, home plus, residential health care facilities and boarding care homes. Additionally, ombudsmen work with providers of long-term care services to promote a culture of person-centered living and respect for resident rights.

*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.*

## Authority

The Kansas Long-Term Care Ombudsman Program is authorized by the federal Older Americans Act (OAA) of 1975; 42 U.S. Code, Section 3058g and the Kansas Long-Term Care Ombudsman Act K.S.A. 73-7301 *et seq.*

## Mission

The mission of the Office of the Long-Term Care Ombudsman is to enhance the quality of life and the quality of services for long-term care residents living in Kansas adult care homes through advocacy, education, and empowerment. The Office promotes person-directed living which respects individual values and preserves individual rights.

Through federal and state law, Kansas’s Long-Term Care Ombudsman program is responsible for advocating for residents of long-term care facilities, including: nursing homes, assisted living facilities, home pluses, residential care facilities, and boarding care homes. The Office strives to fulfill this responsibility every day by working to resolve complaints that impact the health, safety, and welfare of residents, as well as informing residents of their rights.

## Our Responsibilities

Federal and state law sets forth the responsibilities of the Office and ombudsmen. Among the responsibilities are to:

- Identify, investigate and resolve complaints made by, or on behalf, of individuals receiving long-term care in a facility.
- Provide services to individuals receiving long-term care to assist in protecting the health, safety, welfare and rights of those individuals.
- Represent the interest of individuals before governmental agencies and seek administrative, legal and other remedies to protect the health, safety, welfare and rights of those individuals.
- Provide information to the public regarding problems and concerns of individuals receiving long-term care, including recommendations related to such problems and concerns.
- Analyze, comment on, and monitor the development and implementation of laws, regulations or policies pertaining to the health, safety, welfare and rights of individuals receiving long-term care services.

## Program Structure

Through federal and state law, Kansas's Long-Term Care Ombudsman program is responsible for advocating for residents of long-term care facilities, including nursing homes, assisted living facilities, home pluses, residential care facilities, and boarding care homes. The Office strives to fulfill this responsibility every day by working to resolve complaints that impact the health, safety, and welfare of residents, as well as informing residents of their rights.

The Office of the State Long-Term Care Ombudsman operates as a separate agency within the Kansas Department of Administration. Appointed by the governor, the State Ombudsman coordinates ombudsman services provided by the Office across the state. A Senior Administrative Assistant provides support to the program. Currently, the program is funded at a level to support seven (7), of what had once been nine (9), Regional Long-Term Care Ombudsmen positions, doing their best to serve residents living in over 750 adult care homes across our 105 counties.

# Overview of the Program's Service to Kansans

Between Oct. 1st 2020 – Sept. 30th 2021, the Kansas Long-Term Care Ombudsman Program:

- Investigated 1,365 complaints made by, or on behalf of, long-term care facility residents.
- Resolved, or partially resolved, 73 percent of these complaints to the satisfaction of the resident.
- Made 203 facility visits to adult care homes to meet with residents and to be available to assist residents, once we were able to re-enter post COVID-19 emergency restrictions.
- Assisted 140 individuals subjected to involuntary discharges/eviction actions.
- Supported resident and family self-advocacy by attending and providing support to 12 resident and family council meetings.
- Provided information and assistance to 1,750 individuals on topics such as residents' rights, resident care, infection control guidance, and regulations.
- Provided information and assistance to 1,244 facility staff on topics such as residents' rights, resident care, family conflict, power of attorney, and the role and responsibilities of the Ombudsman program.
- Conducted 3 training sessions for facility staff on resident rights, COVID-19 and the Holidays, and the role of the Ombudsman in adult care homes.
- Provided information and advocated for residents with surveyors 313 times during facility surveys conducted by the state licensing agency (KDADS).
- Provided 26 community education sessions on long-term care issues at senior care events, health fairs, and other public settings.
- Held 43 virtual training sessions with paid and volunteer Ombudsman.
- Completed training through internship with 7 potential Ombudsman Volunteers.
- Held 12 virtual family meetings with family members across the state.



# Complaint Investigation

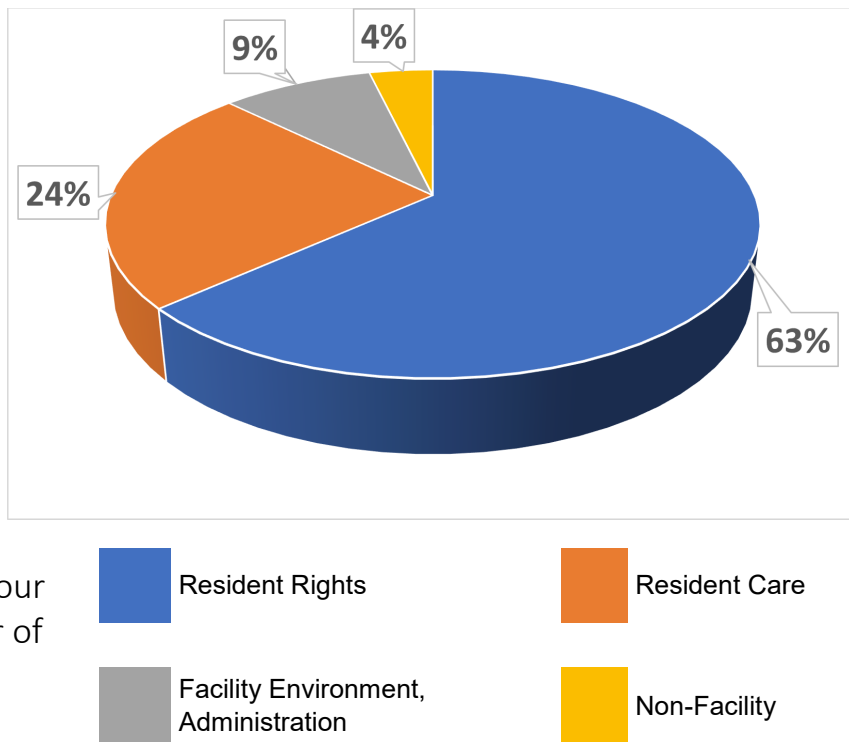
Ombudsmen across Kansas investigate complaints about violations of resident rights or quality of care on behalf of residents of adult care homes. Ombudsmen work directly with the resident to identify solutions and implement needed changes for their care, rights, or quality of life.

The goal of the ombudsman’s work is to resolve the concern to the satisfaction of the resident. Ombudsmen protect the confidentiality of resident information and do not take action on behalf of the resident without permission from the resident. Ombudsmen investigation focuses on fully identifying the problem and developing potential solutions. With resident permission, the ombudsman will review medical records, gather information from all parties, and observe the long-term care environment.

Following an investigation, the ombudsman meets with the resident to discuss the results of the investigation and to develop viable solutions to address the concerns. The ombudsman works collaboratively with residents, family, and providers to reach an effective resolution for all parties whenever possible, but is an advocate for the resident at all times.

In FY2021, the Kansas Office of the Long-Term Care Ombudsman received and handled 1,365 complaints. Ombudsmen are trained to handle many different types of complaints in long-term care settings, from the right to refuse medication to the right to be served by well-trained, competent staff. The Ombudsman program defines 59 different complaints grouped into four categories: Resident Rights, Resident Care, Facility Environment & Administration, and Non-Facility.

The chart to the right shows the percentage breakdown of the total number of complaints investigated in each of these four categories in FY2021. The largest number of complaints handled during this reporting year concerned resident rights (63%)



The table on the following page shows a detailed breakdown of complaints investigated by the ombudsman program by each major category.

## Numbers of Complaints Investigated by Category and Type of Complaint

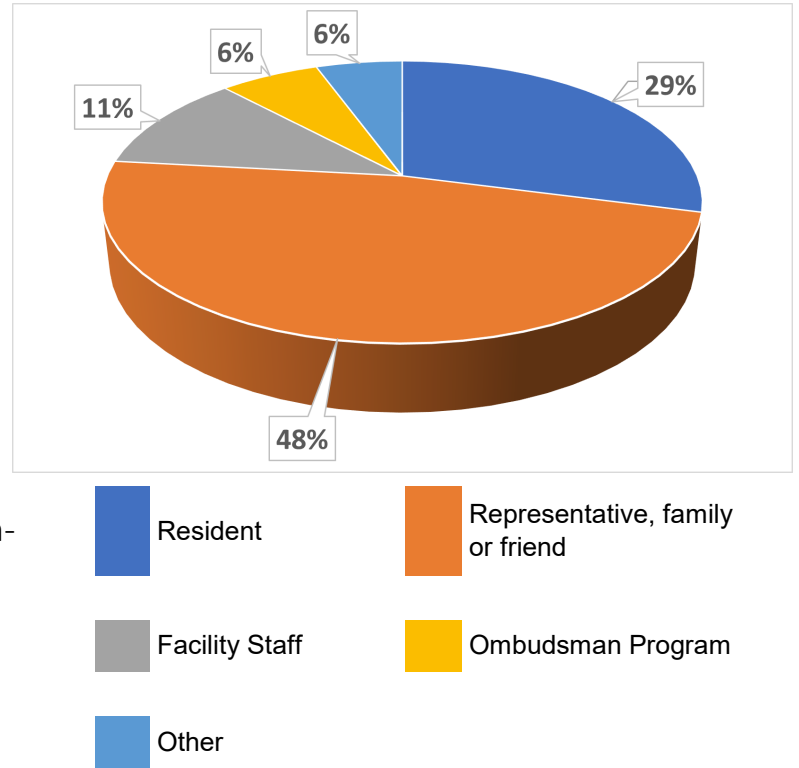
Category and type of complaint	Number of complaints
Resident Rights: Abuse, neglect, exploitation	131
Resident Rights: Access to information	113
Resident Rights: Admission, transfer, discharge, eviction	152
Resident Rights: Autonomy, choice, rights, privacy	384
Resident Rights: Financial, property	85
<b>Total Resident Rights Complaints</b>	<b>865</b>
Resident Care: Care	267
Resident Care: Activities, community integration, social services	17
Resident Care: Dietary	43
<b>Total Resident Care Complaints</b>	<b>327</b>
Environment/administration: Environment	57
Environment/administration: Policies, procedures and practices	65
<b>Total Environment/administration Complaints</b>	<b>122</b>
Non- Facility: Outside agencies	21
Non - Facility: Systems, Others	30
<b>Total Non- Facility Complaints</b>	<b>51</b>
<b>Total Complaints all Categories</b>	<b>1365</b>



## Who are the complainants

Most complaints are made by residents themselves or their friends or relatives. However, many providers contact us because they recognize that residents need an independent advocate to make sure their concerns are heard and addressed. No matter who initiates the complaint, the program will respect the resident and the complainant confidentiality, while focusing complaint resolution on resident wishes.

The chart to the right shows who made the complaints for all cases that were opened.

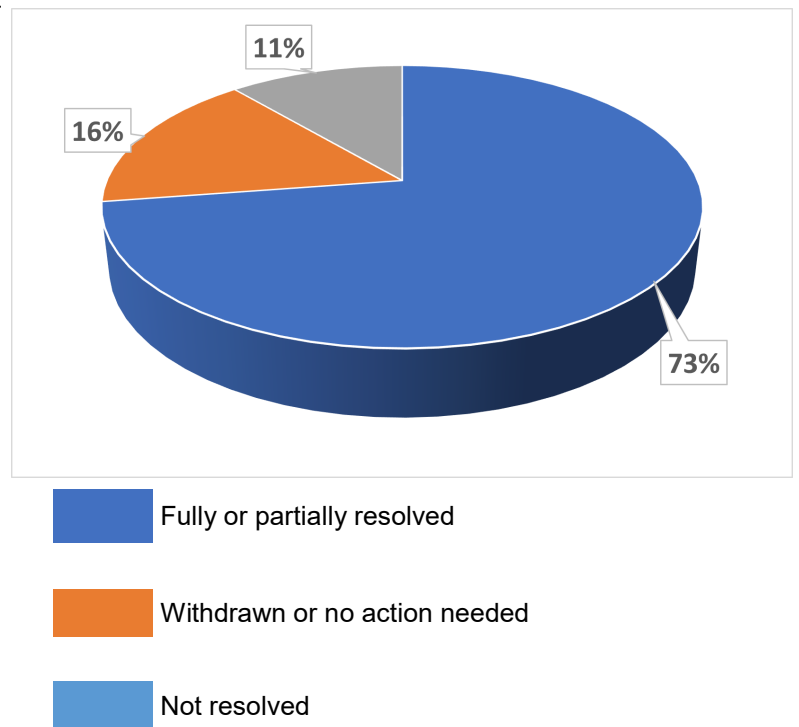


## Complaint Resolution

A complaint is closed when there is no further action needed on the part of the ombudsman. Each complaint is then assigned a disposition. A complaint is resolved when the complaint/problem is addressed to the satisfaction of the resident, or if the resident is not able to make their wishes known, a resident representative or the complainant.

In FY2021, the Long Term Care Ombudsman Program resolved 73 percent of complaints to the resident's satisfaction. Not all complaints can be resolved to the satisfaction of a resident; for example, some complaints are referred to another agency for resolution and others do not require any action to be taken.

The chart to the right shows what types of disposition codes were assigned to closed complaints during the year.



# Other Ombudsman Activities

## Information and Assistance/Consultation

The Long-Term Care Ombudsman's Office provides information to residents, facilities, and providers. Requests for information are most frequently related to resident rights; choosing a nursing home; interpreting regulations; the abuse, neglect or exploitation of a resident; and admission and discharge procedures. Consultation does not involve investigating or working to resolve a complaint.

In FY 2021, Representatives of the Office **consulted with 1,750 residents and 1,248 facilities or providers** about long-term care issues.

## Resident and Family Councils

The Long-Term Care Ombudsman's Office assist resident and family councils by attending meetings upon request and providing assistance in the development and continuation of resident and family councils. Resident and family councils are meetings that give residents and their families opportunities to discuss issues, care needs, frustrations, and to receive support and encouragement.

In FY 2021, Representatives of the Office **worked with 9 resident councils and 3 family councils** across the state.

## Community Outreach and Education

The Long-Term Care Ombudsman's Office conducts community outreach throughout the state through 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, how to advocate on behalf of or empower residents, the services of the ombudsman program, person-centered care practices, and elder abuse.

In FY 2021, Representatives of the Office **provided 26 community education sessions** about issues pertaining to long-term care across the state.

## Survey Participation

The Long-Term Care Ombudsman's Office participates in surveys conducted by the Department for Aging and Disability Services, which serves as the regulatory agency for long-term care facilities in Kansas to ensure their compliance with federal and state laws. The role of the Office is to provide comment, share concerns on behalf of residents, and family members and ensure the residents' voices are heard. Participation by the Office may include pre-survey briefings, attending resident interviews or the exit interview.

In FY 2021, Representatives of the Office **provided information and advocated for residents with surveyors 313 times** during facility surveys conducted by KDADS.

# The Volunteer Program



Our agency relies on volunteers to help us with all our activities. Thirty-six volunteers actively served in the Long-Term Care Ombudsman program during FY 2021 and contributed 821 hours to our program.

After they have completed training, each Certified Ombudsman is assigned to a facility near their home. We ask these volunteers to visit the facility once a week to meet with residents. Every ombudsman encourages self-advocacy and interaction among residents, staff and community. The Certified Ombudsman works to ensure that the residents legal rights are being honored and receives, investigates, and resolves concern made by, or on behalf of, residents.

In 2021,  
Ombudsman  
Volunteers provided  
821 hours of  
service worth over  
\$25,290 to our  
agency.

We provide new volunteers with 36 hours of classroom and on-site training regarding elder rights, the regulatory process, care plans, advocacy, the aging process, communication, problem-solving and facility staff structure. Once a volunteer has successfully completed training, the newly certified Ombudsman volunteer and the regional staff match the Certified Ombudsman with a facility. Following placement, regional staff provide ongoing support and training.



The volunteers extend the program's reach by being a regular presence in assigned facilities. Ombudsmen volunteers build relationships and trust with the residents. They identify issues and assist with problems. Ombudsmen volunteers work closely with their Regional Ombudsmen and report what is happening in facilities monthly. They enhance the work of the Regional Ombudsmen — the work they do is vital to the program.

# Issues Facing Residents

Despite the positive efforts and outcomes listed in this report, there are barriers that exist when attempting to protect the rights, health, safety and welfare of persons residing in long-term care. The following are some of the issues of particular concern.

## **Issue: Staffing issues decrease the quality of care and quality of life**

Workforce shortages are a long-known issue across the state and have become increasingly intense. When there are insufficient staff or high turnover exists due to unfavorable workplace conditions, the quality of care and quality of life suffers for the long-term care resident. Even the best caregivers cannot deliver the required person-centered care when they are not provided time and skills to know the residents.

An aging population, coupled with a rapidly shrinking labor pool, will require a change in the model and culture of care. Growing and stabilizing the workforce requires paying competitive wages, providing health coverage and consistent shifts with full-time hours. Additionally, to stem the cycle of turnover, workers need better training, support, and opportunities for professional growth. Finally we must honor the residents' strengths and choices to provide only the actual supports they need and desire, efficiently.

## **Issue: Individuals being discharged involuntarily or not being permitted to return to their long-term care facility home following hospitalization**

Complaints about involuntary discharge and eviction continues to be a significant complaint received by the Kansas Long-term Care Ombudsman program. Many of these complaints involve the provider refusing to readmit the resident following hospitalization or otherwise violating resident rights by refusing to provide notice and due process for the discharge or eviction. Residents of nursing homes and people living in assisted living settings cannot be discharged or evicted without notice and applicable due process rights. Still, some providers ignore or do not understand these rights, resulting in refusals to allow people to return to their homes. While a provider must be able to meet the needs of each individual, involuntary discharge should be the last resort. Providers should be accountable to follow applicable laws and regulation, as well as, respecting due process rights.

In many cases, this problem is a symptom of other issues: lack of staff, lack of proper training, or capacity to care for people with complex behavior or mental health needs. Providers often express they are unable to manage a "difficult person". Staff and residents could all be better served with appropriate training and education in person-centered practices to better support "a person who is experiencing difficulty" instead of applying an improper label of "a difficult person."

## **Issue: Resident rights are sometimes restricted unnecessarily under a guardianships**

Legal guardianship is one of the most intrusive acts a court may impose upon a person. While guardianship is sometimes necessary to protect a vulnerable adult, alternatives to guardianship should be explored and utilized as viable options before the court grants guardianship . People being denied the ability to control their lives can also cause significant harm.

With such a major deprivation of fundamental liberties, it is important to have a rigorous process to evaluate whether a guardianship is needed and how to limit its reach. Once a guardianship is created, it can be almost impossible to undo. Even though guardianship has serious, life-long consequences, it is often imposed as a matter of course, when alternative options would be possible.

Common complaints from people under guardianship include:

- The desire to live in their community of choice, rather than the guardian choice,
- Inappropriate restriction of visitors and friends by the guardian,
- Restriction on the ability to go places they want to go (guardian restricts the ability to leave the premises),
- The guardian does not know the person, never visits, and makes choices without including the person in the process
- Guardianship sought for the convenience of hospitals to facilitate discharge plans contrary to the person's choice or necessity.

Less restrictive options should first be considered. Supported Decision-Making is one option, where people keep their rights and their decision-making capacity. Instead of having a guardian, people have supporters who help them make their own choices. A person using supported decision-making appoints trusted advisors; such as, friends, family, or professionals, to serve as supporters. The supporters help the person make and communicate their own choices.

Adoption of the UNIFORM GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE ARRANGEMENTS ACT in Kansas would provide meaningful notice of peoples' rights and how to assert them. Too often, Ombudsman meet people subject to guardianship without having been provided proper notice or real opportunity to address the court. When deemed necessary to institute such a serious action as guardianship, there would also be provisions that require involving individuals subject to guardianship in decisions about their lives, requirements that guardians create person-centered plans, and provisions to facilitate court monitoring of compliance with those plans.

All guardians need meaningful education about their role.

## **Issue: Misuse of Antipsychotic Medications**

Facility staff and families have often asked physicians to prescribe drugs to manage agitation and other behaviors. When prescribed for residents with dementia, antipsychotic drugs may have serious implications including over-sedation, loss of independence, confusion, falls, or even death. Facility staff and prescribers need education and training to become more aware of alternatives to antipsychotic medication. Residents and families also need information to understand the dangers of these drugs and that there are alternatives available.

Kansas ranks 39th in terms of states with the highest usage of antipsychotics. We can do better. Approaches should include: establishing minimum care standards for dementia care units, mandating dementia training for all adult care staff, educating doctors and other prescribers as well as residents, promoting person centered planning and implementing practices known to be successful. High quality training improves communication between caregivers and individuals living with dementia, results in a reduction in dementia-related behaviors and an increase in job satisfaction for staff.

Finally, written informed consent should be required before administering these potentially dangerous drugs.

## **Issue: Resident Rights**

Regulation states each resident has the right to be treated with dignity and respect. All staff activities and interactions with residents must focus on assisting the resident in maintaining and enhancing his or her self-esteem and self-worth and incorporating the resident's preferences and choices. Staff must respect each resident's individuality when providing care and services while honoring and valuing their input.

There must be a greater focus on residents rights and accountability when rights are violated. Resident rights violations continue to be the most frequently raised complaint to ombudsmen. Yet, Resident Rights (F550) accounted for only a fraction of all state survey agency citations reported during the three-year period from 2018-2020. Kansas only cited resident right violations 77 times during that period. Even more rare was any fine associated with the citation. The predominant culture driving this human service business today is dollar cost against compliance cost. It is not factoring in the human cost. When facilities do not get cited for violations, or they do not get fined when they are cited, our fellow Kansans are losing in that equation. It is a short sighted practice that has delivered us a broken industry ever more in distress with emergency conditions. Kansas citizens living and working in long-term care settings deserve better.

Increased focus on recognizing and ensuring residents' rights, starting with dignity and respect, is essential. More surveyors, including multi-disciplinary teams of surveyors, is recommended. Owners of long term care homes, should be held accountable to follow the rules of the business they chose and to adhere to critical elements of care, which includes resident rights.

# Regional Offices and Staff 2021

## CARA CONAWAY

### Region 1 Long-term Care Ombudsman

Central Kansas: Barton, Dickenson, Ellsworth, Harvey, Marion, McPherson, Ottawa, Reno, Rice & Saline

## NECHELLE WHITE

### Region 2 Long-term Care Ombudsman

Northeast Kansas: Atchison, Brown, Chase, Clay, Doniphan, Douglas, Geary, Jackson, Jefferson, Lyon, Marshall, Morris, Nemaha, Osage, Pottawatomie, Riley, Shawnee, Wabaunsee, & Washington

## CHRISTINE MOZINGO

### Region 3 Long-term Care Ombudsman

Kansas City Area: Johnson, Wyandotte, & Leavenworth

## MARILYN RANDA

### Region 4 Long-term Care Ombudsman

South Central Kansas: Butler, Cowley, Harper, Kingman, Sedgwick, & Sumner

## KATIE ROSS

### Region 5 Long-term Care Ombudsman

Southwest Kansas: Barber, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Greeley, Hamilton, Haskell, Hodgemen, Kearney, Kiowa, Lane, Meade, Morton, Ness, Pawnee, Pratt, Scott, Seward, Stafford, Stanton, Stevens, & Wichita

## VELVET UNREIN

### Region 6 Long-term Care Ombudsman

Northwest Kansas: Cheyenne, Cloud, Decatur, Ellis, Gove, Graham, Jewell, Lincoln, Logan, Mitchell, Norton, Osborne, Phillips, Rawlins, Republic, Rooks, Rush, Russell, Sheridan, Sherman, Smith, Thomas, Trego, Wallace

## Gina Elliott

### Region 7 Long-term Care Ombudsman

Southeast Kansas: Allen, Anderson, Bourbon, Chautauqua, Cherokee, Coffey, Crawford, Elk, Franklin, Greenwood, Labette, Linn, Miami, Montgomery, Neosho, Wilson, & Woodson

## State Office Staff

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State Long-term Care Ombudsman

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Special Projects Ombudsman

## TANYA TURNER

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