

# **VERMONT LONG-TERM CARE OMBUDSMAN PROJECT**

**Vermont Legal Aid**

## **Annual Report**

**October 1, 2016 - September 30, 2017**

**STATE LONG-TERM CARE OMBUDSMAN**

**Sean Londergan**

### **LOCAL OMBUDSMEN**

**Susan Alexander**

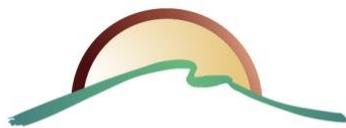
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## **Reporting Requirement to Vermont Legislature and Governor**

The Office of the State Long-Term Care Ombudsman (Office) is to report to the General Assembly and Governor on or before January 15<sup>th</sup> of each year. The reporting requirement is required by 33 V.S.A. §7503. The Office is pleased to present this State Fiscal Year 2017 (SFY17) Legislative Report.

# The Vermont Long-Term Care Ombudsman Project

## **Who Are We?**

Long-term care ombudsmen protect the safety, welfare, and rights of Vermonters who receive long-term care services in facilities like nursing homes, residential care homes and assisted living residences and in the community. Ombudsmen help these Vermonters get individualized, person centered care that reflects their needs and wishes.

### **➤ Our Responsibilities.**

Federal and state law sets forth the responsibilities of the Office and ombudsmen. Among the responsibilities are to:

- Identify, investigate and resolve complaints made by, or on behalf, of individuals receiving long-term care in a facility or in the community.
- Provide services to individuals receiving long-term care to assist in protecting the health, safety, welfare and rights of those individuals.
- Represent the interests of individuals before governmental agencies and seek administrative, legal remedies and other remedies to protect the health, safety, welfare and rights of those individuals.
- Provide information to the public regarding problems and concerns of individuals receiving long-term care, including recommendations related to such problems and concerns.
- Analyze, comment on, and monitor the development and implementation of laws, regulations or policies pertaining to the health, safety, welfare and rights of individuals receiving long-term care services.

### **➤ We Are an Independent Voice.**

No ombudsman or member of their immediate family is involved in the licensing or certification of long-term care facilities or providers. They do not work for or participate in the management of any facility. Each year the Commissioner of the Department of Aging and Independent Living (DAIL) must certify that the

Vermont Long-Term Care Ombudsman Project (VLTCOP) carries out its duties free of any conflicts of interest (See Appendix 4).

The organizational structure of the VLTCOP enhances its ability to operate free of any conflicts of interest. The project is housed within Vermont Legal Aid (VLA). All ombudsmen are employees of VLA. During FY2017, the Staff consisted of the State Long-Term Care Ombudsman (Sean Londergan assumed the position full-time on May 1, 2017); 5.4 FTE Local Ombudsmen; a .2 FTE Volunteer Coordinator; and 7 certified volunteer ombudsmen.

### ➤ **We Protect the Rights of Residents.**

The Federal Nursing Home Reform Act and the State Residential Care Home (RCH) and Assisted Living Residence (ALR) Regulations recognize that residents are entitled to quality care and a quality of life that reflects their individual needs and preferences. These laws also give residents specific rights to ensure that they will be treated with dignity and respect, and will have the same rights as someone living in the community.

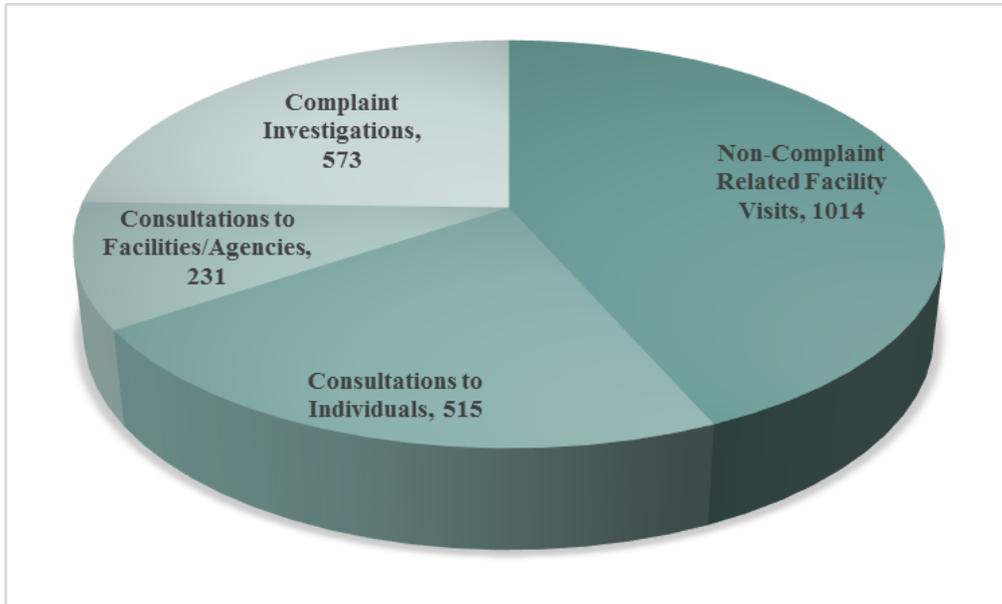
Every year a significant portion of our complaint investigations involve residents' rights. In FY 2017, approximately 39% of complaints received from residents of long-term care facilities concerned residents' rights afforded under federal and state regulations (which includes freedom from abuse, neglect and exploitation; access to information by residents; admission, transfer and discharge; autonomy, choice, preference, privacy; management of personal finances; respect for personal property) and involved residents who wanted to exercise rights.

**Throughout this report, specific rights guaranteed to residents of nursing homes, residential care home and assisted living residences will be highlighted.**

#### **Residents have the right to privacy in treatment and care.**

A home is providing foot care for all residents in the activities room. When a resident's preference is **not** to get foot care in such a public setting, the home must provide the care in a private setting.

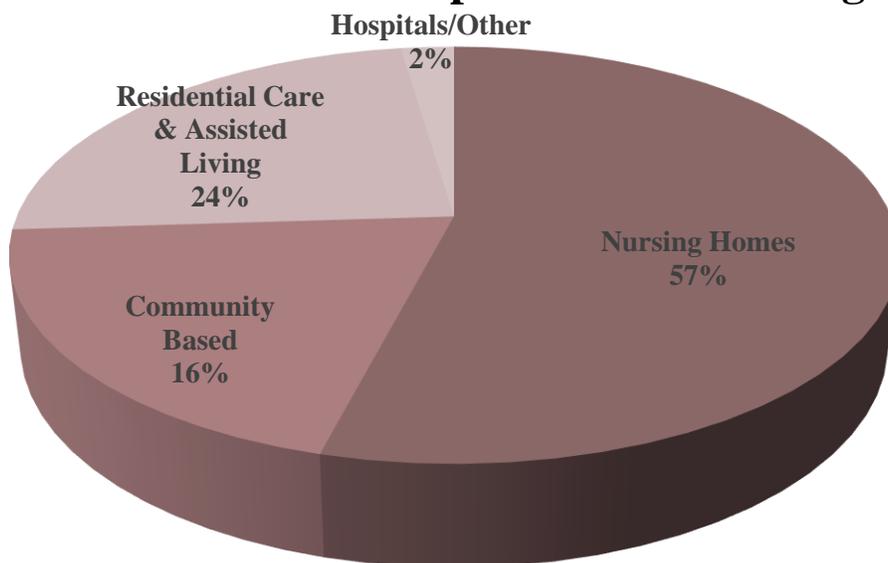
## Overview of All Our Activities



## Distribution of Complaints in All Settings

Vermonters receive long-term care services in a variety of settings, including nursing homes, residential care homes, assisted living residences and in the community. However, no matter where they receive their care, the goals are the same. Vermonters receiving long-term care services must be treated with respect and dignity. They must receive quality care and care which reflects the individual needs and preferences of those receiving long-term care services and supports.

## Distribution of Complaints in All Settings

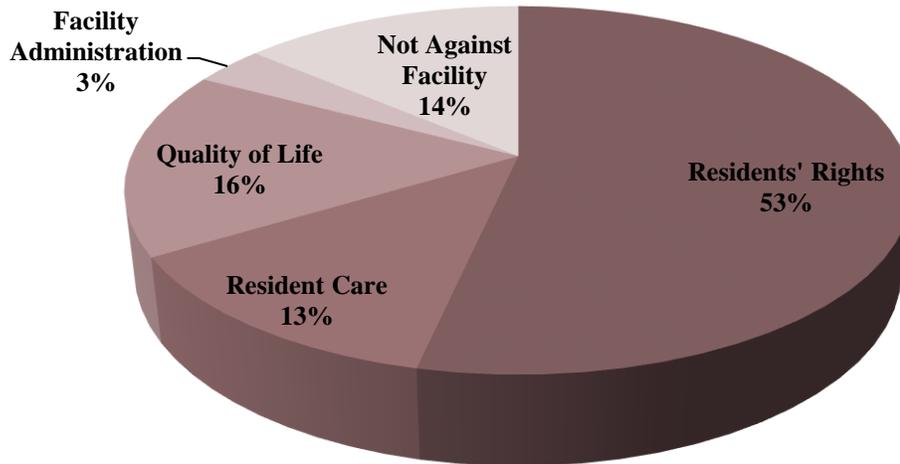


## Facility Based Complaints

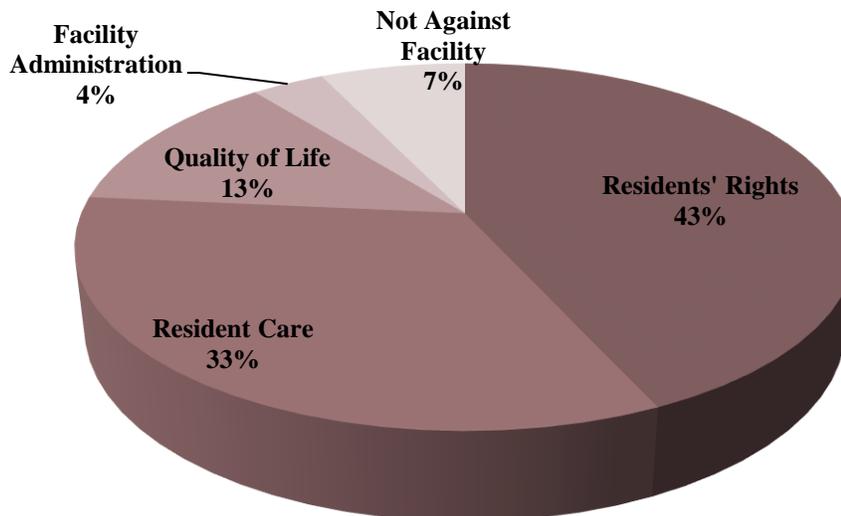
We are required to collect, categorize, and record specific information about each complaint we receive. Each year, (1) residents' rights; (2) care; and (3) quality of life make up the majority of the complaints received.

Not all complaints are against facilities. In FY2017, about 14% of residential care home complaints and 7% of nursing home based complaints that were investigated involved a state, federal or private agency or medical provider outside a facility.

### **Residential Care Home Complaints**



### **Nursing Home Based Complaints**



## Who Makes Complaints?

Most complaints are made by the individuals receiving services or their friends or relatives. However, many providers contact us because they recognize that people receiving services need an independent advocate to make sure their concerns are heard and addressed. No matter who makes the complaint, we try to resolve the problem to the satisfaction of the person receiving services.

In FY2017, we opened 374 cases – 305 facility-based cases, 61 cases concerning individuals in community settings, and 8 cases in hospitals or other settings.

During the fiscal year, we closed 344 cases – 268 facility-based cases, 68 cases concerning individuals in community settings, and 8 cases in hospitals or other settings. The chart below shows who made the complaints across settings for cases that were opened.

<b>FY2017: Who Makes Complaints?</b>				
	<b>Nursing Home</b>	<b>Residential Care/ Assisted Living</b>	<b>Community Setting</b>	<b>Hospital/Other</b>
Resident	133	63	37	3
Relative/friend of resident	40	11	14	3
Non-relative guardian, legal representative	2	0	1	0
Caregiver – non-relative/family	0	1	1	0
Ombudsman/ombudsman volunteer	14	11	0	1
Facility administrator/staff or former staff	15	3	0	1
Other medical: physician/staff	0	0	0	0
Representative of other health or social service agency or program	7	0	7	0
Unknown/anonymous	2	2	1	0
Other: Bankers, Clergy, Law Enforcement, Public Officials, etc.	1	0	0	0
<b>Total</b>	<b>214</b>	<b>91</b>	<b>61</b>	<b>8</b>

### **A resident has the right to refuse medical treatment.**

A long-term care facility (nursing home, residential care home or assisted living facility) must fully inform a resident of the consequences of refusing care. A long-term care facility must respect and honor a resident's informed decision to refuse care.

## **Community Based Complaints in FY2017**

We investigated 65 community based complaints and opened 61 cases. Community based complaints constituted approximately 13% of all the complaints received in FY2017.

Home health agencies provide the majority of the personal care, homemaker and case management services that people receive through Choices for Care. Thirty-one (about 48%) of the community-based complaints were complaints against the home health agencies. There were no other agencies or organizations that had five or more complaints during the fiscal year.

### **A resident has the right to receive the care that the resident needs free of mistreatment or abuse.**

A resident would like a bath once a week because it helps relieve back pain. Aides must help the resident with a weekly bath, without complaining about how long it takes and without handling the resident roughly, because the aides are in a hurry to help the next resident.

## **Types of Complaints We Investigated and Resolved in Fiscal Year 2017**

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 case summaries for some of the complaints investigated and resolved by ombudsmen 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 meet 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 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.
- 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.

**A resident has the right to visit or communicate with any one he or she chooses.**

The resident has a right to receive visitors of his or her choosing at the time of his or her choosing (at the same time, a resident can tell a facility that he or she does want visits from a particular persons or persons). In addition, a resident has a right to interact with members of the community and participate in community activities both inside and outside the facility.

## **Non-Complaint Related Activities**

The Ombudsman's primary duty is to investigate complaints made by or on behalf of individual's receiving long-term care services in facilities or in the community.

They also empower individuals by giving them information to help them resolve complaints on their own and they give family members guidance about how to approach facilities and home health providers with their concerns. In addition, ombudsmen support resident and family councils by helping them work with nursing and residential care homes to address facility wide problems.

Ombudsmen also educate facility and home health staff on the role of the Ombudsmen and residents' rights, including the resident's right to be free from abuse, neglect and exploitation.

<b>Activities in FY2017</b>	
<b>Activities</b>	<b>Number of Instances</b>
Consultations to Individuals	515
Consultations to Facilities/Agencies	231
Assist with Advance Directives	41
Work with Resident and Family Councils	24
Community Education	13
Non-Complaint Related Facility Visits	1014
<b>Total</b>	<b>1838</b>

### **Resident have the right to manage their own money.**

A nursing home cannot manage a resident's finances without first receiving the resident's written permission to do so. If a facility receives written permission, then the facility must keep the resident's funds separate from the nursing home's funds and must record all transactions done on behalf of the resident. A nursing home must make the records available to the resident upon request.

## Our Volunteers

**Volunteers contributed close to 1,176 hours in FY 2017.**

The Project relies on volunteers to help us with all our activities. They enable the Project to maintain a regular presence in Vermont's 166 long-term care facilities. Volunteers respond to individual complaints, attend resident council meetings, and monitor conditions in each home.

Volunteers must complete a comprehensive training program before they are certified. It includes 20 hours of classroom training and independent study. After the classroom training, they shadow their supervising local ombudsman for 30 hours of facility based training.

## Funding

In FY 2017, the Long-Term Care Ombudsman Project received \$702,617 from DAIL to provide Ombudsmen services in Vermont. This amount includes funds from the following:

\$79,188	OAA Title VII, chapter II
\$223,614	OAA Title IIIB
\$311,471	Medical Assistance Program (Global Commitment)
\$88,344	State General Funds
<b>\$702,617</b>	<b>Total</b>

### ***Thank You Volunteers!***

*Bruce Boedtker  
Laurie Boerma  
Jean Cass  
Ann Crider  
Paula DiCrosta  
Jane Dwinell  
Howard Fisher  
George Glanzberg  
Sally Holland  
Gloria Mindell  
Nancee Schaffner  
Mohammed Shaikh  
Steve Williams*

## **Systemic Advocacy**

Ombudsmen are required under state and federal law to address systemic problems that impact the quality of care and quality of life of individuals receiving long-term care in Vermont.

Ombudsmen use the information they gain during their complaint investigations, general visits, and consultations with residents, family members and providers to help guide our systemic advocacy.

Ombudsmen serve on numerous workgroups, committees and task forces related to long-term care. They bring the resident's voice to the table. In FY 2017, Ombudsmen participated in the:

- Individual Rights Task Force
- Consumer Voice
- Vermont Vulnerable Adult Fatality Review Team
- National Association of State Long-Term Care Ombudsman Programs
- CFC Adult Family Care Homes Meetings
- VLA Health Care Task Force

In FY 2017, the Vermont Ombudsman Project focused its legislative advocacy on H.265, which updated Vermont's Long-Term Care Ombudsman statutes to conform to the federal Older Americans Act and related federal regulations. In addition to ensuring federal compliance, Act 23 also created a new private right of action for a vulnerable adult who has been the victim of financial exploitation. Act 23 was passed by the legislature and was signed by Governor Scott on May 24, 2017.

On the federal level, the VLTCOP submitted written comments to the Centers for Medicare and Medicaid (CMS) in opposition to a proposed rule allowing nursing homes to force residents and their families to sign binding pre-dispute arbitration agreements as a condition of admission. The VLTCOP, and other advocates for nursing home residents, objected to the proposed rule because it: (1) was unfair to residents and families; (2) would harm residents' rights, safety, and quality of care; and (3) promoted providers' interests at the expense of resident well-being. The VLTCOP urged CMS to withdraw the proposed regulations and restore the ban on pre-dispute arbitration.

### ***Thank You Volunteers!***

*Bruce Boedtke*

*Laurie Boerma*

*Jean Cass*

*Ann Crider*

*Paula DiCrosta*

*Jane Dwinell*

*Howard Fisher*

*George Glanzberg*

*Sally Holland*

*Gloria Mindell*

*Nancee Schaffner*

*Mohammed Shaikh*

*Steve Williams*

In addition, VLTCOP submitted written comments, on multiple occasions, expressing our opposition to CMS' efforts to revise current nursing home requirements of participation and delay their implementation. The federal regulations for nursing homes were revised in 2016 for the first time since 1991. The updated nursing home requirements of participation provide important new protections for residents, and going forward, these requirements will better ensure resident quality of care, quality of life and safety.

The VLTCOP implored CMS to: (1) retain the regulations as issued in October 2016; and (2) implement and enforce these requirements according to the originally mandated schedule. CMS's efforts to revise and delay the current regulations governing nursing homes, if successful, will harm the health, safety, welfare and rights of residents.

## Issues and Recommendations

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

The lack of adequate staffing in long-term care facilities, as well as the insufficient number of appropriately trained healthcare workers available to meet the needs of clients living at home under the Choices for Care program, continues to be the biggest problem facing VLTCOP clients.

A commitment by the State and providers of long-term care services and supports to better align staff compensation and training with the responsibilities and importance of the work appears to be a fundamental building block for ensuring appropriate staffing levels at long-term care facilities and for home health agencies.

- *Individuals who need long-term care often have limited access to mental health services.*

The Project continues to be concerned that a significant number of elders are transferred from a long-term care facility to the hospital because the facility is unable to manage behaviors associated with the person's mental illness. 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.

The State should convene a commission (like what has been done for Alzheimer's disease with the *Governor's Commission on Alzheimer's Disease and Related Disorder*) to help identify the root cause of this problem, and develop recommendations to address this concern; in addition the State should ensure that nursing homes are in full compliance with federal regulations, specifically 42 CFR § 483.40 (which requires, in part, that "Each resident must receive and the facility must provide the ***necessary behavioral health care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.*** Behavioral health encompasses a resident's whole emotional and mental well-being, which includes, but is not limited to, the prevention and treatment of mental and substance use disorders") (emphasis added).

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

All efforts by the long-term care industry and CMS to revise the nursing home requirements of participation and delay their implementation should be resisted. There is no valid justification for revisiting the current regulations (issued in October of 2016) or delaying their implementation – and doing so will only harm the health, safety, welfare and rights of residents. The updated rules were years in the making. CMS first began consulting with stakeholders in 2012. Since then, there have been multiple opportunities for groups representing a range of interests to express their perspective and concerns. When released, the proposed regulations received nearly 10,000 comments. CMS carefully reviewed and considered each of these comments. The proposed nursing home requirements of participation were thoroughly evaluated (and re-evaluated) before being issued.

Despite the rigorous review (and the improvement in care and safety 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, including reporting of suspected abuse and neglect; (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.

CMS's concern should be about the care that residents receive, not on reducing provider burden. Furthermore, CMS's mission is to serve Medicaid and Medicare beneficiaries.

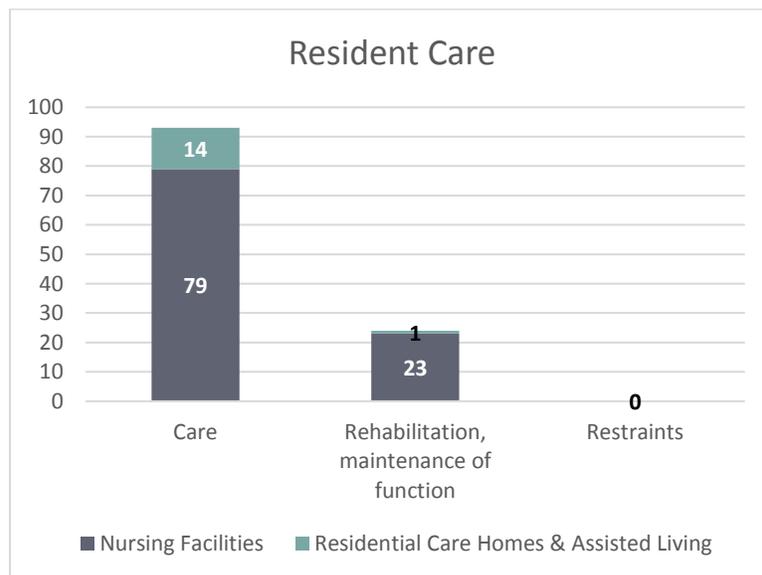
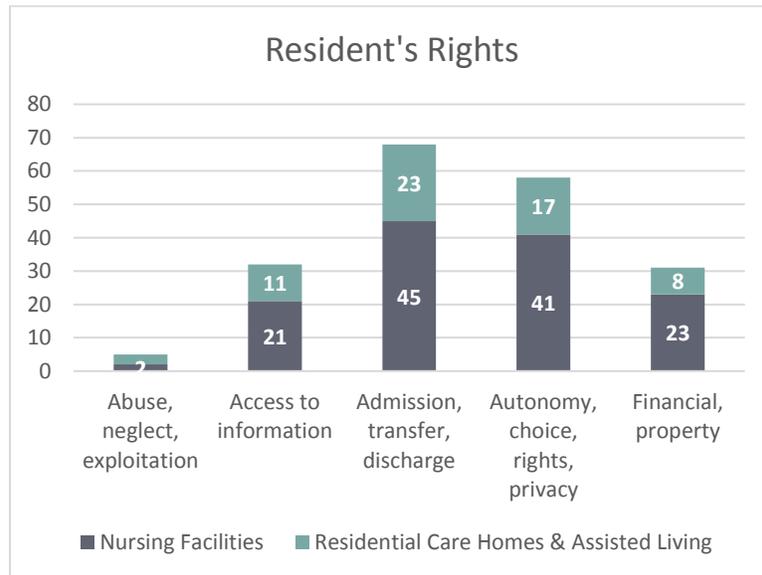
If CMS continues to place provider interests before resident interests, the State of Vermont should take their own steps to ensure that the stronger protections of the revised federal regulations be implemented.

Respectfully Submitted,

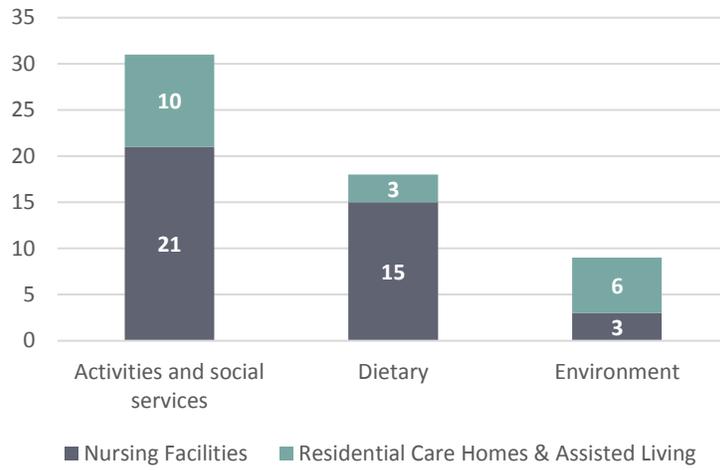
A handwritten signature in dark ink, appearing to read "Sean Londergan". The signature is fluid and cursive, with a long horizontal stroke at the end.

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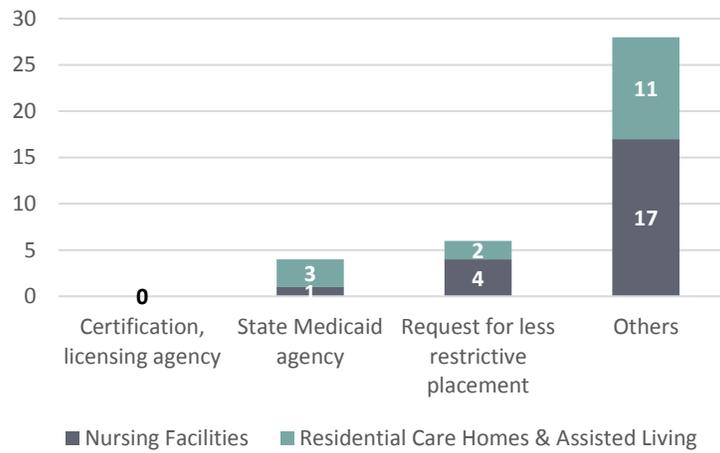
## Appendix 1 – Facility Complaints in Major Complaint Categories



### Quality of Life



### Not Against Facility



### Administration



## Appendix 2

### **HISTORY OF THE OMBUDSMAN PROGRAM**

#### At the National Level:

The Long-Term Care Ombudsman Program originated as a five state demonstration project to address quality of care and quality of life in nursing homes. In 1978 Congress required that states receiving Older Americans Act (OAA) funds must have Ombudsman programs. In 1981, Congress expanded the program to include residential care homes.

The Nursing Home Reform Act of 1987 (OBRA '87) strengthened the Ombudsmen's ability to serve and protect long-term residents. It required residents to have "direct and immediate access to ombudspersons when protection and advocacy services become necessary." The 1987, reauthorization of the OAA required states to ensure that Ombudsmen would have access to facilities and to patient records. It also allowed the state Ombudsman to designate local Ombudsmen and volunteers to be "representatives" of the State Ombudsman with all the necessary rights and responsibilities.

The 1992 amendments to the OAA incorporated the long-term care Ombudsman program into a new Title VII for "Vulnerable Elder Rights Protection Activities". The amendments also emphasized the Ombudsman's role as an advocate and agent for system wide change.

#### In Vermont:

Vermont's first Ombudsman program was established in 1975. Until 1993, the State Ombudsman was based in the Department of Aging and Disabilities (DAD), currently DAIL. Local Ombudsmen worked in each of the five Area Agencies on Aging. In response to concerns that it was a conflict to house the State Ombudsman in the same Department as the Division of Licensing and Protection, which is responsible for regulating long-term care facilities, the legislature gave DAD the authority to contract for Ombudsman services outside the Department.

DAIL has been contracting with Vermont Legal Aid (VLA) to provide Ombudsman services for over 20 years. The Vermont Long-Term Care Ombudsman Project at VLA protects the rights of Vermont's long-term care residents and Choices for Care (CFC) participants. The Project also fulfills the mandates of the OAA and OBRA '87. The State and Local Ombudsman work in each of VLA's offices, which are located throughout Vermont.

In 2005 the Vermont legislature expanded the duties and responsibilities of the Ombudsman project. Act No. 56 requires Ombudsmen to service individuals receiving home based long-term care through the home and community based Medicaid waiver, Choices for Care.

## Appendix 3

### VERMONT LONG-TERM CARE OMBUDSMAN PROJECT Vermont Legal Aid

January 2018

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[wrowe@vtlegalaid.org](mailto:wrowe@vtlegalaid.org)



## Appendix 4

### AGENCY OF HUMAN SERVICES

DEPARTMENT OF DISABILITIES, AGING AND INDEPENDENT LIVING

Commissioner's Office

HC 2 South

280 State Drive

Waterbury VT 05671-2020

Phone (802) 241-2401

Fax (802) 241-0386

[www.dail.vt.gov](http://www.dail.vt.gov)

January 8, 2018

Sean Londergan  
State Long Term Care Ombudsman Program  
Vermont Legal Aid  
264 North Winooski Avenue  
Burlington, VT 05401

Dear Mr. Londergan,

Pursuant to 33 V.S.A. §7503(10), on or before January 15 of each year the Office of the State Long-Term Care Ombudsman must "[s]ubmit to the General Assembly and the Governor a report on complaints by individuals receiving long-term care, conditions in long-term care facilities, and the quality of long-term care and recommendations to address identified problems." 33 V.S.A. §7509 provides that the Department of Disabilities, Aging and Independent Living ("Department") shall prohibit any Ombudsman, either paid or volunteer, Vermont Legal Aid staff and board, or any immediate family member of any Ombudsman, or Vermont Legal Aid staff and board, from having any interest in a long-term care facility or provider of long-term care which creates an organizational or individual conflict of interest in carrying out the Ombudsman's responsibilities and directs the Department's Commissioner to establish a committee of no fewer than five persons, who represent the interests of individuals receiving long-term care and who are not State employees, to assure that the Ombudsman is able to carry out all prescribed duties in the Older Americans Act and in state statute without a conflict of interest.

The Department utilizes the DAIL Advisory Board ("Board") as the aforementioned committee. During its regularly-scheduled monthly meeting on December 14, 2017, the Board received assurances from you, the State Long Term Care Ombudsman, that to the best of your knowledge no Vermont Legal Aid staff, board, volunteers or their immediate family members have any interest in a long-term care facility or provider of long-term care which creates an individual or organizational conflict of interest in carrying out the Ombudsman's responsibilities. By a unanimous vote the committee determined that the Ombudsman is able to carry out all prescribed duties without a conflict of interest, and the committee recommended that the Commissioner convey its assessment to both the General Assembly and the Governor as required by statute.



This writing serves that purpose and is hereby submitted as an appendix to the Ombudsman's annual report, as required by 33 V.S.A. §7509(b).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Monica Hutt".

Monica Hutt  
DAIL Commissioner

Cc: Robert Borden, Chair, DAIL Advisory Board  
Angela Smith-Dieng, State Unit on Aging, DAIL