The Texas Long-Term Care (LTC) Ombudsman Program

Independence and Authority Explained
Background

Laws and Policy

What laws and policy apply to an LTC ombudsman in Texas?

Long-term care ombudsmen advocate for residents and are separate from HHS.
Texas LTC Ombudsman Program

Authorized by State and Federal Statute:
• Texas Human Resources Code, Title 6, Chapter 101A, Subchapter F
• Older Americans Act, 711 and 712 (42 U.S.C. 3058g and 3058g)

Implemented Through State Rule and Policy:
• Title 26, Texas Administrative Code, Chapter 88 State Long-Term Care Ombudsman Program
• Ombudsman Policies and Procedures Manual

hhs.texas.gov/news_info/ombudsman

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Scope of Services

LTC Ombudsmen Serve

All residents of nursing facilities and assisted living facilities

• 217,951 licensed facility beds
• 3,205 licensed facilities

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Overview

Functions of an LTC Ombudsman

• What does an LTC ombudsman do to protect residents?
• What is the access and authority of an ombudsman?
• How is the office structured?
LTC Ombudsman Protecting Residents

- Advocates for residents of nursing facilities and assisted living facilities
- Protects the health, safety, welfare, and rights of residents
- Functions independently of long-term care (LTC) facilities and other government functions
- Investigates and resolves complaints on behalf of residents
- Empowers residents to make informed choices
- Represents residents’ interests

Visit each facility every three months
Respond to calls and requests within two business days

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LTC Ombudsman Access

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When a resident cannot consent and has no legally authorized representative, an LTC ombudsman has authority to access a record to investigate a complaint on their behalf.
LTC Ombudsman Offices

State office:
- Includes the State Ombudsman, Deputy State Ombudsman, Assisted Living Ombudsman, Developer, Monitor, Nursing Facility Specialist, and Office Manager with temporary positions for QA and Discharge Rights
- The State Ombudsman certifies each volunteer and staff ombudsman

28 local offices:
- The state contracts with local ombudsman entities, which operate under the direction of the State Ombudsman
- Each office has a Managing Local Ombudsman
- Larger programs may have additional staff ombudsman

State Office
7 FTEs
2 Temporary

Local Offices
87 FTEs*
290 Volunteers
*nonstate employees

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Advocacy

• What are some examples of LTC Ombudsman work?
• What can the public expect from an LTC Ombudsman?
• Why does the LTC Ombudsman need to be independent of agencies and other services?

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Ombudsman Impact 2023

- Investigated 8,589 complaints
- Made 25,794 facility visits
- Spoke with over 28,000 residents and families about their rights and facility requirements
- Supported over 600 resident and family councils

- Represented residents in 165 discharge and Medicaid appeals
- Gave consultation to over 4,000 facility staff
- Participated in over 1,200 LTC Regulation surveys
- Attended almost 900 care plan meetings for residents

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Example – Hospital Dumping

A nursing facility administrator called the ombudsman to discuss the immediate discharge of a resident. He said he would discharge the resident to a homeless shelter because the resident yelled at staff when they did not answer his call light and he recently threw his cell phone at a CNA. The ombudsman met with the resident who was unable to get out of bed without two people assisting him, then talked to the CNAs on staff for that shift. Direct care staff explained that the resident has a loud voice, but only raised his voice when no one came to help him turn over or change his briefs. The resident said the same.
The resident and day shift CNAs explained that problems happened on the night shift. After relaying the information to the administrator, the ombudsman asserted that the circumstances did not warrant an immediate discharge and a homeless shelter would not meet the resident’s medical needs. Presented with these facts, the administrator acknowledged that he needed to address nighttime staffing and his discharge plan was not viable. He rescinded plans to discharge.
Example – Rushed Feeding

During an evening meal service at a memory care facility, the ombudsman saw staff feeding residents in a harmful way. It was clear the experience was distressing for the residents who strained to accept the bites of food fast enough for staff. The ombudsman intervened and made suggestions to the staff members on how to properly offer bites of food and how to slow down and take cues from the resident that they were ready for another bite. The ombudsman reminded staff of the need to respect the resident’s dignity in the feeding process.
Work of an LTC Ombudsman - part 4

Example – Rushed Feeding - continued

An immediate change in the residents’ demeanor was observed and calm replaced the anxiety that had been there moments earlier. The ombudsman reported the issue to the attention of administrative staff, requested additional training for staff, and made suggestions on where to get training. The ombudsman verified that facility staff completed in-service training and observed residents enjoying their meals on subsequent visits during mealtimes.
Program Principles
- Confidentiality
- Informed consent
- Services are free
- Independence of action
Independence

Independence Explained

• Independence is a key concept with any ombudsman function.
• State LTC Ombudsman Programs have specific independence features related to their role as an advocate for residents of long-term care facilities.
Areas of Independence

LTC Ombudsmen:

• Investigate and resolve complaints
• Communicate with legislators and media
• Comment on the conditions of LTC facilities
• Issue reports, provide information to the public
• Make recommendations and take positions on proposed and existing laws and policy

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A bill was proposed in the 88th Texas Legislature to limit an LTC Ombudsman’s access to records if the records were associated with a lawsuit.

The State LTC Ombudsman opposed this bill, and testified against it, because it would have imposed restrictions on an ombudsman’s ability to investigate and resolve complaints on behalf of residents.
Thank you

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