STATE LONG-TERM CARE OMBUDSMAN COUNCIL MINUTES
FEBRUARY 2, 2007

Council Members Present
- Betty Bairley
- Audrey Bennett
- Laretha Brown
- Jerome Conger
- Lu de Wette
- Lynn Dos Santos
- JoAnna Emerson
- Ed Forman
- Farrell Groves
- Don Hering
- Bob James
- Marcia Reynolds
- Ron Sabellisco
- Ed Seibert
- Joe Torre
- Lesli Watkins

Guests Present
- Ellen Beamer
- Bill Benson
- Jim Crochet
- Sarah Halsel
- Elaine W. Holmes
- Sara Hunt
- Raymond Johnson
- June Selbert
- Joshua Sparrow
- Kathleen Wilks
- Martie Daemy
- Janice Harvey
- Ramon Keppis
- Brian Lee
- Marjorie Lynch
- Page Merkison
- Michele Mulé
- Michael Phillips
- Lorraine Rappé
- Toni Ricke
- William Teague
- Lily Wilde
- Priscilla Zachary

Approval of Minutes
- Chairman Don Hering called the meeting to order at 1:30 p.m. and welcomed all attendees.
- State Council Member and District Ombudsman Manager introductions commenced.

Motion: Don Hering moved to adopt the November 2, 2006 quarterly meeting minutes as printed. Farrell Groves seconded the motion. Motion carried with no discussion.

State Council Chair Report
- In some areas the installation of code pads, which restrict elopement-risk residents’ entry/exit, have been declared illegal and must be replaced by crash bars, which allow facility staff 5 to 7 seconds of response time before facility doors open.
- To find out if this law has been instituted in a local area, ombudsmen should consult the local fire chief.

State Long-Term Care Ombudsman Report
- The Office of Inspector General within the Department of Elder Affairs (DOEA) will audit the Long-Term Care Ombudsman Program (LTCOP) and review the following information: complaint resolution percentages; adequate number of qualified and trained staff for the program; measurable performance indicators for the program.
- All headquarters staff members, except Brian Lee and Priscilla Zachary, have completed a condensed, ombudsman certification classroom training.
- The Annual Report is now complete and thanks are offered to all for their active assistance in this process.
- Amy Lynch has returned as the Long-Term Care Ombudsman Program (LTCOP) Public Relations Manager and will work closely with R.B. Oppenheim Associates to assist the councils with public relations and recruiting of ombudsmen.
- The West Palm Beach District Ombudsman Manager position is currently vacant due to the new hire prospect rejecting the offer one week before the start date.
The West Palm Beach district office phones have been forwarded to the Treasure Coast District office so that calls and complaints may be answered in a timely manner.
Michele Mulé is serving as District Ombudsman Manager for Pasco/North Pinellas, along with her management duties for Withlacoochee.
William Avery is now the contact at the Attorney General’s office for questions concerning Operation Spot Check.
The LTCOP will work with the Attorney General’s office on instituting the use of a universal form for Operation Spot Check.

**DISTRICT COUNCIL ISSUES**

**District Issue posed by District #2**
- (See Attachment #1)
- **Issue**: Video camera installation in resident rooms for monitoring purposes.
- **Suggested Resolution**: Develop policy recommendations to include formal issuance of the facility’s intent to install cameras and requirement of resident(s)’ full understanding and approval of same.
- *(Audrey Bennett)*: The Attorney General ruled a few years back that cameras are not to be allowed in nursing facilities.
- *(Don Hering)*: If it is found that there is a law prohibiting camera installation within facilities in one’s local area, the State Council should be advised if this issue continues to be a problem.

**District Issue posed by District #9**
- (See Attachment #2)
- **Issue**: Possible increase of guardianship related issues and complaints due to the broad range of variables associated with monitoring guardians.
- **Suggested Resolution**: The Florida Long-Term Care Ombudsman Program should take action to seek ways to improve the monitoring of court-appointed guardian performance and involve members of the LTCOP in such monitoring.
- *(Don Hering)*: The Legal Advocate, Hester Bryant, is visiting district councils to educate members on guardianship issues.
- *(Don Hering)*: The Training committee will create a checklist for use when a complaint is received regarding a guardian. The checklist will outline which steps to take, which records should be accessible to the ombudsman, etc.

**District Issue posed by District #9**
- (See Attachment #3)
- **Issue**: Confusion on the part of nursing facilities and ombudsmen regarding the use of classification and resolution codes.
- **Suggested Resolution**: State Council reconsideration of code definitions/explanations.
- *(Don Hering)*: The Executive Committee agreed that this issue may be fixed and/or answered through the rule-making process by the State Ombudsman.

**District Issue posed by District #16**
- (See Attachment #4)
- **Issue**: Ombudsmen identification during facility visits.
- **Suggested Resolution**: Provision of shirts with “Ombudsman” printed in large letters on the back.
- *(Don Hering)*: The District #16 Council may move forward with procuring the above-referenced shirts if it is deemed necessary by said local council members.

Don Hering requested that all districts submit district issues using the standard form.

**A Plan for Ombudsman Excellence (Strategic Planning Report)**

**Bill Benson – Principal, Health Benefits ABCs**
- Recommendations contained in the Strategic planning report are essentially well-informed opinions based on knowledge of ombudsman program history, data reports from the National Ombudsman Resource Center, etc. (See “A Plan for Ombudsman Excellence,” Attachment #5)
After much data collection including meetings, interviews, site visits and observation, the team found that the Long-Term Care Ombudsman Program (LTCOP) has many strengths, one of which is that the volunteers are hard-working and committed.

Organizational findings indicate that there should be an increase in paid ombudsman staff and that there is a need for the office of State Ombudsman must remain stable for at least 2 years in order to improve effectiveness.

Human Resources findings indicate Florida needs almost 3 times its current level of active volunteers or an equivalent number of paid staff in order to conduct all of the activities necessary for essential service.

Governance findings indicate that the LTCOP will benefit from clarification of roles (as per amendments to the statute) and regular use of workgroups that deal with Continuous Quality Improvement (CQI) issues.

Advocacy findings indicate that the LTCOP will benefit from increased ombudsman presence in facilities along with increased interaction with resident and family councils.

Sara Hunt – Consultant in Aging Services, Health Benefits ABCs

Systems Advocacy findings indicate that an increase in resources, staff and available funding is essential to the success of the LTCOP. (See “A Plan for Ombudsman Excellence,” Attachment #5)

- The office of the State Ombudsman must be unencumbered in fulfilling systems advocacy responsibilities.

Assessments findings indicate that advocacy activities must be refocused on identifying, receiving, and resolving complaints brought by residents and an elimination of all functions that duplicate the regulatory agency’s task(s).

Outreach and Public Relations findings indicate that success may be had if districts are held accountable for excellent, productive efforts.

Volunteer findings indicate that a full time, well-qualified, volunteer management expert is needed to guide, support, and assist with volunteer management throughout the state.

- The LTCOP must develop a range of roles in the program to utilize the expertise of volunteers.
- Ombudsman recruitment should focus on needed areas of expertise.

Volunteer Retention findings indicate that assessments of volunteers should be used in improving volunteer management and retention. Also, techniques of recognizing ombudsmen should be changed from multiple, tangible giveaways to recognition for exemplary work in resolving complaints.

Training findings indicate that the basic curriculum developed by the National Ombudsman Resource Center should be adapted for and used by the Florida LTCOP.

Coordination findings indicate relationships must be initiated and developed with advocacy organizations and agencies within the state.

Communication findings indicate that an increase in staff is needed in order to increase timeliness of responses.

Accountability and Quality Improvement findings indicate that the state office should audit case quality to assure that appropriate processes, standards and timeframes are observed.

Data Collection and Reporting findings indicate that a unified, seamless data system should be put in place and be readily accessible.

Administrative Processes findings indicate that budgets of district councils should be increased to sufficiently hire and retain high quality staff and support travel, training and other vital functions.

Question-and-answer discussion ensued.

Rule-Writing
Jim Crochet – Senior Management Analyst, Office of the General Counsel – Department of Elder Affairs

Rule-making and –writing process was outlined.

The statutes for rule-making provide broad guidelines as to the development of complaint procedures and assessment tools wherein minimum inclusions are outlined.

Phases of rule-making (note: all communications are “in the sunshine” or open to the public):

- Phase 1 - Rule development (informal and noticed in the Florida Administrative Weekly).
- Phase 2 - Workshop following the development of draft language.
Phase 3 – Rule-making (Joint Administrative Procedures Committee (JAPC), receives a copy of the rule; JAPC must agree with what the rule says; therefore, changes may take place).

Scenario: If we announce at the beginning of February 2007 a workshop at the beginning of March 2007 and everything goes perfectly, we will be fortunate to have a rule adopted by July 2007.

Question-and-answer discussion ensued.

COMMITTEE REPORTS

Data & Information Committee – Ed Seibert

- The committee is currently working on a proposed facility data report (See Attachment #6)
  - The committee would like to include corporate information along with the number of Medicaid/Medicare beds and Centers for Medicare and Medicaid Services information on the data report.
  - Florida currently has 2,391 Assisted Living Facilities (ALFs), 699 Nursing Homes (NHs) and 451 Adult Centers, and our goal is to prepare a facility data report for all facilities, which represents a lot of work.
  - (Brian Lee) The report will assist in analysis of developing trends within facilities and notification as to long-term care issues. The report will be useful to ombudsmen and consumers as an at-a-glance sheet outlining pertinent information regarding facilities.
- Question-and-answer discussion ensued.

- The committee is currently working on developing and fine-tuning an ombudsman database report (See Attachment #7).

Advocacy Committee – Lesli Watkins

- The committee discussed the legislative training and our primary focus to find a Representative to companion sponsor the bills that we were able to enter.
- The “Legislative Contact Visit” contest was won by District 4, Withlacoochee.
- The committee will develop talking points for the bills that the Long-Term Care Ombudsman Program is supporting. The talking points will be distributed as soon as available. Accuracy of bill language and bill numbers is a must.
- The committee is working on developing a relationship with AARP on the state level.

Motion: Lesli Watkins moved that the LTCOP State Council endorse the resolution written by the National Citizens Coalition for Nursing Home Reform (NCCNHR) to exempt all low-income, long-term care residents from Medicare Part D co-payments (See Attachment #8). Lu de Wette seconded the Motion. Motion carried with no discussion.

Training Committee – Ron Sabellico

- The committee has elected Laretha Brown as committee Vice Chair.
- The committee worked on developing, defining and implementing specialized training curricula as follows:
  - Regular training of the Chair.
  - Annual training of the interviewer.
  - Identification of goals/objectives applicable to the program mission from strategic plan workgroup results.
- The committee identified 3 goals as follows:
  - Develop processes that improve volunteer recruitment.
  - Increase volunteer longevity.
  - Improve training to ensure volunteer success in advocacy.
- The committee decided that future training will include, but not be limited to, the following areas:
  - Exposure to resources.
  - Consistent training time.
  - Teaching core courtesy.
  - Program expectations of respect.

Motion: Audrey Bennett moved to accept the Training Committee report as entered. Farrell Groves seconded the motion. Motion carried with no discussion.
Executive Committee – Don Hering

- The committee is moving forward on the finalization of plans concerning the Munne Center Assisted Living Facility, which were discussed at last November’s Quarterly Meeting.
  - The press will be contacted no later than the middle of February to resolve this issue.
- The committee held a conference call that discussed how to achieve 100 percent administrative assessments in all districts. The following solutions were discussed:
  - Monitor each district’s progress monthly.
  - District lists of facilities and assignments may be handed out at October’s monthly meeting.
  - Ombudsmen may receive permanent facility assignment.
  - Assistance may be offered to districts that cannot meet 100 percent of their administrative assessments due to lack of volunteers.
- Assessment blitzes, as viable option for assisting other districts with administrative assessments, will begin March 4.
  - The committee will need a list of all ombudsmen willing to assist.
  - Specific interpreters will be identified and used.
  - Facilities will be clustered around hotels for the convenience of visiting ombudsmen.
  - Global Positioning System (GPS) cell phones will be available to assist in locating addresses.

Motion: Audrey Bennett moved to accept the Executive Committee proposal, which includes the following: (1) Each district will provide ombudsman council members with a list of facility assignments at each October monthly meeting; (2) Each district will encourage council members to complete assessments early; Betty Bairley seconded the motion. Discussion ensued. Motion passed with no further discussion.

Motion: Farrell Groves moved to accept the Executive Committee proposal, which includes the following: (1) Volunteers from various councils will provide assistance to the North and South Dade districts during March, April and May, or beyond as required, using small teams of ombudsmen; (2) Identification of facilities to be assessed; (3) Procurement of interpreters; (4) Enlistment of ombudsmen; (5) Scheduling of assessments and provision of administrative support and quality assurance to the local council. Discussion ensued. Farrell Groves withdrew the motion.

Motion: Farrell Groves moved to accept the Executive Committee proposal, which includes the following: (1) Volunteers from various councils will provide assistance to any district needing help completing assessments during March, April and May, or beyond as required, using small teams of ombudsmen; (2) Identification of facilities to be assessed; (3) Procurement of interpreters; (4) Enlistment of ombudsmen; (5) Scheduling of assessments and provision of administrative support and quality assurance to the local council. Discussion ensued. Farrell Groves withdrew the motion.

DISTRICT COUNCIL REPORTS

District #1-North West– Marcia Reynolds

- The council has obtained permission from the State Ombudsman and begun sending the nursing home (NH) facility’s corporate office a courtesy copy of the “Administrator’s Letter” generated by the Long-Term Care Ombudsman Program computer program to remind them of their accountability to a higher management authority.
- In an effort to produce an added incentive for facilities to uphold the principles for which we advocate, we now make them aware that events in which we are called to investigate will be reported to superiors.

District #2-Panhandle– Jerome Conger

- No report entered.

District #3-North Central– JoAnna Emerson

- The council currently has 7 certified ombudsmen, 2 in training, and 2 certified ombudsmen on leave of absence.
- The district currently handles 67 facilities with 4,258 beds.
• Complaints received for the quarter total 11.
• The council completed 3 facility inspections totaling 102 beds.
• The council has successfully worked with facilities to ensure all Medication Administration Records and Medication Observation Records are updated as needed.
• The council has identified 6 sex offenders and 2 sexual predators in our district's long-term care facilities. In all cases, the victims were under 17 years old.
• The council will begin scheduling facility staff from our district to provide training to ombudsmen on successful programs or changes in practice implemented in their facilities.

District #4-Withlacoochee– Bob James
• No report entered.

District #5-First Coast– Lesli Watkins
• No report entered.

District #6-Mid & South Pinellas– Ed Forman
• Council members attended a 1-hour training on proper completion of the complaint summary page, including discussion regarding the complaint classification codes “Verified” and “Not Verified.” The instructor specified that if a resident perceives that something happened, the complaint is verified.
• Many council members feel that the change was made to increase statistics and will not serve the interests of the resident(s).
• The council suggests a correction in the definition of “Verified” and “Not Verified” relating to complaints, or a correction to what is being taught.

District #7-Pasco & North Pinellas– Ron Sabellico
• No report entered.

District #8-West Central– Don Hering
• No report entered.

District #9-East Central– Betty Bairley
• The council has recently instituted a 1-hour discussion period immediately preceding the monthly meetings because ombudsmen have stated that training geared toward responding to member questions and concerns has proven beneficial.
• In order to address the issue of completing the resident interview section of the Assisted Living Facility assessment form with residents who have dementia, some ombudsmen circle only the responses that they believe reflect the resident’s reasoned response or accurate feeling. Commentary is then added concerning the resident’s inability to respond to some of the interview questions.
  o Guidance on this matter is requested of the State Trainer and ALF pilot form committee.

District #10-Southwest– Lynn Dos Santos
• The council has coined the phrases “Teachable Moment” and “Advocacy in Action,” initiated by Gerri Osenga and Lynn Dos Santos, to reinforce the concept of utilizing situations at hand which apply the mission, policies and procedures of the ombudsman program.
• The council’s focus for 2007 will be education for all ombudsmen so that, as a regular feature of each council meeting, some aspect of our job as ombudsmen will be discussed.

District #11-Palm Beach County– Lu de Wette
• The council continues to be concerned that area long-term care residents may not be receiving needed assistance because the Palm Beach County office lacks a full-time staff person to take telephone calls, and most residents will not leave messages.

District #12-Broward County– Audrey Bennett
• The council has followed the lead of Dr. Golden, in focusing on forming and reinforcing Resident and Family Councils.
• An area facility, St. Johns Nursing and Rehabilitation Center, has opened a multi sensory environmental unit to the public which assists residents and families with grieving and other coping processes.
**District #13-North Dade– Laretha Brown**
- The council organized 3 residents’ rights and discharge procedures in-services in several area nursing homes.
- The council completed 4 spot checks.
- The council believes that in view of falling membership application numbers, a paid advertisement should be implemented along with hiring a replacement for the outreach assistant.
- The new Centers for Medicare and Medicaid Services survey procedure has had a negative impact on the ombudsmen’s direct participation in resident council affairs.
- The council views the following issues as relevant from a local perspective:
  - Ombudsman recruitment.
  - Office organization.
  - Ombudsman commitment.

**District #14-South Dade– David Warshofsky**
- No report entered.

**District #15-First Coast South– Ed Seibert**
- The council has focused its attention on the problems related to small nursing facilities that: (1) do not perform background checks on their employees; (2) do not have proof of residents or employees being free of communicable diseases; and (3) lack administration that is aware of requirements.
- The council hosted two 8-hour trainings of 6 new ombudsmen, which included working lunches.
- The council continues its focus on educating facility staff and residents concerning residents’ rights, residents’ perspective of abuse, and starting/maintaining family councils.

**District #16-Treasure Coast– Joe Torre**
- The council has focused on developing and strengthening working relationships with other agencies including the St. Lucie Council on Aging, the area Agency on Aging, the Florida Local Advocacy Council (FLAC), the Florida Assisted Living Affiliation (FALA), the Alzheimer’s Association, and Alzheimer’s Community Care.
- The council continues to take advantage of opportunities presented by participation in health fairs, in-services and residents’ rights activities.

**District #17-South Central– Farrell Groves**
- No report entered.

**Old business/New business**
- No report entered.

**Adjournment**
Motion: Ed Forman moved that the State Council meeting be adjourned. Ron Sabellico seconded the motion. Motion carried with no discussion.
- The meeting adjourned at 12:05 p.m.