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## The Vermont Long-Term Care Ombudsman Project



### A Project of Vermont Legal Aid

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#### 1. The role of the LTC Ombudsman Project:

- ✓ Promote the rights of people receiving long-term care services in Vermont
- ✓ Advocate for changes that lead to better care & better quality of life

#### 2. The LTC Ombudsman Project works with people who receive long-term care services in:

- ✓ Nursing homes
- ✓ Residential care homes
- ✓ Assisted living residences
- ✓ Adult family homes
- ✓ The community through Choices for Care

#### 3. What does the LTC Ombudsman Project do?

- ✓ Investigate problems and concerns about long-term care services
- ✓ Help people make their own decisions about their long-term care and services
- ✓ Help people on Choices for Care access long-term services in the community
- ✓ Visit LTC facilities regularly to talk with residents and monitor conditions.
- ✓ Educate facility staff and other providers about the rights and concerns of people receiving long-term care services
- ✓ Identify problem areas in the long-term care system and advocate for change
- ✓ Provide information to the public about long-term care services and options

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#### 4. LTC Ombudsman Project Staffing

##### State Long-Term Care Ombudsman:

Sean Londergan  
 264 North Winooski Avenue  
 Burlington, VT 05401  
 802.383.2227  
[slondergan@vtlegalaid.org](mailto:slondergan@vtlegalaid.org)

##### Local Ombudsman:

<p><i>Susan Alexander</i></p> <p><b>(Franklin, Grand Isle Counties)</b></p> <p>264 N. Winooski Avenue          Burlington, VT 05402          Phone: 802.383.2242          Fax: 802.863.7152  <a href="mailto:salexander@vtlegalaid.org">salexander@vtlegalaid.org</a></p>	<p><i>Katrina Boemig</i></p> <p><b>(Windham, Windsor Counties)</b></p> <p>56 Main Street, Suite 301          Springfield, VT 05156          Phone: 802.495.0488          Fax: 802.885.5754  <a href="mailto:kboemig@vtlegalaid.org">kboemig@vtlegalaid.org</a></p>	<p><i>Michelle R. Carter</i></p> <p><b>(Washington, Orange, Addison Counties)</b></p> <p>56 College St.          Montpelier, VT 05601          Phone: 802.839.1327          Fax: 802.223.7281  <a href="mailto:mcarter@vtlegalaid.org">mcarter@vtlegalaid.org</a></p> <p>* M. Carter also covers the          “Quintowns”: Rochester,          Hancock, Pittsfield, Stockbridge          &amp; Granville</p>
<p><i>Alice S. Harter</i></p> <p><b>(Essex, Orleans, Caledonia, Lamoille Counties)</b></p> <p>177 Western Ave., Suite 1          St. Johnsbury, VT 05819          Phone: 802.424.4703          Fax: 802.748.4610  <a href="mailto:aharter@vtlegalaid.org">aharter@vtlegalaid.org</a></p>	<p><i>Jane Munroe</i></p> <p><b>(Rutland, Bennington Counties)</b></p> <p>57 North Main Street          Rutland, VT 05701          Phone: 802.855.2411          Fax: 802.775.0022  <a href="mailto:jmunroe@vtlegalaid.org">jmunroe@vtlegalaid.org</a></p>	<p><i>Wendy Rowe</i></p> <p><b>(Chittenden County)</b></p> <p>264 N. Winooski Avenue          Burlington, VT 05402          Phone: 802.448.1690          Fax 802.863.7152  <a href="mailto:wrowe@vtlegalaid.org">wrowe@vtlegalaid.org</a></p>

❖ The LTC Ombudsman Project has 10 trained Volunteer Ombudsmen

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## 5. LTC Ombudsman Project Success

For fiscal year 2017: (1) **88%** of the individuals were fully or partially satisfied with the resolution of their complaint by an ombudsman; (2) **every** long-term care facility received a visit from an ombudsman at least once every 3 months; and (3) Ombudsmen performed over **500** complaint investigations.

Below are examples of the types of complaints the Project investigated and resolved in **during fiscal year 2017**.

- ❖ A man with a neurological disability had been living in a long-term care facility for many years. The resident expressed that he wanted more independence and meaningful activity. The local ombudsman supported the resident in every way: helping to connect the resident with the agencies and providers capable of finding him a home in the community; participating in team meetings to make sure that the resident's needs were addressed; assisting in efforts aimed at overcoming the barriers to the resident's move to the community; and making sure the discharge process continued to move forward. Later the resident moved into the community (an adult family home) where he is able join others to participate in various activities.
- ❖ A skilled nursing facility resident improved better than expected. It was determined that he no longer required a nursing home level of care. The resident said that he wanted to return home; however, not all of the resident's family members wanted him to return home. The local ombudsman met with family members to talk about the rights of the resident and of the availability of home health services. The resident moved back home and is doing well.
- ❖ A resident of a long-term care facility experienced the loss of a hearing aid. The hearing aid was ruined after being put through the wash. The facility, having decided that the resident was at fault, told the resident that they would not pay for a replacement. The resident's local ombudsman got involved and was able to determine exactly how the resident's hearing aid ended up in the wash. The ombudsman explained in detail what she had found. The facility, having heard from the ombudsman, decided that they were at fault and paid the cost of a replacement hearing aid for the resident.
- ❖ A community-based CFC participant complained that her home health agency was not consistently providing home health aides for evening assist to bed shifts. The participant is wheelchair-bound and unable to transfer herself to bed without assistance. The home health agency was also not providing the participant with timely notice for the times when they would not be providing the assist to bed shifts – this made it much harder for the participant to find a backup person to come and assist her to bed. Without assistance, the participant is forced to remain in her wheelchair overnight. The local ombudsman educated the home health agency's scheduler and LTC manager of their obligation to meet the needs of the participant by providing shift coverage per the participant's Service Plan. The ombudsman also stressed the importance of timely

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- communication with the participant regarding any problems concerning shift coverage. The home health agency responded by filling the participant's shifts and informing her in a timely manner when they were unable to cover a shift (so she has time enough to secure her backup caregiver).
- ❖ A community-based CFC participant had concerns about the Green Mountain Transit Authority (GMTA) making changes to her morning pick-up time for a regular health appointment. The change was problematic because it meant that her caregiver's schedule had to be rearranged to accommodate an earlier time. The participant attempted to work through the problem on her own. She was left feeling that her caregiver's schedule could not be changed. The local ombudsman intervened. The ombudsman worked with home health staff and the case manager. As a result, the caregiver's schedule was rearranged so that the participant would receive her morning care and meal earlier. The change to the caregiver's schedule allowed for the participant to be ready for the GMTA transport necessary for her to make her regularly scheduled appointment.
  - ❖ An ombudsman met at length with a nursing home memory care resident. The resident complained that he was not satisfied with the outcome of his guardianship case. He wanted his lifelong friend to become his guardian. Meanwhile, he was dissatisfied with his current guardian and did not want his belongings to be sold. The ombudsman advised the facility's social worker of the resident's preferences. Later, the guardianship case was reopened, and the probate judge assigned the lifelong friend guardian.
  - ❖ Residential care home resident had concerns about the meals being served and that he was losing weight. A local ombudsman met with the resident to discuss his concerns. The local ombudsman learned from the resident that he was not being offered, and was unaware of his right to, alternative menu choice items. The resident was also unaware that he could request meals and snacks at various times throughout the course of a day. The ombudsman and the resident met with facility staff to review meal options. Afterwards, the resident was offered alternative meal choices.
  - ❖ During a general visit, a local ombudsman spoke with a resident who complained her eyeglasses were broken and that she needed a new prescription. After speaking with the ombudsman, the resident decided that her concerns should be brought to the facility's social worker. As a result, an eye appointment was made, the facility transported the resident to the exam, and new glasses were prescribed.
  - ❖ An elderly man had been living at a residential care home for many years. The resident had no history of any concerning behavior. The resident was spending time with another resident, who was female. The family of the female resident asked that the residential care home not allow the two to have contact. The facility gave the male resident a 30-day discharge notice. The male resident and family met with a local ombudsman to learn if anything could be done. The male resident appealed his discharge and won, allowing him to remain living at the residential care home.
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- ❖ The complaint involved a home-based moderate needs group (MNG) participant with a medical exemption for independent/direct transport to his non-emergent medical appointments (via Special Services Transportation Agency - SSTA). The participant informed the local ombudsman that he was being transported to his appointments via an SSTA van with other riders. He stated that this practice posed a potential health risk to himself and other riders. The local ombudsman spoke with SSTA staff and supervisors. The local ombudsman explained the need for SSTA to honor the medical exemption and provide the participant with independent, direct transportation to his non-emergent medical appointments. SSTA began providing direct, independent transport as required by the medical exemption directive.
- ❖ A community-based CFC LTC Medicaid client reported that her home health agencies were not always allowing her to have breakfast prior to being bathed and not always assisting her with her compression stockings. The local ombudsman contacted the supervising nurses from both of the home health agencies serving the CFC participant to have them acknowledge the participant's preferences and requests for assistance and to educate staff about person-centered care.
- ❖ An individual with significant cognitive impairment had been waiting for CFC LTC Medicaid financial eligibility approval for many months. The client's power of attorney had submitted all required documentation to the State in a timely manner. The client had been approved "clinically" months before. The local ombudsman informed the State case worker and the supervisor of the significant delay, and asked for an expedited review. The client was found eligible within the week.

## **6. LTC Ombudsman Project Challenges**

- ✓ Funding, resources, and time
- ✓ Recruiting volunteers from all areas of the State

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## 7. Issues being seen (observed) in the field by the LTC Ombudsman Project

### ✓ *Staffing Levels at Long-Term Care Facilities and for Home Health Agencies*

The lack of adequate staffing in long-term care facilities and home health agencies continues to be the biggest problem facing VLTCOP clients.

### ✓ *Individuals in long-term care facilities often don't receive appropriate behavioral health care and services*

The Project continues to be concerned that a significant number of individuals are transferred from a long-term care facility to the hospital because the facility is unable to manage behaviors associated with the person's condition. Federal regulations have recognized this problem and added a new behavioral health requirement that emphasizes that facilities have the responsibility to provide necessary behavioral health care and services.

### ✓ *Continued industry pushback against current federal regulations governing long-term care facilities*

Despite the rigorous review (and the improvement in care and safety that the requirements bring), there remain concerted efforts to undo or weaken the regulations and delay their implementation. The efforts include:

- ❖ A new proposed rule issued to rescind protections around forced pre-dispute arbitration
- ❖ A request, made by CMS, for stakeholder feedback on the elimination or modification of regulations related to: (a) the grievance process; (b) the Quality Assurance and Performance Improvement (QAPI) process; and (c) Involuntary discharge notices being provided to long-term care ombudsmen
- ❖ A delay in enforcement of certain Phase 2 regulations, which will negatively impact their effective implementation

While these efforts are being put forth under the umbrella of regulatory reform and to reduce the burden on providers, the proposed revisions and delays reflect requests made by the nursing home industry to CMS.

## 8. LTC Ombudsman Project Systems work

- ✓ Most recent legislative session - Nursing Home Oversight workgroup; Older Vermonters Act workgroup; Advance directives
- ✓ Federal and state rule work and comments
- ✓ Personal needs allowance LTC Medicaid nursing home residents

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**9. DAIL Advisory Board must review whether the LTC Ombudsman Project is free of organizational and individual conflicts of interest**

- ✓ Project must operate free of both organizational and individual conflict of interest
- ✓ In the past few years, the Board has created a subcommittee to work with the State Long-Term Care Ombudsman to ensure that the Project is free of conflicts
- ✓ The subcommittee will review the Project's program policies concerning organizational and individual conflicts of interest
- ✓ Following the subcommittee's review of the Project's program policies, the subcommittee will report its assessment of whether the Project is free of organizational and individual conflicts of interest to the full DAIL Advisory Board AND make a recommendation to the full board
- ✓ The full DAIL Advisory Board will then vote on the subcommittee's recommendation - and if the Board accepts the subcommittee's recommendation that the Project is free of conflicts a certificate is issued (which is attached the Project's annual report to the legislature)
- ✓ Since the Board last provided for the issuance of a certificate, the Project's program policies have been approved by ACL (Administration of Community Living)