



Delaware  
Cares



**STATE OF DELAWARE  
OFFICE OF THE STATE  
LONG TERM CARE OMBUDSMAN**

**ANNUAL REPORT  
FEDERAL FISCAL YEAR 2004**



*Delaware Health and Social Services*  
Division of Services for Aging and Adults with Physical Disabilities

March 29, 2005

Dear Colleagues:

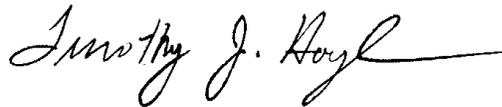
On behalf of the Office of the Long Term Care Ombudsman for the State of Delaware, I am pleased to share with you this Annual Report of our activities for Fiscal Year 2004.

Delaware's Long Term Care Ombudsman Program is responsible for protecting the rights of all residents in long term care and related facilities. We strive to fulfill this responsibility every day by providing prompt and fair resolution of resident rights complaints and by advocating on public policy issues to enhance the quality of care for residents. Our activities are coordinated with the Division of Long Term Care Residents Protection, the Office of the Attorney General, the Office of the Public Guardian and others that provide a blanket of protections for the rights of residents.

Aging is a community affair in Delaware. We are proud of our corps of Volunteer Ombudsmen, citizens from communities throughout our state, who are a voice for residents of long term care facilities and their families who may have concerns they cannot deal with themselves. These caring and compassionate individuals also help alleviate loneliness and isolation of residents simply stopping by and holding a hand.

I invite you to contact me if you have any questions about our program or information in this report.

Respectfully yours,

A handwritten signature in black ink, reading "Timothy J. Hoyle". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Timothy J. Hoyle, MPA  
Delaware Long Term Care Ombudsman

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**ACCOMPLISHMENTS  
OF DELAWARE'S LONG TERM CARE OMBUDSMAN PROGRAM  
DURING FISCAL YEAR 2004**

**Program Operations**

- Investigated and resolved 504 complaints
- Made 22,958 visits to long term care residents
- Made 1,405 visits to long term care facilities

**Legislation and Advocacy**

- Addressed change to Medicaid Bed-hold Policy
- Commented on state and federal regulations for paid feeding assistance
- Commented on state Medical Practices Act
- Commented on proposed state assisted living regulations
- Participated in Hospice Task Force
- Recommended amendment to Older Americans Act
- Testified before public utility regulatory commission on the impact of Hurricane Isabel on the state's long term care residents

**Volunteer Recruitment and Coordination**

- Received "Outstanding Service Award" from the Retired and Senior Volunteer Program
- Fielded 55 volunteers who provided 3,692 hours of service
- Witnessed 142 Advance Directives
- Made 136 interventions to advocate on behalf of residents
- Implemented innovative program to expand volunteers' advocacy role

**Public Awareness and Outreach**

- Published "How to Select Long Term Care" in Delaware and received an award for the publication
- Celebrated Residents' Rights Week; Governor's Proclamation
- Co-sponsored third Annual Residents' Rights Rally
- Interviewed for television program about selecting a nursing home

**Training and Education**

- Provided bi-monthly training for volunteers
- Facilitated presentation at National Ombudsman Conference

**Inter-agency Coordination**

- Participated in ongoing meetings with the Delaware Nursing Home Residents Quality Assurance Commission
- Participated in the State Council for Physical Disabilities Policy and Law Subcommittee
- Participated in the Governor's Commission on Community Based Alternatives Subcommittee

## MISSION AND HISTORY

### DELAWARE'S LONG TERM CARE OMBUDSMAN PROGRAM

**PHILOSOPHY:** All residents of long term care facilities are entitled to be treated with dignity, respect and recognition of their individual needs and differences.

**VISION:** All long term care residents will have the highest possible quality of life. Their individual choices and values will be honored and supported in all care environments.

#### Mission

For the past 30 years, Ombudsman programs have been advocating for residents rights. Delaware's Ombudsman Program began in 1976.

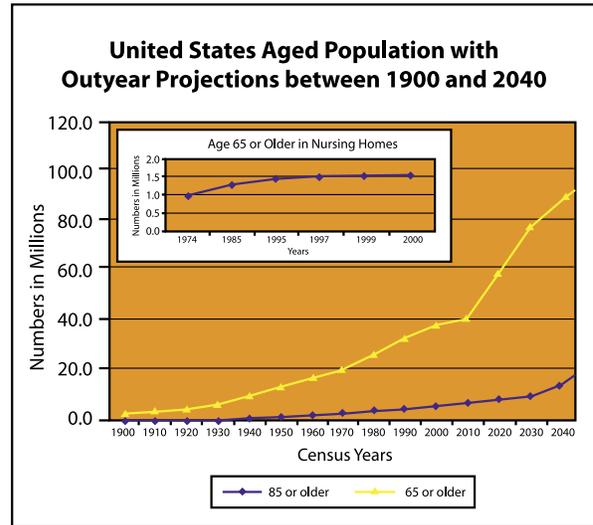
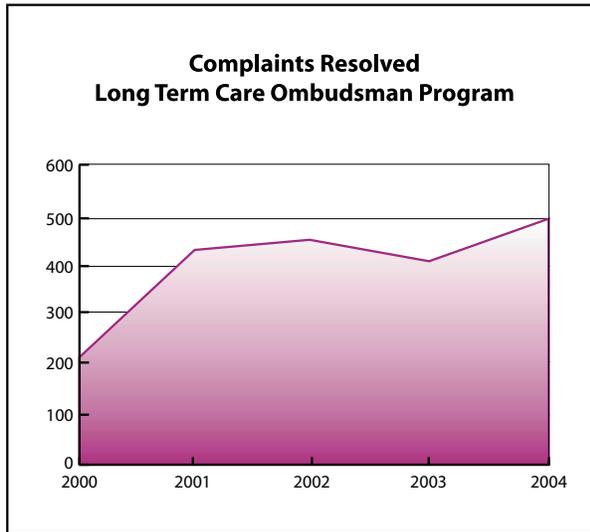
The Long Term Care Ombudsman Program (LTCOP) in Delaware is mandated by state and federal laws to protect the health, safety, welfare and rights of residents of nursing homes and related institutions. The program investigates complaints on behalf of residents and their families, and includes a community-based corps of Volunteer Ombudsmen.

#### History

The Long Term Care Ombudsman Program in Delaware traces its origin to an innovative federal program established in 1972. The program made permanent and codified in law through amendments to the Older Americans Act (OAA) of 1975, which enabled state agencies on aging and other public and private not-for profit organizations to assist with the promotion and development of Ombudsman services for residents of nursing homes. By 1978, the OAA mandated the expenditure of funds for an Ombudsman at the state level to receive, investigate, and act on complaints by older individuals who are residents of long term care facilities.

In 1976, Delaware's then Division of Aging, now the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD), established the Patient Rights Unit. On September 7, 1984, the Patient Rights Unit was officially mandated by the Secretary of Delaware Health and Social Services to investigate grievances of residents of long term care facilities pursuant to 16 Del. C. 1128.

Delaware's Ombudsmen have been investigating complaints in long term care facilities for 28 years. In 1979, the program received a total of 53 complaints. In 2004, the Ombudsman Program investigated 504 complaints. Upon the creation in 1999 of the Division of Long Term Care Residents Protection (DLTCRP) within the Department of Health and Social Services, the Ombudsman Program ceased to take the lead on abuse, neglect and financial exploitation cases, and became the primary agency responsible for investigations of residents' rights and quality of care. This was a significant change in our mission, and significantly changed our operations. In 2000, the DLTCRP and the Ombudsman Program signed a Memorandum of Agreement establishing a process for complaint referrals between the two agencies.



## LONG TERM CARE OVERVIEW

In the past ten years Delaware’s aging population has increased dramatically. In fact, persons 85 years old and above grew 47.7%, outpacing the national average by more than ten points. The baby boom generation is projected to grow significantly in the next decade. By the year 2020, Delawareans over the age of 50 will increase by 100,000 people.

(Source: Profiles in Long Term Care, Public Policy Institute – 2002).

The need for long term care services is also likely to grow. According to the Division of Public Health - Bureau of Health Planning, admissions to nursing homes more than doubled between 1991 and 2001. As the demand for long term care services continues to rise, the demand on institutions and community- based healthcare providers to offer more care will also increase. Although admissions have risen significantly in the past ten years, so have discharges. As a result, the nursing home population from year to year has been relatively stable. In fact, the number of licensed nursing home beds has only increased by 1.3% since 1991. Furthermore, occupancy rates in nursing homes have not changed significantly in the past decade, averaging around 86 percent since 1991. The national occupancy rate in 2000 was approximately 82%.

## PROGRAM OPERATIONS

The NORS Annual Report for Fiscal Year 2004 is Exhibit 1 of the Attachments

### What is an Ombudsman?

Advisor:	Provides information and counsel to authorities charged with operation and regulation of the long term care system.
Advocate:	Represents a complainant or group of concerned residents to encourage resolution of complaints.
Catalyst:	Helps mobilize the public and/or organizations to generate action to resolve issues and problems.
Coordinator:	Brings together individuals with authority so they can share information, develop strategies, assign responsibilities, and take action to resolve problems and issues.
Facilitator:	Establishes communication channels to bring concerns and problems needing solutions directly to decision makers.
Mediator:	Encourages reconciliation by serving as an impartial third party mediating disputes over services or issues.
Referral Agent:	Refers those seeking assistance to the responsible agencies that can help resolve a problem. Whenever possible, such referrals are monitored.
Witness:	Witnesses all Advance Directives written by and/or for residents of long term care facilities.

### The Year in Review

In Delaware, there are 47 nursing homes that provide care for almost 5,000 residents on any given day. In addition, there are 27 assisted living facilities serving approximately 1,400 residents. An additional 235 smaller group homes and related institutions are sprinkled throughout the state, providing long term care to seniors and persons with disabilities. The largest growth in long term care facilities is being seen in the assisted living industry. This growth has resulted in an increase in the number of options residents have when seeking long term care. Assisted living regulations were strengthened in 2002 to add more safeguards for residents in long term care. Among important changes was a new "Uniform Assessment Instrument." This tool was designed to ensure that applicants interested in assisted living were appropriate and met eligibility standards and to determine the appropriate level of care.

The Long Term Care Ombudsman Program investigated and resolved 504 complaints during fiscal year 2004. In addition, the program witnessed more than one hundred Advance Directives and provided scores of in-service training sessions and outreach. The program accomplished this with three full-time Ombudsman staff, a Volunteer Services Coordinator, and a Program Administrator.



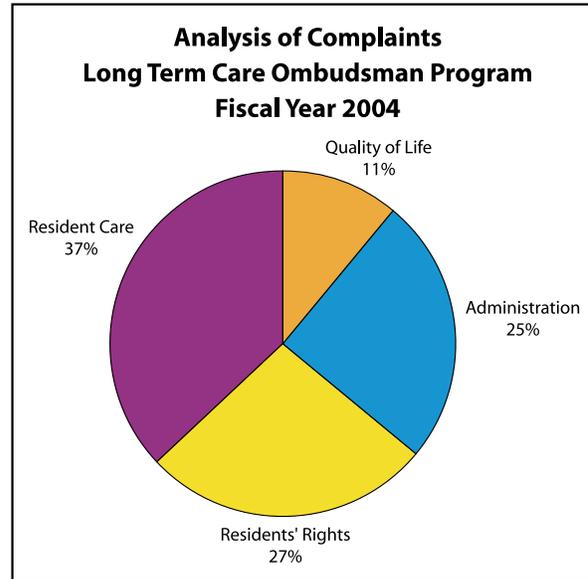
The program operates out of two offices, one located on DuPont Highway in New Castle – serving the City of Wilmington and New Castle County. The other office is located in Milford, and serves both Kent and Sussex Counties. In addition, we rely on our Volunteer Ombudsmen to assist with being our eyes and ears in long term care facilities by visiting residents and assisting with interventions to correct problems as they arise. This proactive approach helps to resolve issues early and often.

### Most Frequent Complaints

Complaint investigations are the primary responsibility of the Long Term Care Ombudsman Program. Ombudsman staff work closely with residents and facility staff to offer guidance and correct substantiated complaints. In fiscal year 2004, staff investigated 504 complaints in four categories: residents’ rights, residents’ care, quality of life and administration. Within these categories, the *most frequent complaint was care planning*.

#### Top Five Complaints in FY-04 (of 133 categories)

<b>Care Planning</b>	<b>44</b>
<b>Discharge</b>	<b>34</b>
<b>Guardianship</b>	<b>27</b>
<b>Family Conflict</b>	<b>21</b>
<b>Medications</b>	<b>17</b>



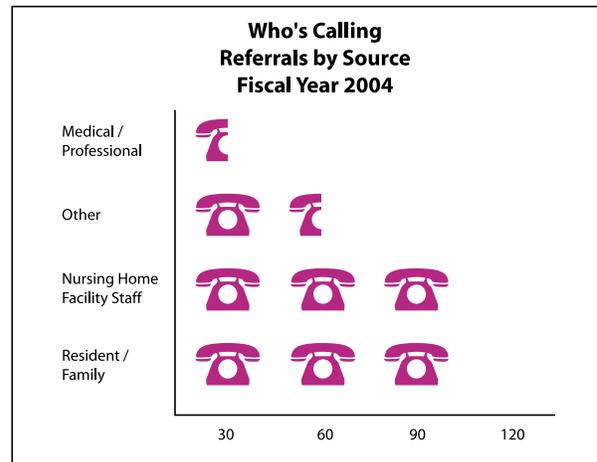
### Typical Case/Case Study

The typical resident served by the Ombudsman Program is an 80-year-old female who has been residing in a nursing home between one and two years. The Ombudsman spent about ten hours on the case, and took 70 days to complete the case. *Most complaints involved care planning issues and were usually resolved within about three months.* Long Term Care Ombudsman Program policy states that cases should be closed within ninety days. To reduce case time, the program expanded the role of the volunteer from “friendly visitor” to include helping paid staff resolve complaints. To facilitate the transition, we developed a new volunteer training program focused on assisting with investigations and resolving complaints.

In our case study, the resident has a diagnosis of Alzheimer’s Disease and wanders frequently. The family is concerned because she becomes easily agitated and needs some intervention or activity to help her calm down. The Ombudsman reviews the care plan and recommends that she participate in an Alzheimer’s day program. After two weeks in the program, her behavior is not acute and she is non-combative.

## Program Impact/Outcomes

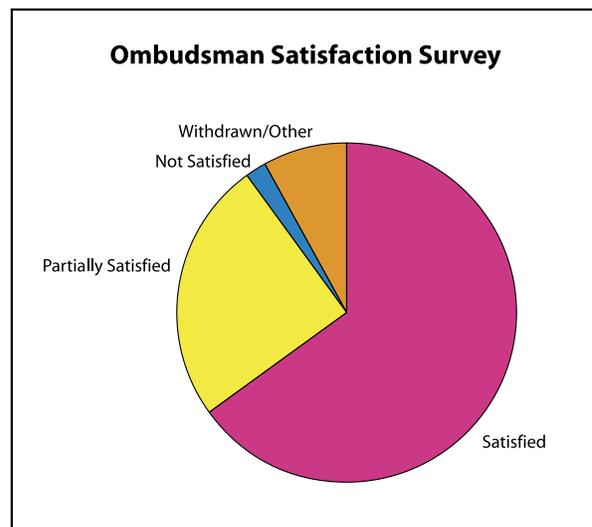
Ombudsmen work closely with the families of residents and facility staff to resolve each complaint by identifying the basis of the complaint, making recommendations, and referring violations of regulations to the state Division of Long Term Care Residents Protection. Ombudsmen respond to each resident's concern in person, interview staff, and review records during the course of an investigation. Based on these findings, Ombudsmen advocate on the resident's behalf to correct any deficiencies and resolve conflict. In addition, the Ombudsmen work closely with facility staff and administration to ensure that corrective action is taken in a timely manner. An Ombudsman is charged to advocate on behalf of the resident. Additionally, Ombudsmen must maintain credibility by ensuring that investigations are fair and unbiased. To that end, Ombudsmen ensure that there is sufficient and compelling evidence prior to substantiating a complaint against a facility. In Fiscal Year 2004, 51% of complaints were substantiated. *Residents and their families were highly satisfied with our service*, with only 1% reporting they were unsatisfied with the conclusion of the case.

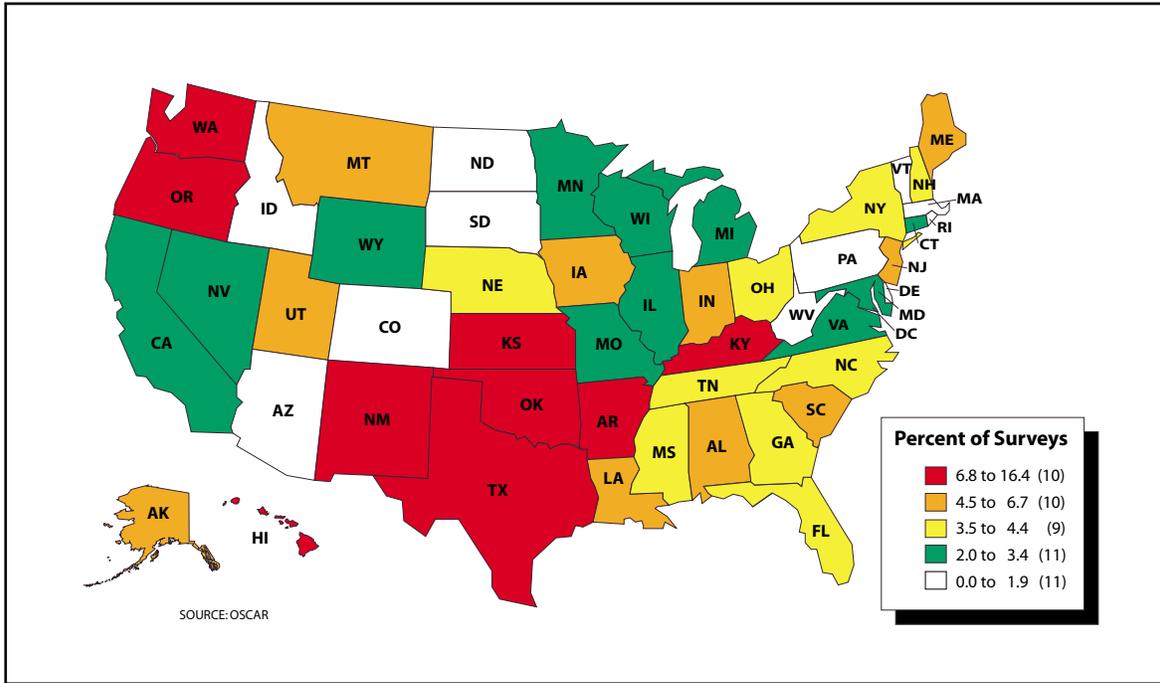


## How Did Nursing Homes in Delaware Stack Up?

In general, *nursing homes in Delaware compared favorably with most states on staffing*, with an average of 4.6 hours per patient per day, or ppd, while the national average was 3.9 ppd. Staffing has been shown to be a critical component to ensuring that sufficient care is provided to each resident. Delaware had more survey findings per facility (10) than the national average. However, survey deficiencies were less likely to show substandard quality of care than in the rest of the nation. (see map below.)

Delaware was typical of most states with regards to performance of quality indicators, as established by the Centers for Medicare/Medicaid Services (CMS). However, Delaware's performance was slightly below average in treating residents for incontinence, infection control, and improving walking. Finally, we found a positive (0.45) correlation between survey deficiencies and LTCOP complaints. This means, the more deficiencies a facility had, the more likely the LTCOP would receive a complaint. This indicates that the LTCOP is effectively identifying facilities that are having problems.





Percent of Nursing Home Surveys Resulting in Citation for Substandard Quality of Care – “2001 Nursing Home Data Compendium” - Source CMS/OSCAR Data

	<u>FY- 04</u> <u>Delaware</u>	<u>National Average</u>
<u>Staffing+</u>	4.6	3.9
<u>Survey Findings+</u>	10	7
<u>Complainants with LTCOP/Bed*</u>	0.04	0.06

\*FY03NORS Report Data + [www.medicare.gov/NHCompare.gov](http://www.medicare.gov/NHCompare.gov)

**Quality Indicators**

	ADL	Pain	Bed Sore	Rest-rain	Depres-sion	Incon-tinence	Re-stricted Move-ment	Ambu-lation	UTI
US	16	6	14	8	15	47	4	13	8
Delaware	18	6	15	3	15	48	5	16	10

Source: CMS – Nursing Home Compare\*as of 22 Sep.04

## BUDGET AND EXPENDITURES

State funds and Title III federal funds support six full-time positions for the Long Term Care Ombudsman Program. In addition, Title VII, Chapter III funds are directed towards training, outreach for abuse prevention, and community awareness. The Ombudsman Program also receives an annual allocation from the U.S. Administration on Aging to support its operations. Operational funds are the lifeblood of the program and empower the program to fund new initiatives, recruit volunteers, and sustain an effective outreach mission. Since 1996, the Ombudsman Program has experienced a 177% increase in Title VII appropriations for its operations. Increased funding has enabled the program to reach out to more residents and families and help to recruit potential volunteers.

<b>Budget Category</b>	<b>Amount</b>
Federal – Title VII, Chp II	\$ 70,668.00 (outreach)
Federal – Title VII, Chp III	\$ 25,578.00 (APS training)
Federal – Title III at State Level	\$182,712.00 (salaries 2% increase)
Federal – Title III at AAA Level	-0-
Other Federal	-0-
State Funds	\$104,480.00 (salaries 2% increase)
Local	-0-
Total Program Funding	\$383,438.00

### Best Practices

In 2002, the Delaware State Senate conducted a review of the principal agencies responsible for nursing home residents. The report indicated that the Long Term Care Ombudsman Program was using “best practices” to protect resident rights. The program has continued to adopt best practices in Delaware and has worked on implementing Ombudsman best practices to improve overall program performance. To that end, the program has initiated a 360 degree review process using the Self Evaluation Tool developed as a national standard that all programs use. The goal of this instrument is to provide State Long Term Care Ombudsmen with a tool for assessing their own statewide program. The instrument serves two purposes. First, it identifies the components and elements that must be present in order to have a strong, effective ombudsman program. Second, the instrument allows the State Long Term Care Ombudsman to assess, using a rating scale from 1 to 5, whether each element is in place and, if so, how successfully and consistently the element is utilized.

The purpose of this document is to highlight the efforts that Delaware’s Long Term Care Ombudsman Program is making towards implementing the Bader Report’s Recommendations for best practices. The Bader Report, published in 2003, identified six core areas to improve and

develop ombudsman programs: independence, systems advocacy, training, data, program effectiveness, and meeting the changing needs of the elderly population. The National Association of State Ombudsman Programs (NASOP) has been working on implementing the Bader Report recommendations. Delaware also has been working towards adoption of these best practices. It is our goal to continually improve our performance and to ensure full compliance with the Older Americans Act. To that end, we have adopted the Bader recommendations, and are focusing our efforts to implement them, as appropriate.

## VOLUNTEER OMBUDSMAN CORPS

### **Volunteers Working on Behalf of Delaware Residents to Resolve Problems, Advocate and Improve Care:**

<b>Traveled 14,466 Miles</b>	<b>-Making 75 round trips between New Castle County and Sussex County</b>
<b>Visited 22,958 residents</b>	<b>-average of four visits per resident</b>
<b>Volunteered 3,692 hours</b>	<b>-equivalent to 3.5 full time positions</b>
<b>Intervened 136 times</b>	<b>-equivalent to cases worked by paid staff</b>
<b>Witnessed 142 Advance Directives</b>	<b>-impossible to measure value of this right</b>

### **Volunteer Recruitment**

The Long Term Care Ombudsman Program conducts volunteer training classes each year. Volunteers receive a 15-hour training program. They are recruited by a statewide multimedia outreach campaign that includes media releases, brochures, public service announcements, and civic group presentations. In addition, the state's Internet site, [www.dsaapd.com](http://www.dsaapd.com), offers an on-line application for people interested in volunteering. We also work closely with the Retired and Senior Volunteer Program (RSVP) and other community based organizations to promote volunteer opportunities. After our initial training program, volunteers enter an orientation phase of their training. In addition, they participate in bi-monthly trainings to keep volunteers up to speed on the latest developments in long term care.

Each Volunteer Ombudsman must have excellent communication skills to establish and nurture relationships with residents of long term care facilities. In addition, individuals must be effective advocates and knowledgeable in residents' rights as well as current practices in long term care facilities. Volunteers are our eyes and ears in a facility, and they make a real difference in the lives of those living in nursing homes and assisted living facilities.



## Volunteer Retention

Delaware's Volunteer Ombudsman Program believes that building successful, trusting relationships with residents is not only the foundation of good advocacy, but also is a primary key to volunteer retention. When volunteers establish meaningful, rewarding contacts within a facility, they are more likely to fulfill their volunteer responsibilities and many will contribute well beyond what is asked of them. To retain volunteers and recognize their achievements and service-above-self dedication, the Ombudsman Program:

- Sponsors an annual recognition event to award service pins and recognize achievement
- Provides professional training and experience
- Reimburses Ombudsmen for mileage
- Provides ongoing and active communication and training with a Volunteer Service Coordinator

## Expanded Role

The role of Volunteer Ombudsmen was expanded during the year. Volunteers have historically been "friendly visitors." Friendly Visitors make a real impact on residents who are isolated. Many residents need a caring heart and a warm hand to help them feel connected to their community. In fact, almost 40% of residents do not receive regular visitations.

In addition to their "friendly visiting" role, Volunteer Ombudsmen duties were expanded to assist Long Term Care Ombudsman Program staff with complaint investigations. Volunteer Ombudsmen nationwide routinely investigate complaints related to quality of care and residents' rights. In fact, 62% of all Volunteer Ombudsmen in the nation are certified to investigate complaints. We revised our training manual, and are redirecting our recruitment efforts to reflect this new and expanded role of our Volunteer Ombudsmen who will enhance our capabilities to serve the 5,000 residents living in long term care in Delaware's nursing homes.

### *Meet Alice Williams, Volunteer Ombudsman*

*"Alice is faithful in visits and has an uncanny ability to become so close to a resident that she can often speak the difficult truth and make it sound like gentle familial advice from a caring mother. Her skills, watchful eyes, and outspoken manner make her a tremendous advocate."*

## Equipping Volunteers to Communicate and Interact

In order to build relationships, volunteers must communicate well. Consequently, communication is a *crucial training goal*. New training materials prepare and encourage them to *communicate with residents who can show little or no response to their presence or with those who are maladjusted, depressed or have dementia*. Success stories of interactions are shared at bi-monthly, in-service meetings. Shy or hesitant volunteers gain confidence to reach out when hearing what others are accomplishing.

## Making a Difference

Volunteer Mickie Christfield teams up with Volunteer Sue Parr for visits into one nursing home. They are an extraordinary pair who accomplish remarkable things while visiting residents. Mickey, a retired teacher, and Sue, a retired Registered Nurse with 30 years experience in long term care, started out visiting a handful of residents, most of whom could or would not even look at them when they entered a room. Some were stroke victims, some comatose, some semi-conscious, some morose and angry, and some just didn't care if they had a visitor or not. Undaunted, Mickey and Sue made regular weekly visit to these new friends. Their training suggested ways to interact and told them to *"look for responses"* but cautioned them *"to not need the responses."* Equipped with poems, "Chicken Soup" stories, teddy bears, hugs, soft voices, and big hearts they set out to let these residents know that they cared. A year and a half later, their *every visit is rewarded by a SMILE!*

Mickie and Sue received Delaware's highest honor for volunteerism and the Jefferson Award for their exemplary contributions to enrich the lives of long term care residents.

### *Meet Suzanne Kihn, Volunteer Ombudsman*

*"A Volunteer Ombudsman for seven years, Suzanne is a faithful visitor and superb advocate. She is an excellent ambassador for the program, speaking to community groups and others when not visiting or witnessing Advance Directives."*



## PUBLIC AWARENESS AND OUTREACH

### Outreach – Mandate to Educate

Delaware's Long Term Care Ombudsman staff takes seriously the mandate of the Older Americans Act to educate the community about the need for good care and dignified treatment of elderly and disabled residents. Well-trained staff and volunteers speak frequently to families, resident/family councils, and providers on resident rights, quality of care, and advocacy. Ombudsmen also give presentations to local colleges and nursing programs. Speaking to students about resident rights before they enter into a healthcare or long term care facility is vital to their understanding of the Ombudsman Program and its mission. We also provide in-service training to providers on Advance Directives, Powers of Attorney, and conflict resolution.

The Long Term Care Ombudsman Program actively partners with other organizations and individuals to enhance awareness of long term care issues in the community. The program worked closely with Sandy Dole, long term care advocate, to sponsor the Residents' Rights Rally in October 2004. The rally brought together stakeholders, elected officials, and residents to celebrate the 33 resident rights guaranteed by state and federal law. This annual event raises awareness of residents' rights, and opens the door to nursing homes to the community. Grassroots events like the rally help educate the general public about long term care issues and promote advocacy for elderly and disabled residents.

The Long Term Care Ombudsman Program has a strong presence in the Delaware media and in the community because of ongoing promotional activities. The State Long Term Care Ombudsman was interviewed about resident rights and volunteering on several local television stations and by local print media. In addition to promoting our message of residents' rights and advocacy in the news media, the program developed a guide to selecting nursing homes in Delaware. This first-of-its-kind handbook helps families and residents understand the process of going into a long term care facility. It walks people through the application process, explains Medicaid, and gives options to families and residents looking for long term care services.

In 2004, our *Guide to Long Term Care* received a Gold Finalist Award from The MarCom Creative Group. The communications organization sponsors one of the largest, oldest and most respected competitions in the communications field. It is an international competition for marketing and communications professionals involved in the concept,



writing and design of marketing and communication programs. Entries come from corporate marketing and communications departments, advertising agencies, etc. Award winners represent a wide range of entities, including media conglomerates and Fortune 50 companies.

The Long Term Care Ombudsman Program continues to work hard to capture the public eye, and to that end, we are working on the following outreach and media activities:

**Ad Campaign:**

A series of professionally designed advertisements to promote the Long Term Care Ombudsman Program and its advocates.

**Table Top Display:**

Panels that include information and graphics for various target audiences.

**Logo:**

New program logo.

**Nursing Home Poster:**

For statewide placement.

**Brochure :**

To inform the general public about the Long Term Care Ombudsman Program and its services, with emphasis on the advocates and their advocacy on behalf of nursing home residents. The publication will be accessible on the division's Internet site.

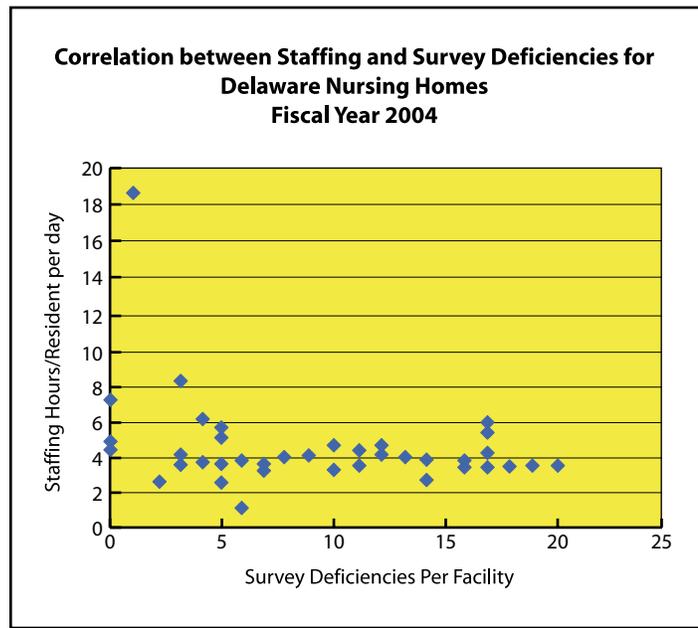
## PUBLIC POLICY AND ADVOCACY

### Self-Advocacy/Public Awareness

Advocacy has been the centerpiece of the Long Term Care Ombudsman Program since its inception. However, *self-advocacy* is the key component. Patient and resident advocates help to fight for the rights of people in a vulnerable state. The work of patient advocates is important to ensure that dignity and respect are observed and quality of care is provided. However, more can be done to protect residents in nursing homes. Self-advocacy is a learned skill. Residents who know their rights, and families who are involved, can be the front-line defense against inadequate care and potential abuse. Self-advocacy can go a long way toward prevention. The Long Term Care Ombudsman Program published and disseminated a guide for nursing home residents to promote awareness of rights and help with self-initiated advocacy efforts. In addition, we sponsored a Residents' Rights Rally that promoted awareness, and featured such speakers as the Delaware Attorney General. More events are planned to continue promoting self-advocacy.

## Quality of Care/Staffing

Staffing has long been held to be a crucial link to quality of care (Harrington.) In Delaware, the Ombudsman program has strongly supported minimum staffing legislation, and continues to do so. A slight correlation can be found (-0.30) between staffing and survey findings. As staffing increases, survey findings decline. It's important to understand that staffing regulations are not a panacea, and that other factors must be in place to ensure that quality of care improves in our nursing homes. These factors include: culture change, training, pay, leadership, and public and private accountability. Consequently, we continue to support minimum staffing, but after analyzing the relationship between staffing and survey findings, more should be done to enhance provider quality.



## Quality Management

Making long term care institutions into communities requires a new perspective on service delivery. Historically, nursing homes operated under a medical model which limited options for residents and created an environment which did not embrace or promote feedback. Residents of nursing homes felt they did not have a voice in their treatment. New service delivery models have swept the country and transformed long term care.

Programs such as the Eden Alternative, Pioneer, and Well Spring open nursing homes up to the community and make residents members of a neighborhood. These quality management practices transform a nursing home from an institution into a home by using modern methods of participatory management, infusing the building with plants and animals to humanize the facility, and creating a program that encourages customer feedback.

The Delaware Nursing Home Residents Quality Assurance Commission has established three subcommittees, including a subcommittee on improving quality management. The State Long Term Care Ombudsman volunteered to assist and make recommendations to include programs such as the Eden Alternative, and other quality programs that promote ideas such as neighborhoods in nursing homes.

## **HIGHLIGHTS IN ADVOCACY**

The Long Term Care Ombudsman Program was busy this year fighting for residents' rights and promoting quality of care in Delaware's long term care facilities. The State Long Term Care Ombudsman also works on national issues as a board member of the National Association of State Ombudsman Programs (NASOP.) We also worked closely with Quality Insights of Delaware to promote the Centers for Medicare/Medicaid Services (CMS) initiative to improve nursing homes by establishing quality indicators.

### **Public Service Commission**

Hurricane Isabel caused many facilities in Delaware to lose power. Some facilities lost power for several hours while others lost power for several days. Facilities in Kent and Sussex counties fared the best during the hurricane as most facilities had power restored within two to three hours. The longest a facility went without power downstate was eight hours. Many of the facilities downstate do not have Conectiv as their power provider because there are many small companies that supply power throughout the two lower counties. New Castle County facilities, except for those located within the City of Newark, have Conectiv as their primary power source. New Castle County facilities reported power outages lasting from four hours or less to as long as four days. A report by the Long Term Care Ombudsman Program staff identified problems with re-energizing facilities and recommended that nursing homes be prioritized for re-connection, a recommendation that Conectiv voluntarily adopted.

### **Residents' Rights Week**

Residents' Rights Week originated in 1981 at an annual meeting of the National Citizens Coalition on Nursing Home Reform. In 2004, we renewed our commitment and our dedication to the 33 resident rights that protect and preserve the rights of older persons to be fully informed about their care, to participate in their care, to make independent choices, to privacy, to dignity, to stay in their home, and to make complaints when necessary and appropriate. The Long Term Care Ombudsmen focused on promoting residents' rights to vote, and provided residents an opportunity to register to vote at the rally.

### **End of Life Issues - Hospice**

The Delaware State Senate established a legislative task force to study hospice business ethics and patient services as the result of Senate Concurrent Resolution Number 23. The task force was charged with making recommendations concerning improvements to existing regulations. A report was sent to the Delaware General Assembly on February 15, 2004. The task force was represented by members of the Senate, representatives of the hospice industry, consumers, and other governmental officials.



## Highlights

### State Ombudsman Promoting Quality of Care

- Testified before Public Service Commission in response to Hurricane Isabel
- Implemented program to adopt national standards/best practices
- Worked with the Centers for Medicare/Medicaid Services and QIO to develop and monitor quality standards in nursing homes

### Ombudsmen Fighting for Residents' Rights/Public Outreach

- Advocated for generators in assisted living facilities
- Celebrated Third Annual Residents' Rights Week
- Received the Retired and Senior Volunteer Program's Outstanding Service Award
- Received a Gold Finalist Award for our public outreach campaign

### Ongoing Issues: Nursing Home Staffing, Psychiatric Care, Long Term Care

- The Long Term Care Ombudsman Program (LTCOP) identified three issues in last year's annual report that required additional focus and attention in 2004:

- 1) Nursing Home Staffing Issues:

The LTCOP encouraged consumers to check facility staffing at each facility by referring to the Medicare.gov web page, as well as asking the facility. Additionally, we helped to educate consumers with our new staffing calculator to assist residents and their families to make an informed choice.

- 2) Psychiatric Care in Long Term Care:

We produced a new video on signs and symptoms of Alzheimer's Disease for consumers considering long term care. We also started a dialog with the Division of Substance Abuse and Mental Health about ways to explore and enhance psychiatric services in Delaware, and will continue to work with stakeholders in 2005 to enhance and improve access to mental health services for residents in nursing homes.

- 3) Cost of Care:

Finally, we participated on the Governor's Commission on Community Based Alternatives to expand care options to residents in long term care seeking less restrictive and more integrated settings, when appropriate. Community-based care settings may be an option for some that can promote more independence and reduce health care costs. We also published a revised nursing home guide, including costs for each long term care facility in Delaware.

## Attachments/NORS Report



STATE OF DELAWARE  
ANNUAL OMBUDSMAN REPORT TO THE  
U.S. ADMINISTRATION ON AGING  
FISCAL YEAR 2004

Submitted by  
Division of Services for Aging and Adults with Physical Disabilities  
Delaware Health and Social Services

Part I Cases, Complainants and Complaints

A. Provide total number of cases opened during reporting period

274

B. Provide the number of cases closed, by type of facility/setting, which were received from the types of complainants listed below

Complainants

Complainants	Nursing Facility	Board & Care*	Other Settings
Resident	9	7	0
Relative	84	18	3
Non-Relative/Guardian	3	1	0
Ombudsman/Volunteer	3	1	0
Facility Administrator	98	25	0
Other medical	5	1	0
Rep. of other health agency	5	4	0
Unknown	4	3	0
Other	35	12	0

\* Board & Care includes assisted living

Total number of cases closed during the reporting period

321

C. For cases which were closed during the reporting period (those counted in B above), provide the total number of complaints received

504

D. Types of Complaints, by Type of Facility

**Ombudsman Complaint Categories**

<u>Resident Rights</u>		<u>Nursing Facility</u>	<u>B&amp;C, similar</u>
<b>Abuse, gross neglect, exploitation</b>			
1	Abuse, physical	1	2
2	Abuse, sexual	0	0
3	Abuse, verbal	3	2
4	Financial exploitation	0	0
5	Gross neglect	0	0
6	Resident-to-resident physical abuse	0	0
7	Other – specify	0	0
<b>Access to information by resident</b>			
8	Access to own records	1	0
9	Access to ombudsman/visitors	0	0
10	Access to facility survey	0	0
11	Information regarding advance directives	1	0
12	Information regarding medical condition	1	0
13	Information regarding rights, benefits	0	0
14	Info communicated in understandable language	0	0
15	Other-specify	0	0
<b>Admission, transfer, discharge, eviction</b>			
16	Admission contract/procedure	1	4
17	Appeal process	0	0
18	Bed hold – written notice, refusal to readmit	3	0
19	Discharge/eviction – planning, notice	31	7
20	Discrimination in admission due to condition, disability	0	0
21	Discrimination in admission due to Medicaid status	2	0
22	Room assignment/room change/intra-facility transfer	0	0
23	Other	4	0
<b>Autonomy, choice, preference, rights, privacy</b>			
24	Choose personal physician, pharmacy	3	0
25	Confinement in facility against will	5	5
26	Dignity, respect, - staff attitude	8	5
27	Exercise preference/choice and or/civil/religious rights	14	8
28	Exercise right to refuse case/treatment	7	1
29	Language barrier in daily routine	0	0
30	Participate in care planning by resident or surrogate	3	0
31	Privacy – telephone, visitors	3	1

**Resident Rights**

- 32 Privacy in treatment, confidentiality
- 33 Response to complaints
- 34 Reprisal, retaliation
- 35 Other – specify

**Financial, property (except for financial exploitation)**

- 36. Billing charges – notice, approval, wrong or denied
- 37 Personal funds – access/information denied
- 38 Personal property lost, stolen, used by others, destroyed
- 39 Other – specify

**Resident Care**

- 40 Accidental or injury of unknown origin, improper handling
- 41 Call lights, response to for assistance
- 42 Care plan/resident assessment
- 43 Contracture
- 44 Medication
- 45 Personal hygiene
- 46 Physician services
- 47 Pressure sores
- 48 Symptoms unattended
- 49 Toileting, incontinent care
- 50 Tubes – neglect of catheter, NG tube
- 51 Wandering, failure to accommodate/monitor
- 52 Other – specify

**Rehabilitating or maintenance of function**

- 53 Assistive devices or equipment
- 54 Bowel and bladder training
- 55 Dental Services
- 56 Mental health
- 57 Range of motion/ambulation
- 58 Therapies – physical, occupational, speech
- 59 Vision and hearing
- 60 Other – specify

**Restraints – chemical and physical**

- 61 Physical restraint
- 62 Psychoactive drugs
- 63 Other – specify

	<u>Nursing Facility</u>	<u>B&amp;C, similar</u>
	4	3
	0	0
	2	0
	0	0
	14	0
	1	0
	6	1
	0	0
	7	2
	10	0
	46	8
	0	0
	15	4
	13	6
	9	0
	4	0
	8	2
	1	1
	0	0
	5	3
	1	0
	4	1
	0	0
	2	0
	3	2
	0	0
	6	0
	1	0
	0	0
	0	0
	0	0
	0	0

**Quality of life**

**Activities and social services**

- 64 Activities
- 65 Community interaction/transportation
- 66 Resident conflict
- 67 Social services
- 68 Other – specify

**Dietary**

- 69. Assistance in eating or assistive devices
- 70 Fluid availability/hydration
- 71 Menu/food service
- 72 Snacks
- 73 Temperature
- 74 Therapeutic diet
- 75 Weight loss due to inadequate nutrition
- 76 Other – specify

**Environment**

- 77 Air/environment
- 78 Cleanliness, pests, general housekeeping
- 79 Equipment/building
- 80 Furnishings, storage for residents
- 81 Infection control
- 82 Laundry
- 83 Odors
- 84 Space for activities
- 85 Supplies and linens
- 86 Other - specify

**Administration**

**Policies, procedures, attitudes, resources**

- 87 Abuse investigation/reporting
- 88 Administrator unresponsive, unavailable
- 89 Grievance procedure
- 90 Inappropriate or illegal policies
- 91 Insufficient funds to operate
- 92 Operator inadequately trained
- 93 Offering inappropriate level of care
- 94 Resident or family council interfered with

	<u>Nursing Facility</u>	<u>B&amp;C, similar</u>
	1	1
	0	0
	6	5
	3	0
	1	0
	7	0
	3	0
	6	1
	0	0
	0	0
	2	0
	0	0
	0	0
	3	0
	3	1
	2	2
	0	0
	2	0
	1	2
	0	0
	0	0
	2	1
	2	0
	3	1
	3	0
	1	0
	0	0
	0	0
	1	0
	0	0

		<b><u>Nursing Facility</u></b>	<b><u>B&amp;C, similar</u></b>
	<b>Administration</b>		
95	Other – specify	1	0
<b>Staffing</b>			
96	Communication, language barriers	0	0
97	Shortage of staff	1	1
98	Staff training, lack of screening	0	0
99	Staff turn-over	0	0
100	Staff unresponsive, unavailable	0	0
101	Supervision	1	0
102	Other – specify	0	0
<b>Certification/Licensing Agency</b>			
103	Access to information	0	0
104	Complaint, response to	0	0
105	Decertification/closure	0	0
106	Intermediate sanctions	0	0
107	Survey process	0	0
108	Survey process – ombudsman participation	0	0
109	Transfer or eviction hearing	0	0
110	Other – specify	0	0
<b>State Medicaid Agency</b>			
111	Access to information, application	2	1
112	Denial of eligibility	3	0
113	Non-covered services	1	0
114	Personal needs allowance	0	0
115	Services	0	0
116	Other – specify	1	0
<b>Systems/Others</b>			
117	Abuse/neglect/abandonment by family member	9	2
118	Bed shortage – placement	1	0
119	Board and care/regulation	0	0
120	Family conflict; interference	28	6
121	Financial exploitation by family	8	3
122	Legal – guardianship, poa, wills	31	7
123	Medicare	0	0
124	PASARR	0	0
125	Resident’s physician not available	0	0
126	Protective Service Agency	0	0
127	SSA, SSI, VA, and other benefits	1	0
128	Other, Olmstead	1	2
	Total	396	105

**Administration**

**Complaints About Services in Other Settings**

129	Home Care
130	Hospital or hospice
131	Public or other congregate housing
132	Services from outside provider
133	Other – specify
	Total, Heading Q
	Total Complaints

<b><u>Nursing Facility</u></b>	<b><u>B&amp;C, similar</u></b>
0	0
3	
0	
0	
0	
3	
504	

Action on Complaints	NH	B&C	Other
1. Verified	199	53	0
2. Disposition			
a. Regulation Change	1	0	0
b. Not Resolved	8	2	0
c. Withdrawn	6	2	0
d. Referred to other agency			
1. Report final disposition not obtained	13	2	0
2. Other agency failed to act	1	0	0
e. No action needed	12	0	0
f. Partially resolved	124	17	0
g. Resolved to satisfaction	231	82	0
Total, by type facility or setting	396	105	3
Grand Total	504		

E. Legal Assistance/Remedies (Optional)

F. Complaint Description (Optional)

**Part II Major Long Term Care Issues**

- A. Nurse Shortage
- B. Psychiatric services for NH residents severely limited

**Part III Program Information and Activities**

- A. Facilities and Beds
  - 1. Number of Nursing Facilities 47
  - 2. Number of Beds 4934



3. Number of Board and Care Facilities 272

4. Number of Beds 2718

A. Program Coverage – No Change

B. Local Programs – None

D. Staff and Volunteers

Type of Staff	Measure	State Office	Local Programs
Paid Staff	FTE	5.0	
Paid Clerical Staff	FTE	0.0	
Certified Volunteers	Number of Vol.	55	
Other Volunteers	Number of Vol.	0	

E. Program Funding

Federal – Title VII, Chapter II	\$ 65,780
Federal – Title VII, Chapter III	\$ 3,343
Federal – Title III at State Level	\$186,434
Federal – Title III at AAA Level	-0-
Other Federal	-0-
State Funds	\$146,106
Local	-0-
<b>Total Program Funding</b>	<b>\$401,663</b>

F. Ombudsman Activities

Activity	Measure	State	Local
Training for staff	Sessions	33	
	Hours	154	
Trainees		296	
Tech Assistance	% of staff time	20%	
Training for facility staff	Sessions	17	
	Topic 1	Res. Rights	
	Topic 2	Role of the Ombudsman	
	Topic 3	Advance Directives	
Consultation to facilities	Consults	369	
	Topic 1	Family/Resident Conflict	

	Topic 2	Discharge Issues	
	Topic 3	Res. Rights	
Information and Consults to Indv.	Consults	741	
	Topic 1	Discharge Issues	
	Topic 2	Res. Rights	
	Topic 3	Advance Directives	
Resident Visitation	No. NF Visited	49	
	No. B&C visited	30	
Participation in surveys	No. Surveys	14	
Work with Res. Councils (NH/AL)	No. meetings attended	13	
Community Education	No. Sessions	23	
Work with media	No. of interviews	12	
Monitoring Laws and Regs	No. of press releases % time	3 20%	

**Role of the Long Term Care Ombudsman****Office of the Long Term Care Ombudsman**

(42 U.S.C. 3058f, Title VII, Sec. 712)

712(a) “A state agency shall, in accordance with this section establish and operate an Office of the State Long Term Care Ombudsman and carry out through the Office of State Long Term Care Ombudsman.”

- A. Identify, investigate, and resolve complaints that are made by, or on behalf of residents and relate to action, inaction, or decision that may adversely affect that health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of providers, or representatives of providers, of long-term care service; public agencies; or health and social service agencies;
- B. Provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;
- C. Inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A) or services described in subparagraph (B);
- D. Ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;
- E. Represent the interests of the resident before governmental agencies and seek administrative, legal and other remedies to protect the health, safety, welfare, and rights of the residents;
- F. Provide administrative and technical assistance to entities participating in the program;
- G. Analyze, comment on, and monitor the development and implementation of federal, state, and local law regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State; recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and facilitate public comment on the laws, regulations, policies, and actions;
- H. Provide for training for representatives of the office; promote the development of citizen organizations to participate in the program; and provide technical support for the development of the resident and family councils to protect the well-being and rights of residents; and
- I. Carry out such other activities as the Commissioner determines to be appropriate.”
- J. Notes & Appendices