







Constituents

Individuals 60 years and older living in long-term care institutions and certain community settings.

Care Settings

Settings that our constituents live in:

- Nursing Homes:
(including state veterans' homes)
- Assisted Living:
(including ALs, ALRs, ALPs, and CPCs)
- Residential Health Care Facilities:
- Boarding Homes ("Class C"):
- State Psychiatric Hospitals:
- State Developmental Centers:
- Adult Day Care:

Number of Beds

The number of beds in care settings we cover:

- Nursing Homes: 371 -- 52,000 beds
- Assisted Living: 231-- 19,000 beds
- Residential Health Care Facilities: 128 -- 5500 beds
- Boarding Homes ("Class C"): 118 -- 2600 beds
- State Psychiatric Hospitals: 5 -- 1700 beds
- State Developmental Centers: 7 -- 2500 beds
- Adult Day Care: 121 -- 10,000 slots

Complaints

Most common complaints:

- Physical Abuse
- Verbal Abuse
- Financial Exploitation
- Care/Neglect
- Discharge Issues

Complaints

Federal Fiscal Year 2011

- 6164 calls received
- 3059 cases opened
- 3144 cases closed

Roles & Responsibilities of Ombudsman Federal Law, Older Americans Act

- Investigate and resolve complaints made by or on behalf of residents of LTCF
- Provide services to help residents protect their health, safety, welfare, and rights and to inform residents of how to obtain such services
- Represent residents' interests before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- Conduct legislative and policy advocacy on federal, state, and local levels

Roles & Responsibilities of Ombudsman Federal Law, Older Americans Act (cont.)

- Train and provide administrative and technical assistance to OOIE staff and volunteers
- Identify and work to resolve problems affecting large numbers of older people in LTCF or receiving LTC
- Promote the development of citizens' organizations to advocate for quality LTC services
- Compile and analyze data relating to complaints and conditions in LTCF and LTC services

Roles & Responsibilities of Ombudsman State Law

- Receive and investigate reports of abuse and exploitation of institutionalized elderly from "mandated reporters"
- Receive reports from residents and any other concerned people regarding the health, safety, welfare, and civil and human rights of residents
- Refer cases to appropriate regulatory and law enforcement agencies where OOIE findings require referral
- Review certain decisions regarding withholding or withdrawing life-sustaining medical treatment

Mandatory Reports

What Must Be Reported?

ABUSE

Willful infliction of physical pain, injury, or mental anguish;
Unreasonable confinement;
Willful deprivation of services necessary to maintain a person's physical and mental health

EXPLOITATION

Using a person or his resources for another person's profit or advantage without legal entitlement (permission) to do so

Mandatory Reports

Who **Must** Report?

Caretakers
Social Workers
Physicians
Registered or licensed practical nurses
or
Other Professionals

Who have a **reasonable suspicion** of abuse or exploitation based on information obtained through employment.

Other Reports Accepted

Any person may (but is not required by law) report to OOIE any concern regarding the health, safety, welfare, or rights of a resident.

Financial Exploitation

Financial exploitation is the use of a resident's funds by an individual for his or her own benefit and without the permission of the resident.

As a resident advocacy agency, OOIE will not pursue a case if the resident does not want us to, even if someone used the resident's funds without his or her permission.

Failure to pay bills is, by itself, not financial exploitation.

Financial Exploitation Signs to Look Out For

- Anxiety about personal finances
- Lack of knowledge about financial status
- New “best friends”
- Missing belongings or property
- Significant changes in spending patterns
- Making sudden changes in financial management
- Altered wills, trusts, and powers of attorney
- Unusual bank withdrawals
- Checks written as “loans” or “gifts”
- Controlling family member/legal representative

Ethical Decisions at End-of-Life N.J. Supreme Court and OOIE

In *Conroy* and other cases, the court called for the Ombudsman to become involved because of:

- the vulnerability of mentally and physically impaired elderly people in institutions,
- the absence of surviving family and friends,
- the limited role physicians play in nursing homes as compared to hospitals, and
- the potential for abuse with unsupervised institutional decision-making during that time period.

Ethical Decisions at End-of-Life Ombudsman Process

As with all of the Ombudsman’s work, the primary focus of the process is to ensure that the resident’s wishes are respected. The Office works with the resident, his or her family and friends, and facility staff to identify the resident’s wishes, wherever possible.

In addition to exploring the resident’s wishes, the Office also gathers clinical information regarding the resident’s cognition, condition, and prognosis, to ensure that legal standards for withholding/withdrawing treatment are met.

Regional Ethics Committees (RECs)

Regional Ethics Committees were established by OOIE to serve as resources to residents and health care professionals of long-term care facilities who face ethical dilemmas regarding:

- Treatment decisions
- Health care conflicts
- Withholding/withdrawing life-Sustaining medical treatment
- Medical futility
- Advance directives
- Quality of life issues

Regional Ethics Committees (RECs)

Consultation with a REC is not required and the recommendations it offers are not legally binding, but involving RECs can often de-escalate and resolve ethical dilemmas as close to the bedside as possible.

RECs are comprised of multi-disciplinary members, including social workers, nurses, clergy, and hospice workers, who bring a range of perspectives and experiences to ethical consultations.

Legislative and Regulatory Issues

Implementation of Physicians Order for Life-Sustaining Treatment (POLST)

- Member of the committee designing the POLST form and developing training for community and health care providers

Comprehensive Medicaid Waiver

- Member of the Steering Committee and three workgroups

Older Americans Act

- Advocating for Long-Term Ombudsman Program

Money Follows the Person (MFP)

- MFP is New Jersey's ongoing effort to move people living in nursing facilities and state institutions into more home-like, community-based settings.
- We will partner with the state Division of Developmental Disabilities and the Division on Aging and Community Services to transition hundreds of people with disabilities and elderly people into community placements.
- We will be to help identify people who desire to live in the community with the proper supports.
- We will educate residents, staff, family members, and the larger community about the availability of community-based alternatives to institutional care.

Outreach

- Money Follows the Person (MFP)
- Residents Rights
- Statewide End-of-Life Ethics Trainings
- National Healthcare Decisions Day
- Outside Events/Programs
- Volunteer Program

Volunteer Advocate Program

- The Office is assisted in its advocacy by approximately 180 Volunteer Advocates in NJ long-term care facilities.
- Volunteer Advocates:
 - spend at least 4 hours per week in their assigned facility;
 - receive 32 hours of intensive training; and
 - undergo criminal history background checks.
- We aim to place volunteers in 80 percent of NJ nursing facilities by 2013.

For information on the volunteer program, call Deirdre Mraw, the OOIE statewide volunteer coordinator at 609-826-5054.

Examples of OOIE Advocacy

- Acting as the voice of the resident to resolve a vast array of problems/disputes.
- Investigating cases of abuse and exploitation and making appropriate referrals to law enforcement and licensing agencies to bring perpetrators to justice.
- Preventing improper involuntary discharges/transfers of residents where there is no legal basis to do so and/or when the resident's right to receive proper notice has not been respected.
- Participating in policy initiatives that impact our constituents (ex. Money Follows the Person, End-of-Life Advisory Council, working groups re Medicaid Waiver transition).

Examples of OOIE Advocacy (con't)

- Overseeing quality of care in facilities entering bankruptcy proceedings.
- Tracking and commenting on proposed legislation that affects our constituency.
- Educating administrators through letters addressing important resident rights issues.
- Educating long-term care facility staff on issues that impact their residents.
- Promoting initiatives to improve the quality of long-term care.

Advocate for Your Residents!

- Know the law and your duties/responsibilities to residents and families.
- **FOCUS ON YOUR RESIDENTS!** Where possible, deal directly with residents to learn their wishes - and act accordingly.
- Prominently post/distribute residents' rights information and OOIE contact information in your community.
- Encourage residents to establish Resident Councils. Give your Council the autonomy it deserves and respond to ideas and concerns expressed there.

Advocate for Your Residents! (con't)

- Educate your staff and residents about advance care planning. At minimum, talk to alert and oriented residents about their goals of care and document these conversations.
- Collaborate with the OOIE Volunteer Advocate assigned to your community. Working with the volunteer to solve problems can de-escalate potential conflicts.
- Know your Regional Ethics Committee, participate in REC meetings and events, and contact them when difficult ethical treatment issues arise in your facility.

Advocate for Your Residents! (con't)

- Report suspected abuse and/or exploitation to OOIE.
- Reach out to OOIE if you have other concerns about a resident.
- Prepare yourself for coming changes (ex. POLST, Money Follow the Person, Medicaid Waiver, DHS-DHSS merger) and anticipate future issues.

Office of the Ombudsman for the Institutionalized Elderly

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