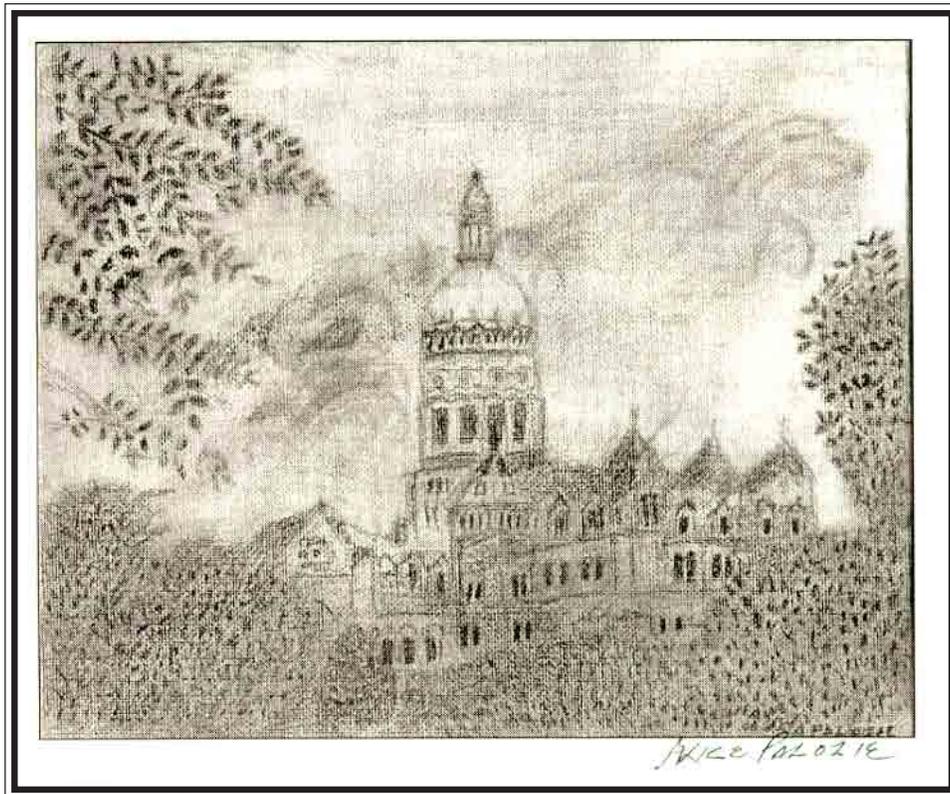




*State of Connecticut*

*Office of the  
State Long Term Care Ombudsman*

FFY 2005 Annual Report



*Cover Art by  
Alice F. Palozie  
October 15, 1916 - March 1, 2005  
Ms. Palozie resided for many years at the  
Wintonbury Health Care Center, Bloomfield, CT.*

**For the past ten years, Ms. Palozie's rendition of the Connecticut's State Capitol has graced publications of The Long Term Care Ombudsman Program.**

**Ms. Palozie was honored with a commemorative plaque at the 2002 Voices Forum for her artistic contributions and efforts to enhance quality of life for all residents.**



**M. Jodi Rell**  
**Governor**  
**State of Connecticut**

**Patricia Wilson-Coker**  
**Commissioner**  
**Department of Social Services**

**Margaret Ewald, EdM**  
**Acting State Ombudsman**



## **TABLE OF CONTENTS**

**OPERATION AND ORGANIZATION**

**ACTING STATE OMBUDSMAN'S OVERVIEW**

**VOLUNTEER RESIDENT ADVOCATE PROGRAM**

**STATISTICAL DATA**

**LONG TERM CARE ISSUES & SYSTEMIC ADVOCACY**

## **APPENDIX**

**2005 CT GENERAL ASSEMBLY WRITTEN TESTIMONY**

**THE ASSISTED LIVING PILOT PROGRAM**

**2005 VOICES FORUM REPORT**

**CONNECTICUT WORKGROUP ON CHALLENGING BEHAVIORS**

## **OPERATION AND ORGANIZATION**

The Long-Term Care Ombudsman Program (LTCOP) is authorized by Connecticut General Statutes (17b-400) and the Federal Older Americans Act of 1965 as amended from time to time. The Program is *independent within* the Department of Social Services, which means while the Program is monitored by the department, the State Ombudsman is the head of the Program and is responsible for the program's administration, budget and operation in accordance with applicable statutes, regulations and policies, and oversees all persons associated with the Program. The statewide operation of the program is centralized with the main operation of the Office. (State Ombudsman and Administrative Assistant) located in the Central Office of the Department of Social Services. Regional Ombudsmen and support staff are co-located with regional DSS operations.

The LTCOP works to improve the quality of life and quality of care of Connecticut citizens residing in nursing homes, residential care homes, and assisted living communities. All Ombudsman activity is performed on behalf of, and at the direction of residents or their responsible parties. All communication with residents, their family members and/or legal guardians, as applicable, is held in strict confidentiality. The LTCOP responds to, and investigates complaints brought forward by residents, family members, and/or other individuals acting on their behalf. Ombudsmen offer information and consultation to consumers and providers, monitor state and federal laws and regulations, and make recommendations for improvement. The Program staff recruits, trains, and supervises Volunteer Resident Advocates who visit long term care settings in their communities and assist residents in resolving concerns.

The LTCOP receives federal funds from Ombudsman-specific funds, Title III and Title VII of the Older Americans Act. The State expends resources from the general fund to meet the maintenance of effort requirements under Title III of the Older Americans Act.

Through most of the 2005 fiscal year, the Ombudsman Program operated with two-thirds of our Regional Ombudsman staff. The program's current staff and our contingent of dedicated Volunteer Resident Advocates worked diligently to maintain the same high quality of service to residents.

In 2004, the Connecticut General Assembly mandated the expansion of LTCOP services to residents of assisted living communities. This expansion is expected to increase workloads for the entire LTCOP staff. While the program requested three new positions (one for each of three state regions), the legislature authorized two, leaving the third region unfairly burdened. No positions have been filled as of the writing of this report.

**To contact your Regional Ombudsman's office  
call our statewide toll free number  
1-866-388-1888**

**or**

**contact the LTCOP's central office  
860-424-5200**

**via e-mail:  
ltcop@ct.gov**

**You may also wish to visit us at:**

This report is the result of the hard work and dedication of the Coalition of Residents Councils, the LTCOP staff and Volunteer Resident Advocates. All contributions from residents and staff are greatly appreciated.

*Office of the State Long Term Care Ombudsman  
25 Sigourney Street ~ Hartford CT 06106*

Margaret Ewald  
Acting State Long Term Care Ombudsman  
Program Staff  
(FY 2005)

Stephanie Booth*	Secretary II (Regions II, III)
Margaret Ewald	Eastern Regional Ombudsman
Brenda Foreman	South Central Regional Ombudsman
Sheila Hayden	Secretary II (Regions I, V)
Cristina MacGillis	Central Regional Ombudsman
Kimberly Massey	Southwest Regional Ombudsman
Michael Michalski	North Central Regional Ombudsman
Desiree Pina	Administrative Assistant
Charlene Thompson	Secretary II (Regions IV, VI)
Theresa Velenzas	Northwest Regional Ombudsman

*\* We are pleased to welcome Ms. Stephanie Booth to the Ombudsman Program. Her diverse professional experience and helpful approach have greatly enhanced LTCOP services in the Eastern region. We are excited to have her as part of our team.*

## **LONG TERM CARE OMBUDSMAN PROGRAM 2005 OVERVIEW**

The 2005 Federal Fiscal Year was an eventful and challenging one for the Long Term Care Ombudsman Program for a number of reasons:

- The Long Term Care Ombudsman Program undertook a Pilot Assisted Living Program in anticipation of expanding services to consumers of Assisted Living. Such an expansion would represent one of the most significant changes to the Program's scope and responsibilities in many years. A report on the Pilot Program was submitted to the CT General Assembly at the end of June.
- The Medicare Modernization Act brought the introduction of the Pharmaceutical Program known as Part D. With no previous experience, Medicare consumers, their advocates and providers were challenged to become informed and educated in order to anticipate its effects as the Program was rolled out over the year.
- The aftermath of Hurricane Katrina further magnified the need to review disaster and other emergency planning to include long term care consumers.
- The original intent of the CT Workgroup on Challenging Behaviors, known as CWCB, was to reduce the negative effects of transfers/ discharges/refusals to readmit for long term care residents. While the Training Conferences have been well received by providers and their staff, the numbers of instances of these occurrences actually increased during 2005.
- Many long term care residents (and their concerned family members) facing loss of their home to a closure, continued to need information, education and support in seeking alternative living options.
- Further fluctuations in staffing levels and pressing systemic issues (such as those noted previously) led to increased responsibilities for existing Ombudsmen and support staff. Investigation and resolution of complaints made by residents remained the central focus of the Program, yet systemic advocacy efforts demanded substantial staff time and commitment. As always, Volunteer Resident Advocates played a vital role by visiting facilities and ensuring residents' access to Ombudsman Program Services.

## OMBUDSMAN PROGRAM 2005 OVERVIEW continued

- Teresa Cusano, who had served with the Long Term Care Ombudsman Program for seventeen years, retired as State Long Term Care Ombudsman in 2005.

### ***A LONG TERM CARE CONSUMER ADVOCATE RETIRES***

*After seventeen years with the Ombudsman Program, Teresa Cusano, retired as the CT State Long Term Care Ombudsman on May 31, 2005. Over the years, Teresa focused much of her efforts towards meeting recommendations stemming from the independence of the LTCO Program.*

*Teresa worked to organize the Statewide Coalition of Resident Councils as well as the VOICES Forum, which continued into its ninth year as the only such ongoing conference of Resident Councils in the nation. Input from the Forum helps to shape the LTCOP agenda in raising public policy issues and supporting legislative proposals in the upcoming CT General Assembly Session. Past legislative efforts which led to successful passage of a number of statutes included increasing Personal Needs Allowance for residents as well as hours of nurse's aid (CNA) training.*

*During her tenure, several studies were also commissioned on topics related to nursing home closings; theft and loss; transportation as well as dementia units and programming. The Resident Councils Best Practices Booklet and a pilot social transportation fund project (to gauge potential non-medical transportation use for future systemic and public policy efforts) was established.*

*With Teresa's retirement, the CT Long Term Care Ombudsman Program lost a strong and committed long term care consumer advocate.*

## **OMBUDSMAN PROGRAM 2005 OVERVIEW continued**

During the 2005 FFY, the Long Term Care Ombudsman Program (LTCOP) planned and developed four major events. These included: a Statewide Volunteer Resident Advocate Training Conference; the CT Workgroup on Challenging Behaviors Training Conference, as well as the ninth annual VOICES Forum. In addition, a community education Forum was sponsored with AARP to inform Assisted Living Community residents of the opportunity to access LTCOP services as well as a presentation by the North Central Area Agency regarding the new Medicare Part D Program.

Despite the challenges faced during this timeframe, the Office of the CT State Long Term Care Ombudsman continued efforts to advocate on behalf of long term care consumers in a variety of settings. Such efforts included working at a number of different levels: individually on a case by case basis; with consumer groups such as Resident and Family Councils; as well as systemically, at State and National public policy and legislative levels.

On an individual case-by-case basis, the Long Term Care Ombudsman Program investigated 1,525 complaints made by or on behalf of nursing home residents with quality of care and quality of life concerns. Information and consultations were provided to 1,782 consumers. Program staff and Volunteer Resident Advocates made 4,320 unduplicated visits. A total of 31,608 persons were served through a variety of Program Activities. For more information, please see Statistical Data Section of this Annual Report.

As part of the Program's work with consumer groups, a total of 3,089 hours were spent working with Resident and Family Councils. Efforts with Resident Councils culminated with the Ninth Annual VOICES Forum wherein residents had the opportunity to advocate for themselves regarding a number of issues and offered input towards shaping the Long Term Care Ombudsman Program's 2006 Public Policy and Legislative Agenda. Of particular note at this VOICES Forum, Resident Council Panelists spoke publicly for the first time of "Fear of Retaliation". Several weeks later, "Fear of Retaliation" was raised at the national level and reaffirmed on behalf of CT residents.

At the public policy level, the Long Term Care Ombudsman Program worked with other state advocacy and consumer groups throughout the year to raise issues of concern for long term care consumers in areas such as: quality of care and life, consumer rights, and opportunities for choice in the

## **OMBUDSMAN PROGRAM 2005 OVERVIEW continued**

development of a comprehensive long term care system (including nursing home transitions, increased home and community based long term care options and transportation). Such groups included but were not limited to, AARP, the CT Coalition of Citizens for Nursing Home Reform, the CT Long Term Care Advisory Council, the CT Commission on Aging, the CT Coalition on Aging, the Olmstead Coalition and the legal service community.

Further, the Office of the State Long Term Care Ombudsman worked with members of the CT General Assembly during the 2005 Legislative Session to provide consumer input on a number of legislative proposals. Program representatives commented on more than twenty pieces of proposed legislation on behalf of CT's Long Term Care consumers (see Summary of CT General Assembly Committee Public Hearings and respective bills which the LTCOP commented on as well as actual oral and written testimony). The need to remain persistent and vigilant on many of the same public policy issues over a period of years continues to be increasingly evident.

The Ombudsman Program will continue to work collaboratively with all stakeholders to ensure the well being of residents living in long term care settings. We welcome your comments and questions on the information contained in this report and encourage your suggestions and ideas as we work to address the most challenging systemic problems.

Thank you for your concern on behalf of Connecticut's long-term care residents,

~ Maggie Ewald, Ed M  
Acting State Long Term Care Ombudsman

## VOLUNTEER RESIDENT ADVOCATE PROGRAM



### ***VOLUNTEER RESIDENT ADVOCATES***



***The Long Term Care Ombudsman Program's Volunteer Resident Advocates are individuals who represent the true spirit of advocacy. Each certified volunteer has completed a comprehensive five-day training and attends monthly in-service meetings provided by Regional Ombudsman staff. They visit their assigned facility weekly and respond to the needs and concerns of residents.***

***In addition to their time, Volunteer Resident Advocates contribute a vast range of skills and abilities developed through their life experiences and professional careers. They serve as educators, mediators and facilitators. They provide residents and families with a strong sense of empowerment and encourages them to resolve issues independently. Many Resident Advocates also work to effect systems change by supporting resident councils at the facility level and at regional meetings of the Coalition of Presidents of Resident Councils as well as the annual VOICES forum.***

***Like the residents they serve, Volunteer Resident Advocates come from varied social, cultural and professional backgrounds. They are united by their compassion and desire to make a difference in the lives of others. Their hard work and dedication ensures that the services of the Ombudsman Program are regularly available to thousands of Connecticut's nursing home residents. Our gratitude is extended to them for another year of a job well done!***

## **VOLUNTEER RESIDENT ADVOCATE PROGRAM**

### **STATE-WIDE VOLUNTEER RECOGNITION AND TRAINING**

In appreciation of our Volunteer Resident Advocates' dedication, the Office of the Long Term Care Ombudsman Program holds an annual recognition and statewide training conference. This year's conference was held May 24, 2005.

The Program's Agenda included training on "Advanced Conflict Resolution, Developing Communication Skills". The presenter was Lee-Ann Boatwright, MA from the Department of Mental Health and Addiction Services. Ms Boatwright reviewed a theory for understanding Dangerous Behavior based on Maslow's Hierarchy of Needs. According to Maslow's model, all behavior is directed towards getting one's needs met. Such a model supports the use of communication and conflict resolution techniques as a means of interrupting the Cycle of Dangerous Behavior. One approach to conflict resolution is the NEAR (Neutralize, Empathize, Actively Listen, and Resolve) process. A case example and exercise were provided for volunteers to practice using the NEAR process.

Other Program materials included two reports. One report commissioned by the CT Ombudsman Program on "Special Units for Dementia: A Survey of Connecticut Nursing Homes" was conducted by Drs. Waldo Klein and Cheryl Parks from the University of Connecticut. Another report titled "Nursing Facility Closure Project" was prepared by Regional Ombudsman Theresa Velendzas as a follow-up to "The Grant Street Rehabilitation Center Relocation Study" by Dr. Waldo Klein. The "Nursing Facility Closure Project" was undertaken with the closing of The Heritage Heights Care Center and Pond Point Health Care Center wherein Volunteer Resident Advocates followed residents who were transferred to other nursing homes, further testing the Relocation Plan as developed under the Grant Street Study.

Prior to lunch, many of the Ombudsman Program's Volunteer Resident Advocates were recognized for their service. A number of volunteers were recognized for length of service. In addition, special recognition was paid to those volunteers who had undertaken additional responsibilities in following the residents who were transferred when their homes closed.

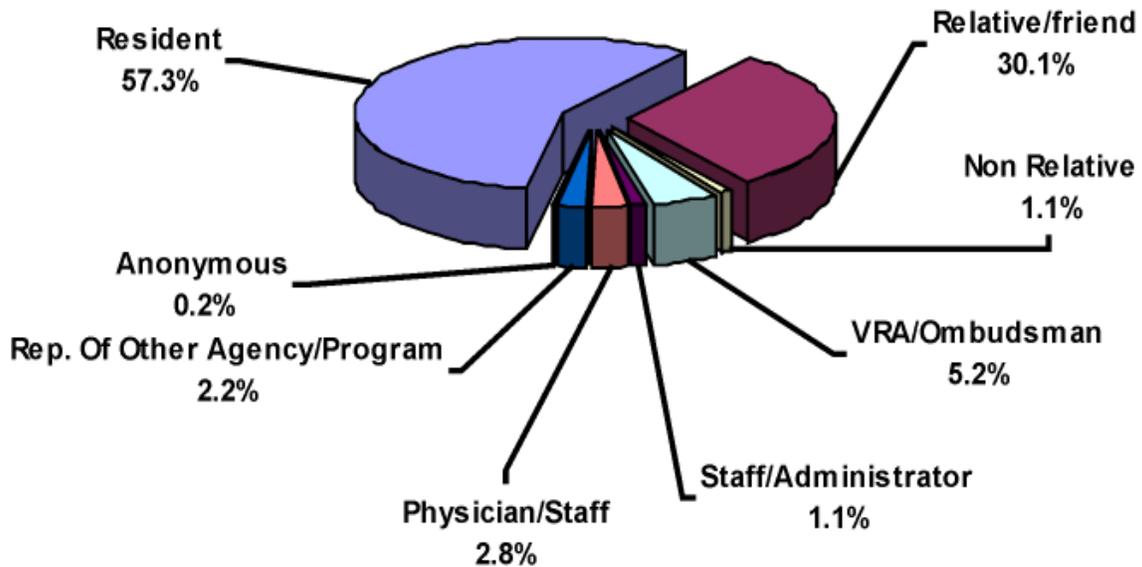
Of particular note, was the fact that this was the last LTCOP event attended by Teresa Cusano, prior to her retirement as State Long Term Care Ombudsman. Volunteers and staff had the opportunity to wish her well in her future endeavors.



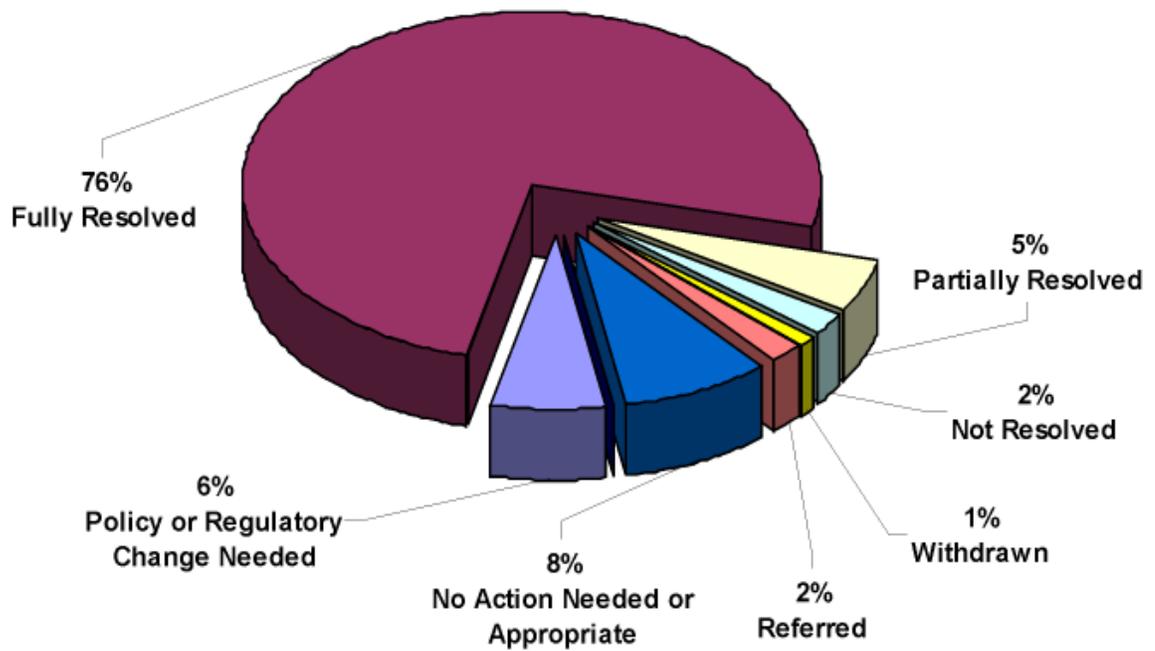
**2005**  
**STATISTICAL DATA**  
**SUMMARY**



## WHO MAKES THE COMPLAINTS?



## COMPLAINT RESOLUTION



## NURSING FACILITIES FOR FY 2005

### Residents' Rights

#### Sub-Group

#### Group Totals

A.	Abuse, Gross Neglect, Exploitation	42	
B.	Access to Information	58	
C.	Admission, Transfer, Discharge, Eviction	210	
D.	Autonomy, Choice, Exercise of Rights, Privacy	182	
E.	Financial, Property (Except for Financial Exploitation)	83	
	<b>Resident's Rights Total</b>		

### Resident Care

#### Sub-Group

F.	Care	403	
G.	Rehabilitation or Maintenance of Function	111	
H.	Restraints-Chemical and Physical	7	
	<b>Resident Care Total</b>		

### Quality of Life

#### Sub-Group

I.	Activities & Social Services	68	
J.	Dietary	107	
K.	Environment	114	
	<b>Quality of Life Total</b>		

### Administration

#### Sub-Group

L.	Policies, Procedures, Attitudes, Resources	20	
M.	Staffing	53	
	<b>Administration Total</b>		

### Not Against Facility

#### Sub-Group

N.	Certification/Licensing Agency	1	
O.	State Medicaid Agency	3	
P.	System/Others	5	
	<b>Not Against Facility Total</b>		

<b>Total Complaints Nursing Facilities</b>	<b>1467</b>
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**CT Long Term Care Ombudsman Program  
FFY 2005  
Top Complaints by Sub-Category**

Rank	Complaint Sub-Category	Total # of Complaints
1	Call lights, requests for assistance	119
2	Discharge/eviction-planning, notice, procedure	89
3	Care Plan/resident assessment	77
4	Room assignment/room change/intrafacility transfer	68
5	Accidents, improper handling	54
6a	Dignity, respect-staff attitudes	51
6b	Personal property lost, stolen, used by others, destroyed	51
7	Medications-administration, organization	49
8	Exercise choice and/or civil rights	45
9a	Assistive devices or equipment	39
9b	Menu-quantity, quality, variation, choice	39
9c	Bed hold-written notice, refusal to readmit	39
10	Symptoms unattended, no notice to others of change in condition	36
11a	Equipment/building-disrepair, hazard, poor lighting, fire safety	34
11b	Staff unresponsive, unavailable	34
12	Info. Re medical condition & treatment	30
13	Physician Services	28
14a	Privacy-telephone, visitors, couples, mail	26
14b	Personal hygiene	26
15a	Air Temperature, and quality	22
15b	Activities-Choice and appropriateness	22
	<b>TOTAL</b>	<b>939</b>

## **SUMMARY OF PROGRAM ACTIVITIES**

### **10/1/04 – 9/30/05**

1.	Training for Ombudsman/Volunteers(# of sessions)	96
2.	Technical Assistance to Ombudsman/Volunteers(# of hours)	1,209
3.	Training Given to Facility Staff(# of sessions)	99
4.	Consultations to Facilities/Providers(# of consultations)	439
5.	Information & Consultation to Individuals (# of consultations)	1,790
6.	Facility Visit (non-complaint related, # of people visited)	20,611
7.	Participation in Facility Surveys(# of surveys)	239
8.	Work with Resident Councils(# of meetings attended)	558
9.	Work with Family Councils(# of meetings attended)	32
10.	Community Education(# of sessions)	56
11.	Work with the Media(# of interviews/discussions)	11
12.	Monitoring work on laws, regulations and policies (# of hours)	2,142

**Data represents work performed by the State Ombudsman,  
Regional Ombudsmen and Volunteer Resident Advocates.**

## Program Summary

### Types of Complaints, by Type of Facility

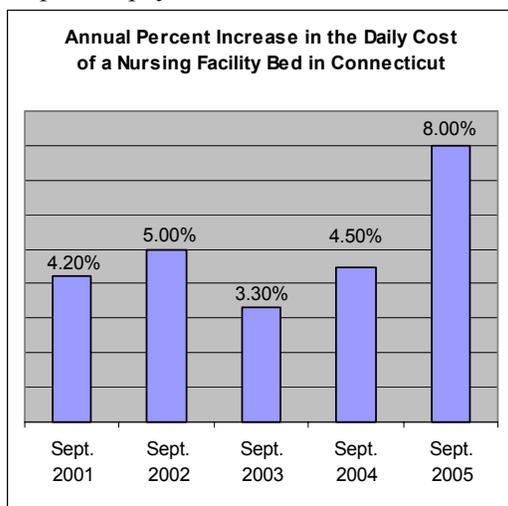
	Nursing Facilities	Residential Care / Assisted living
1. Abuse, Gross Neglect, Exploitation	37	5
2. Access to Information	58	2
3. Admissions, Transfer, Discharge	210	15
4. Autonomy, Choice, Exercise of Rights, Privacy	186	8
5. Financial, Property	83	8
6. Care	403	11
7. Rehabilitation, Maintenance of Function	111	1
8. Restraints (Chemical/Physical)	7	0
9. Activities and Social Services	68	1
10. Dietary	107	5
11. Environment	114	1
12. Policies, Procedures, Attitudes, Resources	20	1
13. Staffing	53	3
14. Certification/Licensing Agency	1	0
15. State Medical Agency	3	0
16. Systems/Others	5	0

- A total of 1,525 complaints were investigated in FY05.
- There are 128 sub-categories of complaints, in the sixteen categories listed above.
- Under Care, 119 complaints were in the sub category of *Care Plan/Resident Assessment; inadequate care plan; Doctor's orders not followed.*
- Under Abuse, the highest number of complaints were in the sub-category for *Verbal or Mental Abuse, including involuntary seclusion.*
- Under Admissions, Transfer, Discharge, Eviction, the sub-category of *Discharge/eviction: planning, notice, procedure* accounted for 89 complaints.
- Under Autonomy, Choice, Exercise of Rights, 51 complaints were in the sub-category of *Dignity, Respect; Staff Attitudes.*
- Under Financial/Property, 53 complaints were in the sub-category of *Personal Property lost, stolen, used by others, destroyed.*
- Under Dietary, numbers of complaints for the following sub-categories were: *Menu quality (42); Food Temperature(17); and Fluid Availability/Hydration(15).*
- Under Environment, complaint numbers sub-categories were: *Equipment building disrepair (34); Air Temperature (heating, cooling)(22); and Cleanliness, pests (21).*
- Under Staffing, numbers of complaints in sub-categories were: *Staff Unresponsive, Unavailable(34) and Shortage of Staff (13).*

**STATE OF CONNECTICUT**  
**ANNUAL NURSING FACILITY CENSUS**  
**SEPTEMBER 30, 2005**

**COST OF CARE**

The cost of nursing home care for private pay residents rose precipitously in 2005. As of September 30<sup>th</sup>, the average cost of a semi-private room was \$284 a day, an 8 percent increase over the average daily rate of \$263 in 2004. The annual percentage change over the last five years was 5% for private pay rates.



In addition to inflation, the increased cost of nursing home care in 2005 may be in part attributed to a provider tax imposed on nursing facilities by the State of Connecticut as of July 1, 2005. As part of this action, the nursing facilities also received an increase in their Medicaid reimbursement rate, as mandated in Public Act 05-251.

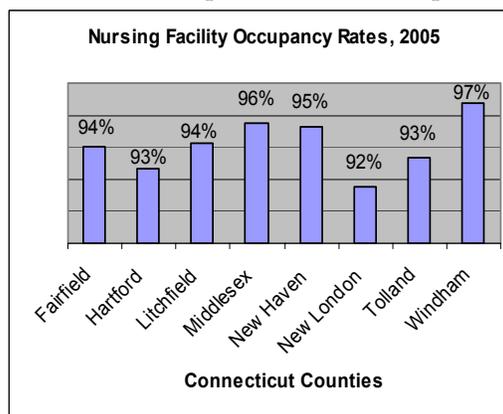
**NURSING FACILITIES**

On September 30, 2005, there were 247 licensed nursing facilities in Connecticut. The majority of these facilities were for profit (76%), a 2% increase from 2004. As in the previous year, virtually all of these facilities were certified by Medicare (99%) and 95% were certified by Medicaid.

In Connecticut, nursing facilities are licensed at two levels of care: Chronic and Convalescent Nursing Homes (CCNH), also known as Skilled Nursing Facilities, and Rest Homes with Nursing Supervision (RHNS), also called Intermediate Care Facilities. Of the 247 nursing facilities in Connecticut, 207 (84%) have a CCNH license, 33 (13%) have both a CCNH and a RHNS license, and seven facilities (3%) provide care under a RHNS license only.

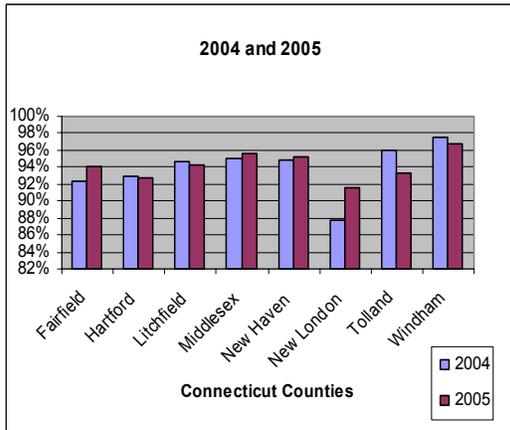
On September 30, 2005, there were 28,354 CCNH beds and 1,289 RHNS beds licensed in Connecticut. The number of CCNH beds remained basically stable between 2004 and 2005, with an increase of less than one-half of a percent (100). However, there was a 17 percent decrease (258) in RHNS beds from the previous year, continuing a trend of eliminating RHNS beds or converting them to CCNH beds.

Of the 29,643 licensed nursing facility beds in the state, 94 percent were occupied on



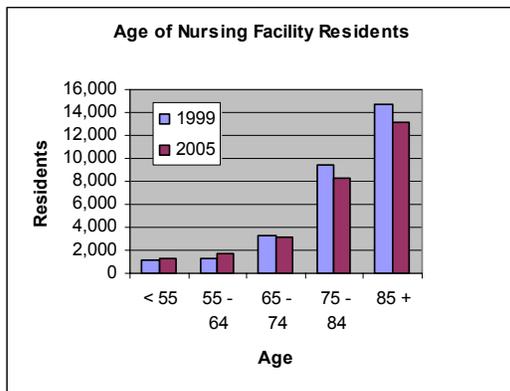
September 30, 2005. Regionally, the availability of beds varied, ranging from New London, with an occupancy rate of 92% to Windham County, with an occupancy rate of 97%.

There were some notable changes in bed occupancy between September 30<sup>th</sup>, 2004 and 2005. The percentage of beds occupied in New London County rose from 88 percent to 92 percent. Moving in the opposite direction, Tolland County dropped from an occupancy rate of 96 percent in 2004 to 93 percent in 2005.



### RESIDENT DEMOGRAPHICS

On September 30, 2005, there were 27,840 individuals residing in Connecticut nursing facilities, a seven percent decrease from



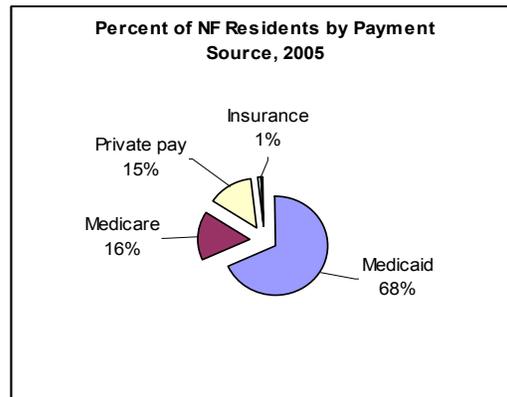
individuals receiving care in a nursing facility on the same date in 1999. In 2005, the majority of residents were white (89%),

female (71%), and without a spouse (83%); a profile that has remained consistent over the years. Ten percent of the residents were under age 65, 42 percent were between age 65 and 84, and 48 percent were age 85 or older.

In 2005 there were more residents under the age of 65 and fewer older residents than in 1999. During that time, the number of residents under age 55 increased by 18 percent and those between age 55 and 64 increased by 38 percent. A decrease of 11 percent was seen in residents 75 and older.

### PAYMENT SOURCE

Medicaid remained the dominant source of payment for nursing facility stays in



Connecticut in 2005, covering 68 percent of the residents. Medicare covered the next largest segment of residents (16%), followed by residents who pay privately out-of-pocket (15%). The remaining one percent of residents were covered by either private medical insurance or long-term care insurance. Over 30 percent of long-term care insurance coverage was paid through Connecticut Partnership for Long-Term Care policies.

From 1997 until 2003, the State of Connecticut Nursing Facility Registry provided a longitudinal database of demographic and health data for all Connecticut nursing facility residents. Beginning in 2004, this registry was modified and renamed. The Connecticut Annual Nursing Facility Census provides aggregate information on the status of nursing facilities and their residents for September 30<sup>th</sup> of each year.

Produced by the Policy Development and Planning Division,  
Connecticut State Office of Policy and Management, January 2006



**2005**  
**Long term Care Issues**  
**And**  
**Systemic Advocacy**

**Note:**

**Oftentimes, it is only through patience and vigilance, over a period of years, that the Long Term Care Ombudsman Program can begin to resolve long term care issues systemically.**

## **“Fear of Retaliation” Raised at 2005 VOICES Forum**

### **Echoed at National Level**

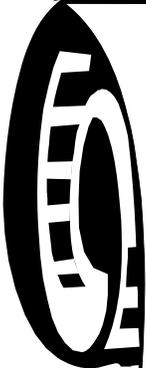
Effective Resident/Tenant Councils in long term care settings can act as viable, working citizen advocacy groups. In Connecticut, representatives of such Councils have an opportunity to share systemic concerns and best practices on behalf of fellow citizens at the annual VOICES Forum. Connecticut’s VOICES Forum is believed to be the only such Forum in the United States. In fact, the VOICES Forum will celebrate its 10<sup>th</sup> anniversary in 2006.

The Connecticut Long Term Care Ombudsman Program (LTCOP) then considers the input gathered at VOICES as it begins to shape its working agenda for the coming year including, but not limited to, legislation. For example, in past years, issues related to staffing (including: staff levels, training and supervision, criminal background checks as well as staff attitude); transportation; and food have been priority issues and continue to be.

At last September’s VOICES Forum, four Council Presidents joined a panel to speak of challenges they face as Presidents. Discussion that followed, between panelists and other Presidents in the audience, was one of the most interactive VOICES Workshops in memory. Presidents courageously raised the issue of “Fear of Retaliation” on behalf of Council members.

In October, this same systemic concern was reflected at the national level during the 30<sup>th</sup> Annual Meeting of the National Coalition of Citizens for Nursing Home Reform (NCCNHR) held in Virginia. A representative for Resident Councils of Washington State identified this very “Fear of Retaliation” in what was the first resolution of its kind related to Resident Councils, according to NCCNHR’s Director Alice Hedt. On behalf of Connecticut’s Councils, the Acting State Ombudsman was honored to second the motion.

For many years, LTCOP staff/volunteers have recognized residents/family members’ “Fear of Retaliation”. This was one of the reasons, the Connecticut Ombudsman Program supported legislation several years ago tightening Connecticut’s mandated reporting system and increasing penalties for elder abuse and neglect. Since that time, recent media coverage of several criminal cases against nursing home owners and staff for abuse and neglect in Connecticut demonstrates the statute has begun to have some effect. Similarly, current efforts to pass an Elder Justice Act at the National level continue to identify the systemic need to protect consumers throughout the Long Term Care system.



**National Coalition of Citizens for Nursing Home Reform  
30th Annual Meeting  
Resolution No. 4  
To Strengthen Resident Councils**

**WHEREAS** the passage of the 1987 Nursing Home Reform Law brought important standards and regulations to “care and services to attain or maintain the highest practicable physical, mental and psychosocial well being;” and

**WHEREAS** the 1987 Nursing Home Reform Law, following the recommendations of the Institute of Medicine, included for the first time in federal law “the right of residents to organize and participate in groups in the facility;” and

**WHEREAS** the need to provide residents with the opportunity to make and execute meaningful decisions is critical to their emotional, psychological and ultimately their physical well-being; and

**WHEREAS** the primary purpose of a resident council is to create opportunities for residents to execute meaningful decisions; and

**WHEREAS** it is essential for residents to define and control all aspects of a resident council, which can evolve into any number of forms and adopt any combination of functions if they are desired by residents; and

**WHEREAS** a resident council can enhance a facility by offering residents and staff the benefits of group problem-solving, enhance facility-resident-staff communications, and raise self-esteem through opportunities for decision-making; and

**WHEREAS** a successfully implemented resident council far outweighs any administrative costs, which can be seen as an investment that provides both short-term gains and long-term dividends in the well-being of residents;

**NOW THEREFORE BE IT RESOLVED THAT** Congress, the Centers for Medicare and Medicaid Services, Administration on Aging and other federal and state departments and agencies foster and provide incentives for incorporating the philosophy that effective resident councils are an important component of quality of care and quality of life for individuals in all applicable long-term care settings with appropriate laws, regulations, initiatives and policies; and

**BE IT FURTHER RESOLVED THAT** CMS promulgate and enforce regulations that strengthen the ability of independent resident councils to improve the quality of care and life; to provide residents the opportunity to make and execute meaningful decisions in all aspects of their lives and provide for timely, comprehensive responses from facility staff to issues raised by individual residents and independent resident councils without **FEAR OF RETALIATION**.



## **IN PREPARATION FOR THE UPCOMING WHITE HOUSE CONFERENCE ON AGING**

The Office of the State Long Term Care Ombudsman participated on a panel as part of the CT Coalition on Aging's Carlson Forum held in April. The Forum theme emphasized the need for "Silo Breakdown and Systems Development" in shaping a national aging policy for the coming decade. The Forum had been accepted as an Aging Agenda Event to gather input for the upcoming White House Conference on Aging to be held in December.

Bob Blancato (President of the National Committee on Prevention of Elder Abuse, the National Coordinator of the Elder Justice Coalition and President of Americans for Long Term Care Security) was the keynote speaker. Among other issues, he urged Congressional passage of the Elder Justice Act and increased public awareness of the need to develop a national long term care policy. As a member of the CT Long Term Care Advisory Council Panel that followed, the LTCOP spokesperson highlighted these same issues from the perspective of CT's nursing home residents.

For example, the case of a CT nursing home had recently received national attention, echoing the need for a national Elder Justice Act. Due to concerns with substandard care at this and other facilities, the Ombudsman Program had supported the Chief State Attorney's Office efforts to strengthen CT statutes related to elder abuse and neglect for a number of years, finally realizing successful passage in 2002.

The death of a resident at this same facility in 2003 led to an eighteen month investigation. As a result, the nursing home owner had just recently pled no contest to second degree manslaughter, paying the highest penalty in State history. A month later, the US Department of Justice was to issue another press release related to this case.

## **IN PREPARATION FOR THE UPCOMING WHITE HOUSE CONFERENCE ON AGING continued**

The need to break down existing silos and build a seamless system with emphasis on individual needs was also illustrated on behalf of nursing home residents. Advocates in the aging and long term care networks were asked to begin to accept some responsibility for contributing towards the “institutionalization” of persons living in nursing homes. They were called on to break down those “silos” and become more inclusive of nursing home residents as intended under the Older Americans Act, the Americans with Disabilities Act and subsequent US Supreme Court Olmstead Decision.

Just as transportation was named a major priority for consumers of home and community based services; transportation was also a major priority for nursing home residents in order to access and participate in community as well.

In fact, non-medical transportation had been cited as one of the top three concerns for residents in the last eight VOICES Forums. Many residents expressed an interest in remaining vital and active members of the community, yet they voiced a sense of social isolation from the rest of the community following nursing home placement.

One systemic remedy to consider might be: recognition and inclusion of nursing home residents in regional or municipal Requests - for- Proposals for transportation funding. Such consideration would: begin to address the discrimination in our system towards persons living in institutions; improve residents' overall access to transportation; support increased numbers of nursing home transitions and promote residents' fundamental right to remain vital and active members of their communities.

## **QUALITY OF CARE**

Over a period of several years, the CT Long Term Care Ombudsman Program worked to improve the conditions for residents in a particular Eastern CT nursing home known as Hillcrest, whose poor quality of care was of increasing concern.

The Regional Ombudsman and Volunteer Resident Advocate worked with residents and family members to address and resolve concerns through individual Resident Care Plans; Resident Council and Family Council meetings. A State Senator became involved as well on behalf of constituents. In this manner, concerns were raised at many levels with facility staff, administration as well as corporate representatives. However, repeated turnover in staff at all levels made it difficult to achieve any improvement.

With increasing concern that quality of care was diminishing rather than improving, cases were bundled together in an effort to demonstrate that a pattern of substandard care was developing. This compilation of cases was referred to the Department of Public Health as well as State and Federal Law Enforcement Agencies for further investigation and enforcement measures.

In addition, the Office of the State Long Term Care Ombudsman testified in support of stronger mandated reporting statutes as proposed by the Office of the Chief State's Attorney including financial penalties for failure to report. The proposal successfully passed in the CT General Assembly and became Public Act 2002.

Then, in 2003, a mandated report of the death of an elderly Hillcrest resident led to an autopsy by the State Medical Examiner's Office which determined the resident died of sepsis. In fact, the resident had been hospitalized a number of times since admission in the fall of 2002 due to problems of malnutrition, anemia and malnutrition. An eighteen month investigation was launched.



# United States Attorney's Office District of Connecticut

Press Release

## **May 18, 2005 NURSING HOME AGREES TO PAY \$750,000 TO SETTLE ALLEGATIONS UNDER THE FALSE CLAIMS ACT**

*Company to be excluded from QUALITY OF CARE*

Over a period of several years, the CT Long Term Care Ombudsman Program worked to improve the conditions for residents in a particular Eastern CT nursing home known as Hillcrest, whose poor quality of care was of increasing concern.

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# United States Attorney's Office District of Connecticut

## Press Release

with the Government to resolve allegations that it violated the False Claims Act by submitting false claims to the Medicare and Medicaid programs.

U.S. Attorney O'Connor explained that this matter arose out of a joint federal-state investigation into quality of care problems at Connecticut's nursing homes. The investigation found wide-spread quality of care problems at Hillcrest Healthcare Center, a nursing home owned by HILLCREST. It was alleged that some of the quality of care problems were so severe that they led to the death of one of HILLCREST's residents. On June 25, 2003, a resident at HILLCREST was brought to the emergency room of William W. Backus Hospital with a widespread septic infection allegedly caused by improperly treated bedsores. The resident was also suffering from malnutrition, anemia and dehydration. The resident died the following morning.

The Government alleged in its investigation that, in addition to quality of care problems related to the death of this resident, there were serious quality of care problems related to many other residents at HILLCREST. These problems included severe pressure sores and pressure ulcers, dehydration, weight loss, inadequate staffing, and failure to follow plans of care.

On October 20, 2004, the Connecticut Department of Public Health ("DPH") entered into a Consent Order with HILLCREST that required HILLCREST to surrender its nursing home license within 150 days and to pay a civil penalty of \$200,000. The Connecticut DPH also entered into a Consent Agreement with Athena Healthcare (Athena), the company that provided nursing home management services at HILLCREST, which required Athena to improve the administrative, physician and nursing management services that it provides to all nursing homes licensed by DPH. Thereafter, on December 17, 2004, HILLCREST sold the nursing home to Apple Health Care, Inc.

On January 21, 2005, HILLCREST entered a plea of nolo contendere in state court to Manslaughter in the Second Degree arising out of the death of the resident discussed above. HILLCREST paid a \$10,000 fine related to its criminal plea.

Pursuant to the civil settlement agreement reached today with the Government, HILLCREST will pay double damages on a portion of the services billed to Medicare and Medicaid for various nursing home patients, as well as civil penalties, in the total amount of \$750,000, for conduct occurring between January 31, 2002 and July 31, 2004. In

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addition, HILLCREST has agreed to be permanently excluded from the Medicare and Medicaid programs.

“The egregious quality of care problems found in this case were inexcusable,” U.S. Attorney O'Connor stated. “Our elderly population relies on the Medicare and Medicaid programs to help care for them in their old age. Nursing home owners and operators should be on notice: If you bill Medicare and Medicaid for essential services, such as turning patients, feeding them and keeping them properly hydrated, and those services are not provided, or are so deficient as to be virtually worthless, we will prosecute you for fraud, and will seek to recover multiple damages and penalties.”

“Hillcrest was truly a healthcare atrocity - abusing its most vulnerable elderly patients, as well as the public trust,” Attorney General Blumenthal said. “This company had such gross disregard for human life and the law - fatally neglecting patients, while at the same time billing the state for the very services it failed to provide. The industry should take this as a stark warning: Such illegal and inhumane behavior will not go unpunished.”

U.S. Attorney O'Connor noted that this investigation involved coordination among various federal and state authorities and agencies, including attorneys, auditors and investigators from the U.S. Attorney's Office, the Office of the Inspector General, Department of Health and Human Services, the Connecticut Attorney General's Office, the Medicaid Fraud Control Unit of the Chief State's Attorney's Office, the Connecticut Department of Social Services, the Connecticut Department of Public Health and the Connecticut Department of Consumer Protection.

In entering into the civil settlement agreement, HILLCREST did not admit liability and the agreement indicates that the parties entered into the settlement to avoid the uncertainty and expense of litigation.

People who suspect health care fraud are encouraged to report it by calling the Connecticut Health Care Fraud Task Force at (203) 785-9270.

This matter has been handled by Assistant United States Attorneys Richard M. Molot and David J. Sheldon, Connecticut Assistant Attorney General Robert B. Teitelman, Auditor Kevin Saunders of the U.S. Attorney's Office and Forensic Fraud Examiner Marcia Silva of the Connecticut Attorney General's Office.

U.S. ATTORNEY'S OFFICE

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## **QUALITY OF CARE *continued***

Statistically, the greatest number of complaints received by the CT LTCOP continue to fall under the quality of care category. This has been the case for over five years at both the State as well as the national level.

The CT Long Term Care Ombudsman Program pledges to continue to work to resolve quality of care issues on behalf of long term care consumers. Ongoing efforts such as partnering with Qualidigm, our State's Quality Improvement Organization, will proceed. Recent initiatives have included improving quality of care in order to prevent pressure sores and reduce the use of physical and chemical restraints as well as introducing models of Culture Change. In addition, the Program will continue to comment on and support legislative proposals intended to improve quality of care at a systemic level.

## **DISASTER PLANNING**

Over a number of years, the need for Disaster Planning has emerged as an important systemic issue for Long Term Care Ombudsman Programs throughout our nation. CT's Ombudsman Program has worked steadily and persistently at several levels to consider how to best approach a variety of different disaster scenarios. Our Program has supported residents and family members faced with such disasters through individual and systemic advocacy efforts including self advocacy. Such systemic advocacy will continue into the coming 2006 year as well, along with increased information and educational efforts.

In the aftermath of Hurricane Katrina, memories of the Greenwood Nursing Home Fire wherein 16 CT nursing home residents lost their lives in February of 2003 were stirred. Later that year, another 15 nursing home residents lost their lives in a fire at a nursing home in Nashville, TN.

As a result, the CT Long Term Care Ombudsman Program testified at CT General Assembly Public Hearings in both the 2003 and 2004 Legislative Sessions on the need to improve fire safety measures for residents of nursing homes who are at risk. The issue moved to the national level as well.

The Government Accounting Office (GAO) issued a report in July 2004 which concluded "the substantial loss of life in the Hartford and Nashville fires could have been reduced or eliminated by the presence of properly functioning automatic sprinkler systems." Further, the GAO noted weak oversight of fire safety standards at the state and federal levels.

For several years, CT's US Congressman John B. Larson sought legislation to improve fire safety in nursing homes throughout our nation. More recently, an LTCOP representative had the opportunity to meet the Congressman at the Legislative Office Building in Hartford and conveyed the Program's support of his efforts on this front.

In addition, the Ombudsman Program continued to support Resident Councils in self-advocacy efforts by raising issues/concerns on behalf of their members as well as sharing Best Practices. The ninth annual VOICES Forum, held in September 2005, hosted the first ever panel of Resident Councils representatives. One Council President shared a successful educational program wherein they invited the local fire marshal to give a presentation on fire safety. The President noted that residents learned what precautions they can take to protect themselves and their fellow residents in the event of a fire at their own nursing home.

The devastation wrought by Hurricane Katrina in August of 2005 raised the need for disaster and emergency planning to include and address consumers with long term care needs. The enormity of the Katrina disaster and its impact for people living in those states hit by the Hurricane as well as those accepting evacuees was difficult for the American Public, as a whole, to fathom. For Long Term Care Ombudsman Programs throughout the country, the mandate to protect the health, safety and welfare of residents in long term care settings (such as nursing homes), and to advocate on behalf of the elderly and persons with disabilities who were most at risk became more focused than ever.

Immediately following Hurricane Katrina's strike, the CT Office of the State Long Term Care Ombudsman maintained on going communications with federal, state and private entities. For example, the LTCOP received regular updates from the National Ombudsman Resource Center as well as the National Association of State Ombudsman Programs. Our Program shared information with others in CT such as the Department of Social Services, the Department of Public Health and the for-profit, as well as the not-for-profit nursing home associations. A representative of the CT Association of Not-for-Profit Providers for the Aging thanked the CT Ombudsman Program for sharing recent Katrina information, noting their national association's involvement.

Within days of the VOICES Forum, a representative of the CT Department of Public Health alerted the Acting State Ombudsman that CT was preparing for as many as 200 resident evacuees to be airlifted to Bradley International Airport early the following week, should FEMA request such assistance. The CT For-Profit and Not-for-Profit Nursing Home Associations were gearing up to accept evacuees, should the occasion arise.

## **DISASTER PLANNING *continued***

Accordingly, the LTCOP alerted the DSS Commissioner's Office and prepared to cancel the ninth annual VOICES Forum, set for the coming Tuesday, if need be. The medical transportation already scheduled for Resident Council members to attend VOICES would most likely be needed to transport such evacuees upon arrival in CT. Although such an airlift never materialized and the VOICES Forum proceeded as scheduled, Katrina's devastation remained forefront in the minds of participants.

The Acting State Ombudsman recommended Disaster Planning (along with Nursing Home Transitions and increased home and community based alternatives) as one of two top ten priority issues for DSS Commissioner Wilson-Coker to present to Governor Rell's Office for future consideration. That autumn, our State's Long Term Care Advisory Council discussed the need for disaster planning with special consideration of residents with long term care needs. During the discussion, it was noted that emergency personnel in some States hit by Katrina were oftentimes summarily directing any, and all, evacuees with disabilities to nursing homes in other states even though many of these individuals had been living in home and community based settings very successfully until then. The Acting State Ombudsman made a motion to recommend a fellow Advisory Committee member with disabilities, who was also involved in local city disaster planning efforts, as a resource for such disaster planning at the State level.

The CT LTCOP will continue to work with other state and national agencies and organizations to develop plans in the face of disasters and other emergencies on behalf of our State's long term care consumers. The Program will also inform and educate consumers with regard to such plans in an effort to better prepare them for such an experience.

## **MEDICARE PART D PHARMACEUTICAL PROGRAM**

The Medicare Modernization Act (MMA) brought the introduction of Medicare's new Pharmaceutical Program, known as Part D. National and state advocacy groups for aging and disability networks urged Long Term Care Ombudsman Program staff and volunteers throughout the country to remain vigilant as the Program was rolled out.

As developments with this historically new Program continued to unfold throughout the fiscal year, Ombudsman staff and volunteers were encouraged to keep updated and be trained as well. Such preparation and monitoring was deemed important so

that Part D long term care consumers could be informed and educated regarding their rights/ options; referred to appropriate resources as needed and any issues/ concerns that residents might experience with the new Program could be raised.

As such, representatives of the LTCOP attended MMA meetings and partnered with other organizations such as CT Area Agencies on Aging and AARP to plan and develop trainings for staff, volunteers as well as consumers. In conjunction with their respective Area Agency CHOICES Program, regional offices of the LTCOP offered Part D training at monthly Volunteer Resident Advocate (VRA) meetings. In addition, a state-wide VRA training was also offered with the support of the NC Area Agency and their CHOICES Coordinator.

In September 2005, the CT Long Term Care Ombudsman Program partnered with AARP CT and the NC Area Agency's CHOICES Coordinator, once again, to offer a forum to residents of assisted living communities. The Forum included a presentation on the role and services of the LTCOP as well as the latest information on the upcoming Medicare Part D Program.

The LTCOP also attended a Forum targeting providers and their role/ responsibility as related to the new Part D Program. The Forum was presented by the Department of Social Services in conjunction with CMS to provide the most recent updates as well as to answer questions.

Just as the effects of the new Pharmaceutical Program on Medicare consumers in the community were unknown, so too were the effects on nursing home residents. The handful of institutional pharmaceutical companies that contracted with our State's nursing homes claimed to be prepared to meet the needs of residents as the Part D Program timetable proceeded.

This past fiscal year ended months before the Medicare Part D Program was to officially begin, the effects of the Program on residents in some long term care settings remained unknown. Further, the impact on short term rehabilitation Medicare consumers with their respective Part D Plan choice as well as the consequences of changing Part D Plans could only be speculated. For this reason, monitoring was and continues to be recommended by both federal and state consumer advocacy groups in the coming years.

## **CLOSURES**

As in past years, the Administration on Aging called on the State Long Term Care Ombudsman Programs to monitor and support consumers and their family members who might be faced with losing their home, should their facility close. During the 2005 Fiscal Year, three CT nursing homes were in danger of closing.

Two facilities were owned by the same multi-state corporation which decided to close the facilities for financial reasons. Unlike closings that occurred during bankruptcy proceedings, the LTCOP was not able to advocate on behalf of residents and their families in court proceedings.

At one of the facilities, residents had, in fact, been moved prior to the Regional Ombudsman Office being informed. In the other case, with notification, the LTCOP worked to assure that residents/families were supported and informed in considering/choosing where they would like to live (choices included other nursing facilities as well as alternative home and community based settings).

The Volunteer Resident Advocate along with LTCOP staff worked with individual residents/families; facility staff; private and government agencies and programs (i.e. nursing home corporations, the DSS Medicaid unit, alternative housing options, etc). An emphasis was placed on assuring that resident discharge plans appropriately reflected the quality of care and life needs of each individual resident.

With LTCOP support, statutes were passed in previous years enabling facilities to “jump” the waiting list (without penalty) in cases where residents being admitted from a facility that was closing. In some cases, it was determined that the resident had been placed far from home during their original admission. The LTCOP was able to advocate in support of moves closer to family, friends and community thus greatly benefiting the residents.

A third facility would have closed, had the LTCOP not worked with other State Agencies and the for-profit nursing home association to support securing a new owner and working to improve quality of care and life which was so sorely missing in recent years. This facility was, in fact, the former Hillcrest facility cited earlier in this report.

Under new ownership, quality of care and life has improved significantly for the residents. Such progress was verified by residents last fall at a Resident Council meeting attended by the Regional Ombudsman. When the agenda item for nursing was raised, there was an initial silence. Finally, a resident spoke up and indicated she thought nursing was pretty good. The Regional Ombudsman asked the residents if they had noticed that this was the first time in a number of years that no one had raised concerns about quality of care.

## ASSISTED LIVING

As early as 2001, the Department of Social Services, AARP, and legal services advocates supported the expansion of the Long Term Care Ombudsman Program (LTCOP) into Assisted Living Communities. Further, members of the CT Long Term Care Advisory Council and the CT Long Term Care Planning Committee noted the need to address consumer protection issues in the *State of Connecticut Long Term Care Plan (2004)*.

During the 2004 legislative session, the Ombudsman Program supported proposals that would strengthen consumer rights in Assisted Living. The General Assembly ultimately approved Senate Bill # 4 and the Governor signed Public Act 04-158, *An Act Concerning Services Provided by the Long Term Care Ombudsman in Managed Residential Communities and the Patients' Bill of Rights for Residents of Nursing Homes and Chronic Disease Hospitals*. The new law expanded the services of the Ombudsman Program and represented a real commitment to consumers of Assisted Living in Connecticut.

In response to this directive, the Office of the State Long Term Care Ombudsman developed a plan for the new *Assisted Living Pilot Program*. The first step was to develop opportunities for communication with the major stakeholders in Connecticut's Assisted Living arena. Meetings were held with various agencies, organizations, and residents of assisted living in order to facilitate an exchange of ideas and information about assisted living issues.

The Ombudsman Program also undertook an outreach campaign to inform residents and providers of Assisted Living about our new mandate. During fiscal year 04/05 the LTCOP encouraged consumer access to services by providing informational postings to Industry Associations to distribute to their members. The statewide toll free number is available to residents of Assisted Living and dedicated intake lines maintained and staffed by program representatives.

Further, the LTCOP collaborated with AARP, CANPHA, CALA, and the North Central Area Agency on Aging to provide an educational forum for residents and staff of Assisted Living. The event was held on September 9<sup>th</sup> at the Aquaturf in Southington and included presentations on the role of the LTCOP in Assisted Living as well as timely information on the new Medicare Part D prescription benefit. Participants were offered resources and the opportunity to have their questions answered by LTCOP staff and trained CHOICES counselors.

The LTCOP also undertook a campaign to inform and educate a number of consumer groups and providers of the role and services of the Program. Such groups included Assisted Living Community Resident Councils, Managed Residential Community Administrators, acute care hospitals, the CT Hospital Association (CHA) discharge planners as well as AARP members.

Although efforts to educate providers, members of the aging network, and residents are well underway, the range of consumer demand will not be fully appreciable

## **ASSISTED LIVING *continued***

until all phases of outreach have been implemented. Based on previous experience with consumer education, it may take some time before the general public is fully aware of our role in Assisted Living, and able to differentiate it from that of other state entities.

Despite these facts, the Ombudsman Program has already begun receiving some requests for assistance from residents of Assisted Living and family members. The types of concerns vary but usually pertain to issues surrounding contractual agreements such as; core “inclusive” services, financial and/or billing policies, adequacy of services being provided, and discharge situations. As always, LTCOP staff will make every effort to clarify information for consumers and enable them to effectively utilize all resources.

The research on Assisted Living at the national level indicates other significant consumer protection issues may exist. The true scope of the problems and the actual impact on residents in Connecticut is not fully known at this time. Such issues include:

- Quality of Care/Life
- Dementia Units/Programming
- Marketing/ Full disclosure on Core/ALSA services
- Admission/Discharge Policies
- Contractual Issues/Financial concerns
- Consumer Rights (ALSA, Home Care, Nursing Home)
- Consumer Access/Inspections/LTCOP Postings
- Negotiated Risk Agreements

The existing staff of the LTCOP has worked diligently to accomplish the aforementioned research, outreach and education activities. However, to fully address and implement the directives outlined in PA 04-158, appropriate staffing must be in place. As a result of a previous hiring freeze and other factors, the two additional staff positions that were allocated for program expansion to Assisted Living have not been filled.

The Connecticut Ombudsman Reporting System (CORS), a data management program, is being updated to include managed residential communities. This will enable the LTCOP to identify consumer issues, capture Ombudsman activity and cases related to Assisted Living, and monitor complaint trends across the state. In turn, the information can then be used to formulate legislative and policy recommendations, collect information on best practices, and tailor our education and assistance efforts to where they are most greatly needed. As one of only two states where assisted living is based on a service model, the data system may present a challenge here in CT.

Further, consumer access to LTCOP services becomes critical if the Ombudsman Program is to be able to monitor Assisted Living issues and evaluate the need for systemic advocacy and policy recommendations on behalf of long term care consumers. Therefore, should the voluntary posting of LTCOP contact information not be implemented as requested, legislation requiring such postings will be recommended in the coming 2006 CT General Assembly Session.

## **ADMISSION, TRANSFER, DISCHARGE, EVICTION**

A few years ago, in reviewing data collected by State Long Term Care Ombudsman Programs, the Administration on Aging noted the high number of complaints related to the Admission, Transfer, Discharge and Eviction category being reported in a number of states including CT. Upon further review of the cases and complaints in this category, the CT LTCOP was able to identify a link between most cases related to individuals posing challenging behaviors for the facilities where they reside.

As a result, the Office of the State Long Term Care Ombudsman Program convened a conference with major stakeholders in January 2004. Panel presentations covering a number of issues were offered. Barriers such as the multiple perspectives and agendas of each of the major stakeholders were acknowledged. Research indicated the majority of residents presenting challenging behaviors had a diagnosis of dementia while others had mental illness. The need to continue to work on these issues with all stakeholders for the benefit of the consumer was acknowledged. Participants agreed to form a workgroup for this purpose.

The CT Workgroup on Challenging Behaviors was established. The work of the CWCB continued during FY 05 with regular committee meetings and a second educational conference for providers held in August 2005.

The CWCB worked to expand the original “Best Practices and Guidelines”, initially developed last year as a helpful resource for providers to use in de-escalation of crisis situations. The tool is intended to provide suggested interventions and serve as a timesaving reference guide for staff. The members of the Care and Case Committee, who represent diverse perspectives and expertise, will continue to refine the tool based on evolving trends and feedback from members.

The second educational conference, “*Caring for Residents with Challenging Behaviors: What Managers Need to Know*” was attended by more than 200 long-term care professionals. The focus of the keynote address and workshop presentations was effective prevention techniques, with particular emphasis on early identification of behavioral risk factors and appropriate care planning.

The Policy, Regulations and Legislation Committee began developing ideas and proposals for the 2006 legislative session. Members of the full Workgroup also assessed the need for a Membership Committee to address many requests from

## **ADMISSION, TRANSFER, DISCHARGE, EVICTION *continued***

potential new members representing other LTC settings (i.e. Assisted Living; home and community based services).

With the close of 2005 FFY, review of CWCB's efforts were mixed. An evaluation of the second Educational Conference tabulated by the University of CT Center on Aging found the Conference workshops were enthusiastically well-received on the part of participants. Future conferences and workshops would be welcomed. In the wake of any membership expansion, a reassessment of the workgroup, its mission and operations might be in order. A SWOT assessment was suggested.

Finally, the original intent of the Workgroup (to minimize and reduce the number of transfers, discharges and refusals to readmit due to the negative affect on residents and their family members) did not occur; rather, an increase was experienced. The LTCOP end-of-the year data found an increase in such cases from 2004 reports of 188 cases to 218 in the current year – a jump of almost 12 %. Whether more referrals were being made to the LTCOP due to word of mouth regarding the CWCB's work, or whether the CWCB's efforts were failing to have the beneficial effect, originally sought, will need to be monitored and evaluated over time. Certainly the need to resolve and minimize such transfers will only increase with expected demographic changes.

## **NURSING HOME TRANSITIONS AND EXPANDING COMMUNITY OPTIONS FOR LONG TERM CARE**

The CT Long Term Care Ombudsman Program remains committed towards State development of a comprehensive long-term care system on behalf of consumers. Such efforts reinforce the US Supreme Court Olmstead Decision based on the Americans with Disabilities Act. The Supreme Court ruled that States must offer and support individuals' rights to choose long-term care options other than simply institutionalization.

As such, the CT LTCOP continued its strong support of the Nursing Home Transition Program, also known as My Community Choices this past Fiscal year. Further, the CT LTCOP continues to advocate for expansion of home and community based long-term care options as well as increased opportunities for non-medical transportation at a public policy level. In this manner, residents' rights for opportunities to interact as viable and valued members of the community will be more fully realized, without socially enforced isolation.

Three years ago, the LTCOP was one of the original supporters of a federal grant application to assist residents who wanted to transition out of nursing homes back into the community. The objective of the Grant was to determine systemic

barriers to exploring community options outside of institutionalization as well as to actually moving out of a nursing home.

The Grant was so successful that CT earned national recognition for its work in systemic change. For example, CT made systemic changes that enabled it to set aside a number of Federal HUD Section 8 vouchers as housing subsidies for those individuals transitioning out. Moreover, CT created a data collection system enabling it to analyze the effectiveness of the efforts being undertaken.

At the end of the 2005 FFY, almost 100 persons had successfully transitioned into the community, in fact saving both Federal and State dollars. Our own State government incorporated funds into the State Budget to continue the Program, now known as My Community Choices.

As an original member of the Steering Committee, CT LTCOP continues in this capacity and also has a role as a member of the Transition Implementation Committee. In the first year of the grant, the LTCOP assisted Transition Facilitators in making contact with nursing home residents (as well as their family members and legal representatives), Resident Councils and staff to inform and educate them regarding such an opportunity.

More recently, the ninth annual 2005 VOICES Forum offered a workshop dedicated to the My Community Choices Program. The Workshop was facilitated by the Program Director and Panelists included: Transition Coordinators and Disability Experts as well as the former President of a Resident Council, who had successfully transitioned out of a nursing home. The audience heard about the challenges the decision to transition may present as well as the support structure available to ease any anxiety. Resource materials included the Transition Guide as well as a Community Resource Sheet as part of the Resident Council Binder. Resident Councils were also informed of Program speaker availability for monthly Council meetings.

The CT LTCOP pledges continued support of My Community Choices in the coming year. At the time of this writing, it appears there may be new federal grant opportunities to support this worthwhile effort. In addition, Resident Councils may be asked what other roles they want to consider playing in this endeavor.

During the 2005 CT General Assembly Legislative Session, the Long Term Care Ombudsman Program also supported a number of public policy initiatives along these same lines.

## **NURSING HOME TRANSITIONS AND EXPANDING COMMUNITY OPTIONS FOR LONG TERM CARE**

*continued*

For example, representatives of the Program successfully supported the requirement that a long-term care policy mission statement be included in CT General Statutes as well as addressed in the State's Long Term Care Plan. The new Public Act calls for supporting the right of persons with long term care needs to choose to live in the least restrictive, appropriate setting.

The LTCOP also advocated on behalf of legislative proposals intended to maintain and increase opportunities for long term care options other than simply nursing home institutionalization. An outline of Public Hearings attended and respective legislative proposals supported by the LTCOP is detailed later in this Report. Actual written testimony can be found in the Report's Appendix.

In particular, on behalf of the Statewide Coalition of Resident Councils and residents living in long term care settings throughout the State, the LTCOP supported two transportation funding initiatives for the elderly and persons with disabilities. Non-medical transportation has been one of the top three priorities cited at every VOICES Forum and is likely to continue to be as the tenth annual VOICES Forum approaches. Therefore, the Ombudsman Program urged inclusion of nursing home residents as rightful members of this target population.

Yet, while both transportation bills passed and funding was successfully secured through legislation, nursing home residents may likely be overlooked once again as rightful members of this target population. In the future, the Long Term Care Ombudsman Program will advocate that nursing home residents be considered in Request-for-Proposals for federal/state/municipal transportation and related funding. Certainly, the intent of the US Supreme Court Decision and now, the State of Connecticut's new long term care mission statement supports nursing home residents rights in this manner.

## **2005 CT GENERAL ASSEMBLY LEGISLATIVE SESSION**

The Office of the State Long Term Care Ombudsman is mandated to propose and comment on legislation related to systemic issues of concern for long term care consumers. As such, the Program's legislative agenda is shaped from concerns raised by residents in the previous year's VOICES Forum as well as those raised in Program staff's and Volunteer Resident Advocates' on-going work with long term care consumers.

## **Long Term Care Ombudsman Program** **2005 Legislative Priorities**

### **Support legislative proposals based on recommendations of the Challenging Behaviors Workgroup's Final Report (see recommendations #4 and #5 of Final Report):**

Implement a nursing home reimbursement methodology to adequately cover the cost of staffing, training and programming required to meet the behavioral needs of residents based on review of :

- Program Review and Investigation's "Staffing in Nursing Homes" 2000 and "Medicaid Rate Setting in Nursing Homes" 2001
- Final Report of the Ad Hoc Task Force on Nursing Home Costs 2002
- Current US Department of Health and Human Services Nursing Home Quality Initiative
- Develop and implement a pilot mobile Care Integration Team (CIT) to work with nursing home staff to implement appropriate interventions and assist in assessment of residents with challenging behaviors and development of behavioral care plans accordingly. The CIT would be interdisciplinary. The CIT would also be responsible for educating and training staff regarding dementia and mental illness as well as behavioral management techniques.

### **Support other legislative proposals which meet the LTCOP mission and mandates related to:**

- Criminal background checks for staff
- Improved coordination of transportation systems and access for nursing home residents
- Restoration of the Commission on Aging (budget/staffing)
- Conservators duty to protect rights of clients to live in least restrictive environment
- Pilot for persons slightly over 300% poverty level to remain in Residential Care Facilities
- Increased nursing home reimbursement proposals which address staffing levels and training
- Increased Supportive Housing

**2005 CT GENERAL ASSEMBLY LEGISLATIVE SESSION,  
LONG TERM CARE OMBUDSMAN PROGRAM TESTIMONY  
AND SUBSEQUENT PUBLIC ACTS**

The Office of the State Long Term Care Ombudsman Program testified at a number of Public Hearings on the following pieces of legislation:

**PUBLIC HEALTH COMMITTEE, JAN. 28, 2005:**

- **SB 707: An Act Concerning a Nursing Facility User Fee \***

**SELECT COMMITTEE ON AGING, FEB. 8, 2005:**

- **SB 87: An Act Concerning Eligibility for the State-Funded Portion of the Home-Care Program for the Elderly**
- **SB 88: An Act Concerning Rates Paid by the Commissioner of Social Services for Personal Care Assistance Services**
- **SB 967: An Act Concerning the Reorganization of the Commission on Aging**

**SELECT COMMITTEE ON AGING, Mar. 1, 2005:**

- **SB 1160: An Act Concerning Nursing Home Staffing Levels \***
- **SB 1161: AAC Reimbursement Rates Paid to Long Term Care Facilities Based on Patient Acuity Levels \***
- **HB 6775: An Act Concerning the Development of a Pilot Mobile Care Integration Team**

\* NOTE: Long Term Care Ombudsman Program Testimony urged that a portion of any increase in reimbursement be tied more specifically to staffing levels, training, and supervision.

**SELECT COMMITTEE ON AGING, Mar. 1, 2005 continued:**

- **SB 965: An Act Concerning the Duties of the Conservator of a Person**
- **SB 968: An Act Concerning Criminal Background Checks for Nursing Home Employees and Volunteers Who Provide Direct Care to Residents**
- **SB 996: An Act Concerning Nursing Home Staffing Levels**
- **SB 6575: An Act Establishing an Elder Death Review Team within the Office of the Chief Medical Examiner**

The Program respectfully disagreed with the following:

- **SB 64: An Act Concerning the Admission and Care of Patients in Nursing Homes**
- **SB 6776: An Act Concerning Enhancements to Elderly Advocacy Programs**

**SELECT COMMITTEE ON AGING, MAR. 3, 2005:**

- **SB 86: An Act Concerning Rates Paid by the Commissioner of Social Services for Adult Day Care Services**
- **SB 200: An Act Concerning Registration of Homemaker-Companion Agencies with the Department of Consumer Protection**
- **SB 448: An Act Providing an Increase in Rates Paid the Department of Social Services to Residential Care Homes**
- **SB 966: An Act Increasing Funding for the Dial-A-Ride Program \*\***
- **SB 1158: An Act Concerning the Establishment of Independent Transportation Networks to Serve the Elderly \*\***
- **HB 5472: An Act Concerning Assisted Living Pilot Projects**

**\*\* NOTE:** Based on years of input from the Presidents of Resident Councils at the annual VOICES Forum, the Office of the State Long Term Care Ombudsman urged that any non-medical transportation proposals such as these be made available to nursing home residents as well.

***HUMAN SERVICES COMMITTEE, MAR. 22, 2005:***

- **SB 1270: An Act Establishing a Pilot Program to Provide Homecare Services to Persons with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome**
- **HB 6847: An Act Providing Funds to the Office of Policy and Management to Conduct a Comprehensive Needs Assessment**
- **HB 6880: An Act Establishing a Pilot Program to Provide Home Care Services to Disabled Persons Eighteen to Sixty-Four Years of Age**
- **HB 6944: An Act Concerning Appropriations to the Department of Social Services for Alzheimer's Respite Care**
- **SB 674: An Act Concerning the Certificate of Need Process for Nursing Home Facilities**

**PUBLIC ACTS ENACTED IN 2005**

Following the 2005 Legislative Session, the CT General Assembly's Office of Legislative Research issued its annual OLR ACTS AFFECTING SENIORS in July as prepared by Principal Analyst, Helga Niesz. Many of the legislative proposals supported by the Office of the State Long Term Care Ombudsman and passed by the CT House and Senate went on to become Public Acts with the signature of the Governor.



# **APPENDIX**

**Committee on Public Health**  
**Public Hearing**  
**Friday, January 28, 2005**  
**1 PM**  
**Room 1D LOB**  
**Written Testimony**

The Office of the State Long Term Care Ombudsman Program respectfully submits this written testimony regarding **SB 707 An Act Concerning A NURSING FACILITY USER FEE**. The Ombudsman Program is mandated to comment on legislative proposals and bring systemic concerns and issues to the attention of this General Assembly.

**We support the intent of this bill but strongly recommend that it is critical that any nursing home reimbursement proposal be contingent on increasing minimum direct care staffing levels.**

Residents and their family members have voiced concerns with insufficient staffing in many facilities in our state over a number of years. Yet Connecticut has failed to address these issues for too long. In fact, as the acuity level of residents is increasing, the minimum direct care staffing level has not.

Many of you may recall the Nursing Home Task Force to study staffing and reimbursement in the 1990's. Then, in 2000 and 2001 respectively, the Program Review and Investigations Committee undertook studies and recommendations regarding staffing and reimbursement issues at the request of this General Assembly. In addition, an Ad Hoc Task Force on Nursing Home Costs a report in 2002.

Over this same timeframe, a number of rate increases have in fact been granted including more recent interim rate increases. While there have been allusions and vague references that monies could be used to increase staffing levels, in fact, there have been no such increases.

Last week, the CT news media reported a former nursing home owner pled no contest to second degree manslaughter in the death of an elderly resident. The 74 year old resident had been hospitalized a number of times over a period of months due to malnutrition and pressure sores and according to an autopsy died of sepsis. The Office of the Chief States' Attorney attributed the death to poor care and insufficient staffing. This is just one of the most recent examples of state and federal violations/citations issued in CT for low staffing levels.

**It is unconscionable that even one resident has died due to insufficient staffing. On behalf of nursing home residents and their family members, we urge you to tie increased direct staffing levels in more specific measures in the language of this legislative proposal.**

**Select Committee on Aging**  
**Public Hearing**  
**Tuesday, February 8, 2005**  
**10:30 am**  
**Rm 1 D LOB**  
**Written Testimony**

As a member of the Long Term Care Advisory Council, **the Office of the State Long Term Care Ombudsman respectfully submits this written testimony in support of Committee Bills # 87 and 88 as well as Raised Bill #967.**

The Long Term Care Advisory Committee as well as the Planning Committee have worked very hard over a number of years to develop a comprehensive Long Term Care Plan which offers choices by increasing opportunities to access support services in the least restrictive environment. Both **SB 87: An Act Concerning Eligibility for the State-Funded Portion of the Home-care Program for the Elderly** and **SB 88: An Act Concerning Rates Paid by the Commissioner of Social Services for Personal Care Assistance Services** go far toward promoting cost effective alternatives to institutionalization for greater numbers of persons in need of long term care. Further, such efforts help our State to meet its obligations under the US Supreme Court Olmstead Decision.

Finally, we offer support for **SB 967: An Act Concerning the Reorganization of the Commission on Aging**. The intent of this proposal is to assure independence of the Commission on Aging in its mandate to advocate on issues and programs of concern to the elderly by moving it from the Executive to the Legislative Branch of our State government and expanding Commission membership. Such placement for administrative purposes only is a natural fit and would aid the Commission in the duty of informing policy makers as they face the challenges presented by our aging population.

**SELECT COMMITTEE ON AGING**  
**PUBLIC HEARING**  
**TUESDAY, MARCH 1, 2005**  
**ROOM 2E LOB**

Good morning, members of this Select Committee on Aging. My name is Maggie Ewald and I am here today, along with Cristina MacGillis, to represent the Office of the State Long Term Care Ombudsman in our role as advocates for nursing home residents. As the agenda for this Public Hearing focuses on numerous nursing home issues, we will try to elaborate on several bills which we have not commented on in years past and briefly summarize our comments on those issues to which we have testified to previously.

**We urge support of the following bills:**

- **SB 1160 AAC Nursing Home Staffing Levels and**
- **SB 1161 AAC Reimbursement Rates Paid to Long Term Care Facilities Based on Patient Acuity Levels**
- **HB 6775 AAC the Development of a Pilot Mobile Care Integration Team**

In 2002, upon review of data collected by Long Term Care Ombudsman Programs nationwide, a representative of the Office of the Inspector General contacted the Connecticut State Ombudsman to inquire about the incidence of reported cases of admissions, discharges and failure to readmit following a hospitalization, as coded in the National Ombudsman Reporting System. In Connecticut, nursing home residents are often subjected to unnecessary, traumatic transfers, inappropriate discharges and hospitalizations. According to the OIG, this category was the number one complaint of the top ten complaints in our state for the past ten years. At the same time, nursing home residents' behavioral issues were being scrutinized and raised by this very Select Committee on Aging.

Therefore, last January, the Office of the Long Term Care Ombudsman called on major stakeholders with interests in the quality of care/life of residents whose behavior nursing home staff found challenging to work with. Out of this conference, the CT Workgroup on Challenging Behaviors was founded. More recently, the Workgroup's Policy, Regulations and Legislation Committee issued a report which included a survey of related research literature as well as recommendations for systemic changes here in CT.

Specifically, three pieces of legislation are being proposed based on our Workgroup's efforts. Two of these proposals (SB 1160 and SB1161) focus on nursing home reimbursement rates that have also been the subject of much scrutiny here in the General Assembly over a number of years. We urge that a portion of any increase in reimbursement be tied more specifically to staffing levels, training and supervision. In the past, vague references for these same intentions have not materialized when reimbursements have been increased.

In addition, we believe:

- **HB 6775 AAC the Development of a Pilot Mobile Care Integration Team** would actually save State Medicaid dollars by eliminating many of the inappropriate hospitalizations and double payments for both hospital and reserved nursing home beds. Such a multidisciplinary team would be available to support the nursing home and its staff with the expertise to undertake a more comprehensive assessment of the resident should behaviors become challenging as well as to assist in constructing more appropriate individualized resident care plans. Most importantly, residents and their family members would be less traumatized by inappropriate transfers/discharges.

With regard to other proposals being heard today, we strongly **support the following legislative proposals:**

- **SB 965 AAC The Duties of the Conservator of a Person** as it requires consideration of the least restrictive environment.
- **SB 968 AAC Criminal Background Checks for Nursing Home Employees and Volunteers Who Provide Direct Care to Residents** *with* the recommendation that section ( c ), lines 32 through 41, also address temporary or pool personnel as has been articulated in line 16.
- **SB 996 AAC Nursing Home Staffing Levels** as has been stressed by the state-wide Presidents of Resident Councils at the annual VOICES Forum for the last eight years.

We **very respectfully disagree** with the following proposals:

- **SB 64 AAC The Admission and Care of Patients in Nursing Homes**  
We are grateful to the Select Committee on Aging for highlighting the need to address behavioral and mental health issues of CT's nursing home residents. However, we are concerned that SB 64 discriminates based on disabilities and does not fully resolve or address the very complex nature of the issue of challenging behaviors. Rather, we would welcome the opportunity to continue to work with this legislature on any improvements related to staffing, reimbursement, a pilot mobile crisis intervention team as well as long term care options available to residents of our State.

- **SB 6776 AAC Enhancements to Elderly Advocacy Programs**  
We recognize the need for more advocates for nursing home residents and the LTCOP continues to recruit for new Volunteer Resident Advocates. We urge any interested individuals to contact the nearest Ombudsman Program Office.

Our concern with this bill stems from our effort to avoid further confusion among nursing home residents related to "name recognition" and the identity of the Long Term Care Ombudsman Program as stipulated in Federal and State Statutes. As an example, in the past, it was necessary for the Office of the Attorney General to issue a letter of a "cease and desist" nature to a nursing home corporation prohibiting the use of "Patient Advocate" or "Resident Advocate" as defined by CGS 17b-400 to describe a patient satisfaction representative at their corporate level, since it was misleading to residents and their family members.

The term "Patient Advocate" or "Resident Advocate" is clearly defined in the Long Term Care Ombudsman statutes, 17b-400 as "representatives of the Office of the Long Term Care Ombudsman". The Long Term Care Ombudsman Program receives funding from Ombudsman specific funds, Title III and Title VII of the Older Americans Act and the state of Connecticut expends resources from the General Fund to meet the "Maintenance of Effort" requirements under Title III. This proposed bill would appear to duplicate the services already provided by the LTCOP with state and federal funding.

Lastly, I will turn to my colleague Cristina MacGillis, who will testify to SB 6575.

**SELECT COMMITTEE ON AGING  
PUBLIC HEARING  
TUESDAY, MARCH 12 2005  
ROOM 2E LOB**

Good morning distinguished co-chairs, ranking members, and members of the Select Committee on Aging. My name is Cristina MacGillis. As a Regional Long Term Care Ombudsman, I am here to **testify in support of Raised Senate Bill# 6575, An Act Establishing an Elder Death Review Team within the office of The Chief Medical Examiner.**

The LTCOP supports the proposed additions to this bill, line #7, deaths of elderly person, as defined in sections 17b-450 that appear to have been caused by abuse or neglect. We would like to also propose an addition to this bill in that 17b-450, Protective Services for the Elderly statute, pertains to elderly who are 60 years and older. The new language does not account for those individuals who are under the age of 60 who also live in long term care facilities. The younger residents of long term care are exposed to the same amount of risk as their older counterparts.

On occasion, the LTCOP receives calls from distraught family members who question the manner in which their family member has died. Currently, the LTCOP refers the consumers to the State Department of Public Health and to the Division of Criminal Justice, Chief State's Attorney's Office, in the most extreme cases. The passage of raised bill # 6575 would allow The Chief Medical Examiner to investigate sudden or unexpected deaths not caused by readily recognizable disease. The LTCOP feels strongly that consumers of long term care, especially of nursing homes, should not die a neglectful death. The passage of raised bill #6575 would help to ensure that this does not happen.

Thank you for your attention and for your time.

**SELECT COMMITTEE ON AGING  
PUBLIC HEARING AGENDA  
THURSDAY, MARCH 3, 2005  
10:30 AM; ROOM 2 D LOB**

As advocates for nursing home residents and as a member of the CT Long Term Care Advisory Council as well as the Steering Committee of the Nursing Facility Transition Grant, the Office of the State Long Term Care Ombudsman respectfully submits this written testimony in support of the following legislative proposals:

- **SB 86 AAC RATES PAID BY THE COMMISSIONER OF SOCIAL SERVICES FOR ADULT DAY CARE SERVICES**
- **SB 200 AAC REGISTRATION OF HOMEMAKER-COMPANION AGENCIES WITH THE DEPARTMENT OF CONSUMER PROTECTION**
- **SB 448 AA PROVIDING AN INCREASE IN RATES PAID THE DEPARTMENT OF SOCIAL SERVICES TO RESIDENTIAL CARE HOMES**
- **SB 966 AA INCREASING FUNDING FOR THE DIAL-A-RIDE PROGRAM**
- **SB 1158 AAC THE ESTABLISHMENT OF INDEPENDENT TRANSPORTATION NETWORKS TO SERVE THE ELDERLY**
- **HB 5472 AAC ASSISTED LIVING PILOT PROJECTS**

These proposals go far to support home and community based long term care options as opposed to institutionalization for the citizens of Connecticut.

Please Note: Based on years of input from the Presidents of Resident Councils in our State's nursing facilities at the annual VOICES Forum, we urge that any non-medical transportation proposals (SB 966 and SB 1158) be made available to nursing home residents as well. Increasing opportunities to interact in the community could stimulate residents' interests in transitioning back into the community and provide further cost savings to the State.

**HUMAN SERVICES COMMITTEE  
PUBLIC HEARING  
TUESDAY, MARCH 8, 2005  
10:15 AM; RM 1 B, LOB**

Good morning, members of the Human Services Committee. My name is Maggie Ewald. I am the Eastern CT Regional Ombudsman and I am here today on behalf of the Long Term Care Ombudsman Program. In addition to the testimony presented earlier by the State Long Term Care Ombudsman, Teresa Cusano, on Raised Bill # 6828, we respectfully offer comments on other legislative proposals set forth in today's Public Hearing Agenda as follows:

- **Bill # 1051 AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET IMPOSING A NURSING HOME PROVIDER TAX AND INCREASING PROVIDER RATES:**

While we very respectfully **support the intent of the Governor's Bill**, we have several concerns we would like to raise for the purpose of discussion and deliberation of the issues under consideration.

We are most supportive of the Governor's attempt to begin to address the inequity of our current nursing home reimbursement rates as previously noted by the General Assembly's Program Review and Investigation Committee. However, we **urge some revisions to more specifically tie a percentage of any reimbursement increase in order to raise minimum direct care staffing levels.**

Despite a number of reimbursement increases over the last decade, which have references to "wage, benefits, and staff enhancements" throughout the existing statute, there in fact has been no corresponding increase in direct care staffing levels. Yet, residents and their family members - our State's long term care consumers- have repeatedly voiced concerns with insufficient staffing levels over this same period. There is surely great irony here in Connecticut that someone may be deemed to need 24 hour care, often implying that only a nursing facility can provide such care, yet we cannot muster ourselves to demand any more than the federal minimum of 1.9 hours – less than 2 hours - of direct care per day.

As a member of Long Term Care Advisory Council, we **support increasing reimbursement rates for other home and community based long term care providers in order to maintain and hopefully increase the range of options available to long term care consumers.**

Finally, as advocates for all nursing home residents, we **must raise the concern that the brunt of the impact for this new nursing home provider tax will be on short term and long term, private pay – most likely, low to middle income - nursing home residents.** There is no provision that this proposal will keep nursing facilities from passing all or part of the new tax onto these consumers. Moreover, the cost to the State could in fact increase as more of these individuals become Medicaid eligible at an ever increasing rate. **Consideration should be given to a more equitable and shared burden for such a tax.**

· **BILL # 6118: AN ACT CONCERNING A HOME AND COMMUNITY - BASED WAIVER FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES:**

The Long Term Care Ombudsman Program **wholeheartedly supports such an effort.** As members of our State’s Long Term Care Advisory Council as well as the Steering Committee of the Nursing Facility Transition Grant, such a proposal would go far in providing support to individuals with developmental disabilities who seek self-directed services in the least restrictive environment – most specifically their own home and community.

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**RAISED BILL # 6786: AN ACT CONCERNING THE STATE’S LONG-TERM CARE POLICY:**

The Office of the State Long Term Care Ombudsman **strongly supports passage** of this proposal. **Choice and respect for human dignity are the very underpinnings of the Long Term Care Ombudsman Program.** The principle as set forth:

“such policy and plan shall provide that individuals with long term care needs have the option to choose and receive long-term care and support in the least restrictive, appropriate setting”

would provide guidance to all policy makers regarding our State’s Long Term Care needs and the interests of our State’s long term care consumers.

**Thank you for your consideration of our input**

**HUMAN SERVICES COMMITTEE  
PUBLIC HEARING  
TUESDAY, MARCH 22, 2005  
11:00 AM; RM 2A LOB  
WRITTEN TESTIMONY**

Good day, members of this Human Services Committee. My name is Maggie Ewald. I am here as a representative of the Office of the State Long Term Care Ombudsman and as a member of our State's Long Term Care Advisory Council.

In a previous Public Hearing, this Committee was asked to consider incorporating a **guiding principle into State Policy as well as the State Long Term Care Plan, specifically that "Such policy and plan shall provide that individuals with long term care needs have the option to choose and receive long term care and support in the least restrictive, appropriate setting" (HB 6786).**

It is in this spirit then, and in our role as an advocate for individuals with just such long term care needs, that **our Office urges support of SB # 1270; HB # 6847; HB # 6880 and HB # 6944. We also offer input for consideration of SB # 674.**

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**SB # 1270: AA: Establishing a Pilot Program to Provide Homecare Services to Persons with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome:** It has been the experience of our Office that many individuals with HIV or AIDS in this State would in fact benefit enormously from the *opportunity to choose homecare services as a long term care option*. We believe by *supporting such individuals in the least restrictive environment*, such a pilot will demonstrate: 1) improved quality of life 2) prevention and/or shortening of periods of institutionalization and 3) increased savings to taxpayers in the State Budget. We urge support of this win-win proposal.

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**HB # 6847: AA Providing Funds to the Office of Policy and Management to Conduct a Comprehensive Needs Assessment:** This unfunded mandate has, in fact, been in our State Statutes since 2002. **It is important we recall that for several years running in the mid-1990s, Connecticut was ranked 49<sup>th</sup> out of 50 states in its commitment to develop a comprehensive state long term care plan.**

The time has come for us to step up to the plate and "put the money where our mouth is" by **committing** the \$200,000 necessary to undertake such a study. It is incomprehensible in the face of spending over a billion taxpayer dollars on long term care in today's State Budget, that we cannot seem to summon the wherewithal to set aside this "drop in the bucket" to create a comprehensive State Long Term Care Plan and corresponding financial plan for public and private funding. It is incumbent on us to determine the long term care needs and choices our State residents demand now and in the future and consider how we will begin to finance such a plan over the next thirty years. We owe it to our grandparents, our parents, ourselves, our children and our grandchildren.

**HB # 6880: AA Establishing a pilot Program to Provide Home Care Services to Disabled Persons Eighteen to Sixty-Four years of Age:**

To repeat, individuals of all ages in our State with long term care needs would in fact benefit enormously from the *opportunity to choose homecare services as a long term care option*. We believe by *supporting such individuals in the least restrictive environment*, such a pilot will demonstrate: 1) improved quality of life 2) prevention and/or shortening of periods of institutionalization and 3) increased savings to taxpayers in the State Budget. We urge support of this win-win proposal

**HB # 6944: AAC Appropriations to the Department of Social Services for Alzheimer's Respite Care:**

Again, from the experience of the Office of the Long Term Care Ombudsman, increased funding for such respite care is critical. Research has shown that without such support, the stress of the caregiver is far more likely to contribute to an earlier death than the very individual being cared for, often leading to premature and permanent institutionalization of the individual with dementia and frequently at increased costs to State taxpayers.

Not to be redundant but ... individuals of all ages in need of long term care in CT would benefit from a public policy which will support them in the least restrictive environment.

Finally, with respect to **SB # 674 AAC the Certificate of Need Process for Nursing Home Facilities**, we ask that the intent and language of this proposal be broadened so that the narrow focus of the CoN (certificate of need) process and any public hearing is also contemplated within the broader framework of furthering the objectives of the state long term care plan and any regional consumer demand, once more, with the guiding principle, that "*Such policy and plan shall provide that individuals with long term care needs, have the option to choose and receive long term care and support in the least restrictive, appropriate setting*".

For example, any review of need and availability for nursing facility care within the state and region, should also consider consumer demand and availability for home and community based options as well. While we acknowledge that CT is currently experiencing a very tight vacancy rate in nursing home beds, we must not forget that in the mid-1990's, our state had the second highest ratio of nursing home beds per, I believe, 1000 state residents in the country. This was at the very same time we were ranked 49<sup>th</sup> out of 50 states in our commitment to develop a comprehensive state long term care system. In addition in 1998, our US Supreme Court issued what is known as the Olmstead Decision which directs states to develop long term care options other than just institutionalization including nursing homes. Therefore, what may appear to be a need for nursing facility care may, in fact, be a failure to address the public's demand to increase home and community-based services and should be part of a thoughtful, deliberate consideration of the CoN process.

**We also have a specific concern that the language in lines 71 through 84 may seriously impact the very freedom of choice posed by the other legislative proposals we have supported here today.** Our Office's experience and interventions with residents and their family members during the CoN process and when facilities are in receivership (possibly facing a closing if there is no potential buyer) is often, by necessity, a careful balancing in our role as advocate and our mandate to inform and educate residents of their rights.

We try to educate residents and family members about the CoN process and will often inform them that a sudden exodus of residents (should there be an opportunity for a potential buyer), could very well lead to the inevitable closing of a facility, should the census drop dramatically. Simultaneously, we also suggest that residents and family members may want to begin to look at other options and make applications as a precaution and back up plan. If an opportunity arises, they can always choose to refuse that opportunity and wait until another opportunity to arise.

However, even prior to approval of a CoN, if individuals and their families want to exercise their right to choose other options for long term care services (including another nursing home), they should not be held hostage by being pressured into being admitted to a facility which is at risk of closing nor should they be restricted from transferring to another nursing home if they so choose. Nor, should they be pressured into doing either.

We would welcome the opportunity to work on language to incorporate such a philosophy in this proposal.

Thank you for your consideration of these remarks.

Report to the Connecticut General Assembly

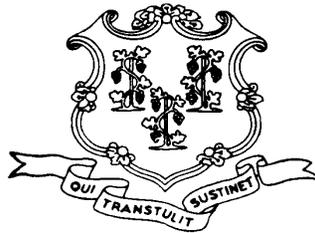
June 30, 2005

Public Act 04-158

**The Assisted Living Pilot Program**

State of Connecticut

Office of the State Long Term Care Ombudsman



## Table of Contents

Executive Summary

I. Background

II. Public Act 04-158

III. Assisted Living Pilot

IV. Pilot Activities

V. Preliminary Recommendations

## **II. History/Background**

For over a decade, consumer demand for increased long term care options has driven the development of the assisted living market in Connecticut. Many seniors have expressed a strong desire to “age in place” in a homelike setting, with a balanced approach to meeting quality of life needs as well as long term care needs. Assisted living is viewed as one such option and can represent a welcome alternative to the more institutional and heavily regulated environment of nursing homes where there is great deal of emphasis on the medical model, often at the expense of privacy and quality of life concerns.

Initially, the assisted living industry in Connecticut targeted “high end” consumers leading to a competitive marketplace for an industry supported exclusively with private monies. However, consumer input garnered from public forums held throughout the state in the late 1990’s, called for more affordable long term care options including assisted living. Therefore, in an effort to diversify CT’s long term care system and make assisted living more affordable to a wider range of income levels, state policymakers encouraged a number of innovative new models for assisted living. These models are funded by a mix of public (federal and/or state) and private financing.

Meanwhile, in other areas of the country, “assisted living” has evolved as a long term care option in a wide variety of structures and affordability. To date, however, there continues to be no national guidelines, standards, statutes or regulations related to assisted living.

Connecticut first issued its state regulations in 1994 based on a unique pairing of a “managed residential community” with an “assisted living service agency” and remains one of only two states in the country with regulations based on such a “service model”. At that time, the average stay of residency was expected to be a couple of years. Over this last decade however it has become evident that consumers of assisted living are in fact outliving the original two year residency expectation.

During this same period, advocacy groups such as AARP were listening to members’ experiences with assisted living and supported public dialogue on the issues. While the flexibility of assisted living continues to be attractive, some consumers have found services have not met original expectations and that quality of services and care was questionable at times.

As early as 2001, the Department of Social Services, AARP, and legal services advocates supported the expansion of the Long Term Care Ombudsman Program (LTCOP) into Assisted Living Communities. Further, members of the CT Long Term Care Advisory Council and the CT Long Term Care Planning Committee noted the need to address consumer protection issues in the *State of Connecticut Long Term Care Plan (2004)*. As part of their recommendations for protecting quality of care and quality of life in long term care, members indicated the state should, “expand the role of the Long Term Care Ombudsman’s Office to include other long term care settings, such as Assisted Living facilities” and, “provide adequate funding for such an expansion.”<sup>1</sup>

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<sup>1</sup> January 2004; State of Connecticut Long Term Care Plan; pg 60.

During the 2004 legislative session, the Ombudsman Program strongly supported proposals that would strengthen consumer rights in Assisted Living. Program staff testified in favor of the expansion of Ombudsman services with the caveat that a minimum of two additional Regional Ombudsman positions would be needed to properly address the added responsibilities.

The General Assembly ultimately approved Senate Bill # 4 and the Governor signed Public Act 04-158, "*An Act Concerning the Duties of the Long Term Care Ombudsman*". The new law expanded the services of the Ombudsman Program to residents of Assisted Living and represented a real commitment to consumers of Assisted Living in Connecticut.

In response to this directive, the Office of the State Long Term Care Ombudsman developed a plan for the creation of the new *Assisted Living Pilot Program*. A significant amount of staff time and program resources have been devoted to the research and development activities necessary to begin this initiative. The two Regional Ombudsman positions essential to ensure full implementation of the new mandate, have not been filled. Moreover, the progress that has been made would not have been possible without the cooperation of all the major stakeholders in Connecticut's Assisted Living arena, and the full commitment of the LTCOP staff. Their collective efforts are greatly appreciated.

## **Public Act 04-158**

*“An Act Concerning Services Provided by the Long Term Care Ombudsman in Managed Residential Communities and the Resident’s Bill of Rights...”*

Effective upon the passage of Public Act 04-158, the Long Term Care Ombudsman Program’s mandate was expanded to Assisted Living facilities. Specifically, the LTCOP was asked to:

a. “develop and implement a pilot program within available appropriations to provide assistance and education to managed residential communities, as defined in section 19-13-D105 of the regulations of Connecticut state agencies, who receive assisted living services from an assisted living services agency licensed by the Department of Public Health in accordance with chapter 368v of the general statutes.” The assistance and education provided under such pilot program “shall include, but not be limited to”

1. assistance and education for residents who are temporarily discharged to a hospital or long-term care facility and return to a managed residential community;
2. assistance and education for residents with issues relating to an admissions contract for a managed residential community;
3. assistance and education for residents to assure adequate and appropriate services are being provided including, but not limited to, adequate and appropriate services for individuals with cognitive impairments.

The Ombudsman Program was also asked to:

b. “develop and implement the pilot program in cooperation with managed residential communities and assisted living service agencies” and; that “priority of assistance and education be given to residents of managed residential communities who participate in subsidized assisted living programs authorized under sections 8-206e, 17b-3473, 17b-364, 17b-366 and 19a-6c of the general statutes.” To the extent allowed by available appropriations, the Long-Term Care Ombudsman shall also provide assistance and education under the pilot program to residents in managed residential communities who do not participate in said subsidized assisted living programs.

And;

c. Not later than June 30, 2005, the Long-Term Care Ombudsman shall submit a report on the pilot program to the Commissioners of Social Services and Public Health, to the joint standing committees of the General Assembly having cognizance of matters relating to human services, public health and appropriations, and to the select committee of the General Assembly having cognizance of matters relating to aging. The report shall be submitted in accordance with section 11-4a of the general statutes.

The following is a summary of the activities carried out by Ombudsman Program staff in support of the *LTCOP Assisted Living Pilot Program*.

## **THE ASSISTED LIVING PILOT**

### **Program Development:**

The Long Term Care Ombudsman Program staff met on several occasions to evaluate the directives of Public Act 04-158 and plan the development of *The Assisted Living Pilot Program*. Initial discussions centered on the inherent challenges of advocacy work in Assisted Living and ways to identify best practices and strategies for future implementation.

An initial *project plan* was formulated to support research, training, resource development, and infrastructure for the operation of the Pilot Program. The following is an outline of the goals and objectives identified and the activities accomplished in support thereof:

### **Summary of Initial Project Plan**

1. Research Assisted Living
  - Produce research for use in training and resource development
2. Dialogue with Stakeholders
  - Facilitate communication with advocacy groups
  - Facilitate communication with providers
  - Identify consumer issues
3. Explore Residents' Rights in Assisted Living
  - Identify currently established rights
  - Identify potential areas for advocacy
4. Provide Staff Training and Education
  - Review national advocacy efforts and identify best practices
  - Develop training materials and curriculum
5. Design a Protocol for Handling Consumer Inquiries/Complaints
  - Assess appropriateness of current intake procedures
  - Review data gathering mechanisms
6. Develop Outreach Campaign and Materials
  - Produce introductory mailing for consumers
  - Produce introductory mailing for providers
  - Expand outreach opportunities in conjunction with mandates
  - Provide on site presentations to "resident councils" in targeted facilities

## Research

As the definition and scope of Assisted Living in Connecticut is very different from that of nursing homes, staff identified the need for education and training on the full spectrum of Assisted Living issues. In addition, a thorough exploration of relevant state, federal, and legal issues would be needed to provide the framework for future assistance and interventions on behalf of consumers.

To facilitate this process, the Office of the State Long Term Care Ombudsman contracted with a legal consultant to conduct comprehensive research on the Assisted Living industry and its role in the long term care continuum. Areas of focus included:

- Evolution of Assisted Living/state and national models
- Subsidized Assisted Living/pilot projects
- Private Assisted Living
- Managed Residential Communities
- Assisted Living Service Agencies
- Regulatory Issues/Licensure
- Residents' Rights
- Legal/Contractual issues
- Consumer Protection/Quality of Care
- LTCOP role in Assisted Living

The research provided technical information, which is already being utilized by Ombudsmen in providing education and assistance to consumers. It will also serve as the basis for the development of brochures and other materials explaining consumer rights. This research will continue to be a resource for LTCOP staff in planning future advocacy activities as the pilot program continues to develop.

Based on the aforementioned research, an overview of Connecticut's Assisted Living models follows.

### Connecticut's Assisted Living Model ~

Connecticut is one of only two states in the nation wherein Assisted Living regulations are based on a "service" model. Such a model consists of two distinct components: a service component known as the "assisted living service agency" (ALSA), and a housing component known as the "managed residential community" (MRC). A managed residential community is "a facility consisting of private residential units that provides a managed group living environment, including housing and services for persons age fifty five (55) or older."<sup>1</sup> An assisted living services agency is defined as "an entity that provides assisted living services". "Assisted living services" are defined as "... nursing services and assistance with activities of daily living provided to clients living within a managed residential community."

The combination of a managed residential community [MRC] and an assisted living service agency [ALSA] results in an entity that is often described as an "assisted living

community”. Even though health care services are provided within the managed residential community, it is not recognized as a health care institution. Rather, it can best be described as a housing complex that has a contractual agreement with a provider of assisted living services. The assisted living service agency is regulated as a health care provider, while the housing component falls under existing zoning, housing and landlord-tenant law. In addition, individuals residing in an MRC may or may not opt to become clients of the ALSA according to their individual needs.

#### The ALSA ~

The National Academy of State Health Policy defines a service model for assisted living as a model that “...focuses on the provider of service, whether it is the residence itself or an outside agency, and allows existing building codes and requirements – rather than new licensing standards to address the housing structure.”<sup>ii</sup> Under this “service” model, an apartment in a managed residential community is considered a senior’s home, and health and home care services are provided by the ALSA as needed.

In Connecticut, the Regulations of Connecticut State Agencies, Section 19-13-D105 define the responsibilities of the ALSA under the service model. They include practice guidelines, the client’s bill of rights and responsibilities, and the requirement that the ALSA “ensure that all core services are provided by the MRC.” This requirement helps ensure proper communication and delineation of duties with respect to their respective responsibilities to the client.

#### The MRC ~

To be certified, an MRC must provide certain “core services” which include:

In addition, an MRC must provide 24 hour a day security, an emergency call system in each living unit, on site washers and dryers with sufficient capacity to meet the needs of the tenants, common use space that is sufficient to accommodate fifty percent of the tenant population. An MRC must also employ an onsite service coordinator.

#### Affordable Assisted Living ~

As previously discussed, the concept of assisted living was first introduced in Connecticut as a private industry, catering to higher income seniors and was not affordable for many. In fact, private assisted living in Connecticut is among the most expensive in the nation.<sup>i</sup> According to the MetLife market study on assisted living [October 2003], Stamford has the highest assisted living costs in the nation, and Hartford’s assisted living costs placed eleventh highest out of the areas surveyed.<sup>i</sup>

provided by the assisted living services agency. A number of creative partnerships have developed such as state-funded congregate, state assisted affordable elderly housing, HUD subsidized elderly housing, and pilot programs for private MRCs.

C.G.S. § 17b-347(e) sets up the demonstration project for provision of subsidized assisted living services for people residing in affordable housing by combining subsidized assisted living with rental subsidies and housing loans from the Connecticut Housing Finance Authority. The demonstration project has funded two senior “affordable” assisted living options for seniors in Connecticut: the Herbert T. Clarke House (Glastonbury, CT), and the Retreat (Hartford, CT). The assisted living programs offered through the demonstration project include an income requirement for rent, and then the senior must also meet the eligibility requirements of the Connecticut Home Care Program for Elders as to provide the assisted living services.

Funding for assisted living services in managed residential communities (private or public) is created through the assisted living pilot programs described in C.G.S. §§ 17b-365 & 366. The assisted living pilot programs provide subsidized assisted living services for residents of MRCs who are eligible for the Medicaid waiver portion of the Connecticut Home Care Program for elders (C.G.S. § 17b-365) or the state funded portion of the Connecticut Home Care Program (C.G.S. § 17b-366). Some private Assisted Living communities may voluntarily participate on a case by case basis.

The Connecticut Home Care Program for Elders (CHCPE) plays an essential role in the success of these projects by providing assisted living services to seniors that meet the programs eligibility requirements. Subsidized assisted living services in Connecticut are provided through several different Connecticut statutes including: §8-206(e), §17b-347(e), §17b-365, §17b-366, and §19a-6c. These programs are funded through different sources including state Medicaid funding, federal Medicaid reimbursement, and separate state funding.

### **Residents’ Rights in Assisted Living**

As part of the ongoing research and training under the Pilot, the Ombudsman Program has begun exploring the implications of residents’ rights in Assisted Living. Connecticut Agencies Reg. §19-13-D105(m)(1-16) contains the “client’s bill of rights and responsibilities” for clients of assisted living services agencies.

The regulation stipulates that the bill of rights must be “provided and explained to the client at the time of admission to the agency” and that “such explanation shall be documented in the client’s service record.” The client is also entitled to receive a written copy of any changes made by the ALSA to the client’s bill of rights.

Unlike the patient’s bill of rights in C.G.S. § 19a-550, there is no discussion as to how the ALSA client bill of rights is enforced or the penalties associated with a violation. The ALSA regulations only require that an ALSA have a “written bill of rights and responsibilities” and that it “shall include but not necessarily be limited to” information on clients’ rights regarding:

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1. the description of available services, charges and billing mechanisms; with the assurance that any changes shall be given to the client orally and in writing as soon as possible but not less than fifteen (15) working days prior to the date such changes become effective;
  2. criteria for admission to service;
  3. information regarding the right to participate in the planning of (or any changes in) the care to be furnished, the frequency of visits proposed, the nurse supervising care and the manner in which the nurse may be contacted;
  4. client responsibility for participation in the development and implementation of the clients service program and the client's right to refuse recommended services;
  5. right of the client to be free from physical and mental abuse and exploitation and to have personal property treated with respect;
  6. an explanation of confidential treatment of all client information retained in the agency and the requirement for written consent for release of information to persons not otherwise authorized under law to receive it;
  7. the policy regarding client access to his or her service record;
  8. an explanation of the complaint procedure and the right to file a complaint without discrimination or reprisal from the agency regarding the provision of care and services, any allegations of physical or mental abuse or exploitation or lack of respect for property by anyone providing agency services;
  9. the agency's responsibility to promptly investigate the complaints made by a client or his or her family regarding the provision of care and services, any allegations of physical or mental abuse or exploitation or lack of respect for the client's property by anyone providing agency services;
  10. the procedure for registering complaints with the Commissioner including the address and phone number of the department;
  11. the client's right to have services provided by an individual or entity other than by an assisted living services agency;
  12. the circumstances under which the client may be discharged from the agency or may not be permitted to receive services from the assisted living services agency;
  13. a description of Medicare-covered services and billing and payment requirements for such services;
  14. information advising the client of his or her rights under state law to make decisions about medical care, including the right to formulate advance directives such as living wills and durable power of attorney for health care decisions;
  15. the client's right to make individual arrangements with an assisted living services agency which does not have a formal contract with the managed residential community in which he or she resides; and
  16. the client's right to terminate or reduce services provided by an assisted living services agency at any time.
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## **Dialogue with Stakeholders**

Immediately following adoption of Public Act 04-158, the Office of the State Long Term Care Ombudsman began developing opportunities for communication with the major stakeholders in Connecticut's Assisted Living arena. Meetings were held with various agencies, organizations, and residents of Assisted Living in order to facilitate an exchange of ideas and information about assisted living issues. During the last several months, LTCOP staff:

- ✓ Met several times with leaders of the Connecticut Chapter of AARP to discuss Assisted Living and listen to concerns on behalf of their membership. Also, discussed opportunities for collaborative outreach efforts, and, participated in a national survey conducted by AARP on the topic of Assisted Living.
- ✓ Met with the Department of Public Health to discuss the structure of the regulatory system in assisted living and begin to identify and understand the implications for consumers in Connecticut.
- ✓ Met on numerous occasions with the Connecticut Assisted Living Association (CALA), an industry organization whose members primarily include private managed residential communities, however, approximately fifty of these facilities are participating in the "private pay" pilot.
- ✓ Met with the Connecticut Association of Not-for-profit Providers for the Aging (CANPFA), the organization representing the interests of the not-for-profit assisted living providers.
- ✓ Attended an Assisted Living industry conference and trade show coordinated by the Connecticut Assisted Living Association and the Hartford Courant. Regional Ombudsmen participated in workshops, networked with providers, and participated in discussions about legislative proposals affecting Assisted Living in Connecticut.
- ✓ Discussed the new mandate with members of the elderly services network through regular meetings with representatives of multiple organizations.
- ✓ Conducted informational presentations on the services of the LTCOP for numerous resident councils in Assisted Living facilities.

## **Staff Training & Education**

In accordance with the new mandate, the LTCOP worked collaboratively with the industry to facilitate an open dialogue between provider organizations, key state agency representatives, and LTCOP staff. There was consensus among all parties that development of an educational program would be mutually beneficial and would lay important groundwork for future interactions.

The State Ombudsman worked directly with the leadership of the Connecticut Assisted Living Association (CALA) and the Connecticut Association of Not-for-Profit Providers for the Aging (CANPFA) to plan and organize a three-day training

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program. After an exchange of ideas regarding program content and curriculum, venues and training dates were selected.

The sessions were conducted and attended by providers of assisted living services, industry leadership, industry legal counsel, and Ombudsman staff. Representatives of the Department of Social Services' Alternate Care Unit (ACU) and Protective Services for the Elderly (PSE) also participated and provided an overview of their respective roles in Assisted Living.

Following the third training session at Tower One/Tower East in New Haven, participants were given an extensive tour of the facility and had the opportunity to observe their innovative approach to affordable assisted living. Overall, the sessions provided an excellent opportunity for increased understanding between all parties and for important tenets of industry practice to be explored and discussed. (Please see of the appendix for excerpts from the training manual, etc...)

### **LTCOP Protocol**

In accordance with the Older Americans Act of 1965, the LTCOP provides services to protect the health, safety, welfare and rights of long term care residents. Since the pilot began, the LTCOP has been working to develop internal policies and procedures for the Assisted Living Pilot Program. Although the two new staff positions allocated in conjunction with the Ombudsman Program's new mandate have not yet been filled, every effort has been made to ensure that residents of Assisted Living have unimpeded access to our advocacy services.

The intake process has been under review and will be adapted to ensure that all consumer inquiries regarding assisted living are handled appropriately and efficiently. Our statewide toll free number is available to residents of Assisted Living and we maintain two dedicated intake lines, staffed by program representatives. Once the initial information is gathered, it is relayed to a Regional Ombudsman for further evaluation and intervention if necessary.

Although this is an evolving industry and an entirely new area of practice for our program, existing Regional Ombudsmen are being trained continuously to provide information and consultation and handle complaints generated from Assisted Living.

Throughout the year, LTCOP staff has also utilized time during our staff meetings to discuss regional activities and share experiences in resolving concerns and "lessons learned."

The Connecticut Ombudsman Reporting System (CORS), our data management program, is being updated to include managed residential communities. This will enable the LTCOP to identify consumer issues, capture Ombudsman activity and cases related to Assisted Living, and monitor complaint trends across the state. In turn, the information can then be used to formulate legislative and policy recommendations, collect information on best practices, and tailor our education and assistance efforts to where they are most greatly needed.

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## Outreach

The Ombudsman Program has developed and begun to implement an outreach campaign to inform residents and providers of Assisted Living about our new mandate. A general list of activities follows:

- ✓ Invited members of Assisted Living “resident councils” to regional meetings of The Statewide Coalition of Presidents of Resident Councils (SCPRC).
- ✓ Distributed “save the date” flyers inviting representatives of Assisted Living resident councils to make plans to attend the 9<sup>th</sup> Annual Statewide VOICES Forum.
- ✓ Produced a statewide mailing targeting resident councils in Assisted Living facilities as well as MRC Administrators. The packet included an introductory letter, a copy of the client bill of rights and responsibilities, the LTCOP informational “posting”, Voices “save the date” flyer, and program brochure.
- ✓ Provided the Assisted Living Industry Associations (CALA, CANPFA) with information cards to assist facilities in posting LTCOP information.
- ✓ Worked with AARP to publish an announcement regarding the LTCOP’s new role in Assisted Living in the AARP bulletin.
- ✓ Produced a statewide mailing to all acute care hospitals in the state informing them of the LTCOP’s services for residents of Assisted Living. Packet information included an introductory letter, a copy of the client bill of rights and responsibilities, and the LTCOP brochure.
- ✓ Contacted the Connecticut Hospital Association (CHA) to facilitate further outreach to hospital discharge planners, social workers, etc. The opportunity to speak to a statewide professional group has been identified and preliminarily scheduled.

Lastly, subsection (b) of Public Act 04-158, directed the LTCOP to give “priority of assistance and education” to “residents of residential communities who participate in subsidized assisted living programs authorized under sections 8-206e, 17b-3473, 17b-364, 17b-366, and 19a-6c of the general statutes.” Therefore, initial presentations and on-site outreach activity has been focused toward residents of state assisted elderly congregate housing; state-assisted affordable elderly housing locations; federally subsidized elderly housing complexes; and private MRCs that participate in a Medicaid or state-funded assisted living pilot program that subsidizes services for people who run out of their own funds.

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Introductory visits and/or informational presentations have been conducted or are scheduled within the next 60 days at the following facilities:

<b><u>Congregate Sites</u></b>	<b><u>Location</u></b>	<b><u>ALSA</u></b>
Augustana Homes (Bishop Curtis)	Bethel	Utopia
Bacon Congregate	Hartford	Utopia
D.J. Komanetsky (Bristol Housing Authority)	Bristol	Utopia
Ella B. Scantlebury	New Haven	Utopia
Herbert T. Clark (Glastonbury Housing authority)	Glastonbury	Utopia
Mount Carmel (Hamden Housing Authority)	Hamden	Utopia
Ludlow Commons (Norwalk Housing Authority)	South Norwalk	Utopia
Luther Manor	Middletown	Utopia
Mystic River Homes	Noank	UC&F
Prospect Ridge (Ridgefield Housing Authority)	Ridgefield	Utopia
Seeley Brown	Pomfret	Utopia
Silver Brook Estates	Orange	Utopia
Virginia Connolly (Simsbury Housing Authority)	Simsbury	Seabury Assisted Living Services
St. Jude Common	Norwich	UC&F
The Marvin	Norwalk	Utopia
F.J Pitkat Congregate (Vernon Housing Authority)	Rockville	Utopia
<b><u>HUD Sites</u></b>		
Immanuel House	Hartford	Utopia
Juniper Hill Village	Storrs	Utopia
Tower One/Tower East	New Haven	Utopia
<b><u>Demo Sites</u></b>		
Herbert T. Clarke	Glastonbury	Utopia
The Retreat	Hartford	Hebrew Community Services

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As noted at the outset of this report, existing staff of the LTCOP have worked diligently to accomplish the aforementioned research, outreach and education activities. However, to fully address and implement the directives outlined in PA 04-158 the appropriate staffing must be in place. As a result of a previous hiring freeze and other factors, the two additional staff positions that were allocated for program expansion to Assisted Living have not yet been filled.

As described earlier, efforts to educate providers, members of the aging network, and residents are underway. However, the full range of consumer demand will not be fully appreciable until all phases of outreach have been fully implemented. Based on previous experience with consumer education, it will likely be some time before the general public is fully aware of our role in Assisted Living, and able to differentiate it from that of other state entities. As always, LTCOP staff will make every effort to clarify information for consumers, so they can effectively utilize all resources.

Despite these facts, the Ombudsman Program has already begun receiving some requests for assistance from Assisted Living residents and family members. The nature of the concerns are varied but usually pertain to issues surrounding contractual agreements such as: core services; financial and/or billing policies; and adequacy of services being provided. The research on Assisted Living nationally reveals other potential consumer protection issues may exist. The true scope of the problems and the actual impact on residents in Connecticut is not fully known to the Ombudsman Program at this time. Such areas include:

- Quality of care/life;
- Dementia Units/Programming
- Marketing/ Full disclosure on Core/ALSA services
- Admission/Discharge Policies
- Contractual Issues/Financial concerns
- Consumer Rights (ALSA, Home Care, Nursing Home)
- Consumer Access/Inspections/LTCOP Postings
- Negotiated Risk

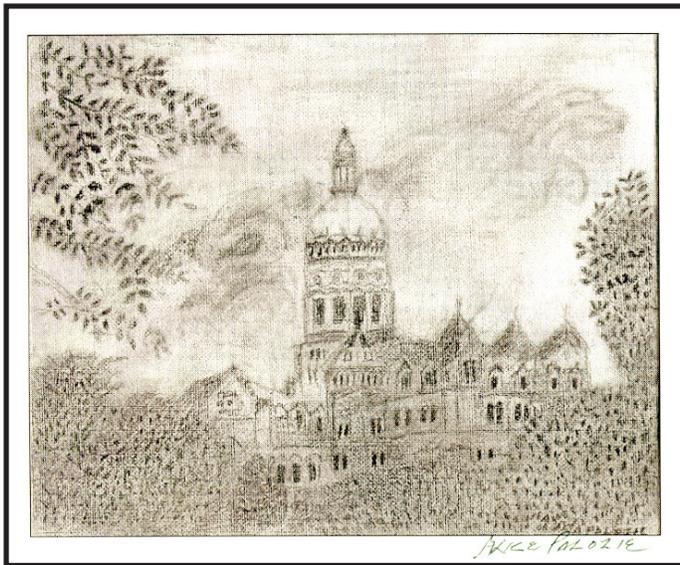
Just prior to submission of this report, communication between the Ombudsman Program and the Department of Social Services Elder Rights Unit indicate the need for further evaluation of mandatory reports. Some cases may fall under the auspices of the LTCOP, should residents desire intervention and advocacy on their behalf. Further discussion regarding issues of protocol, conflict of interest, and confidentiality will be necessary to ensure the resident directed focus of the Ombudsman Program is protected.

In the future, the Ombudsman Program will continue to monitor Assisted Living issues and evaluate the need for systemic advocacy and policy recommendations. In addition, every effort will be made to respond to the concerns of residents and family members as resources permit. The LTCOP will work diligently to protect the rights of individuals and preserve dignity in the aging process.



# Forum IX

September 27, 2005



## The Statewide Coalition of Resident Councils & The Long Term Care Ombudsman Program

Prepared by:  
The Office of the State Long Term Care Ombudsman

VOICES '05

# History of the VOICES Forum

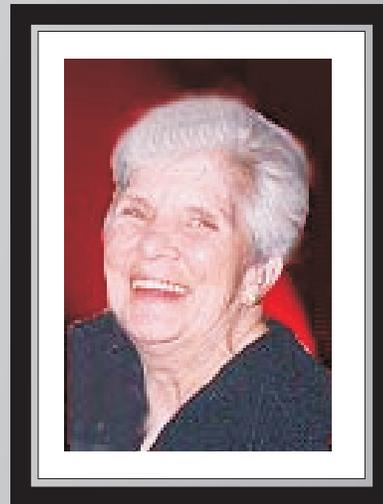
In September of 1996, nursing home resident and activist Carol Rosenwald, with assistance from the Ombudsman Program, began organizing residents across the state to advocate for improvements in the long term care system. Carol envisioned a time when the "VOICES" of nursing home residents could be heard "beyond the walls" of their facilities. She became the founder of the Statewide Coalition of Resident Councils and the driving force behind the first "VOICES" Forum in 1997. As a large group of voting constituents, residents were able to speak directly with political leaders and public officials about important issues affecting their quality of life.

VOICES 2005 marked the ninth anniversary of Carol's vision and of this historic event. Our heartfelt thanks to the many courageous residents who have attended VOICES over the years and worked to inspire systems change. You have our deepest admiration and respect.

~LTCOP Staff

*“You Must Hold Onto Your Ideals  
and Always Have The Courage  
To Speak Your Mind ”*

*Carol Rosenwald*



# The Carol Rosenwald “Spirit of Advocacy” Award

Carol Rosenwald, Founder of the Statewide Coalition of Resident Councils (SCRC), advocated tirelessly for systems and legislative change to improve the quality of life for all nursing home residents. She believed residents should be active participants in discussions about their welfare and “have a say in matters affecting them.”

It has been nine years since Carol's vision provided the impetus for the first VOICES Forum. VOICES has come to represent the fundamental right of all residents to have a voice in the legislative and policy-making process, and to empower themselves through education.



Pictured from left to right - Amy Pelchat, daughter of Carol Rosenwald; State Rep. Peggy Sayers, 2005 Carol Rosenwald Award Recipient; Maggie Ewald, Acting State Ombudsman.

In honor of Carol's legacy, *The Carol Rosenwald “Spirit of Advocacy” Award* was established by The Statewide Coalition of Resident Councils and The Long Term Care Ombudsman Program. Each year, the Award is presented at the VOICES Forum to individuals and organizations that work to improve the quality of care and quality of life for individuals residing in long term care settings.

Past recipients of this distinguished honor include: Senator Edith Prague and State Representative Peter Villano, Co-Chairs of the Connecticut General Assembly's Select Committee on Aging; AARP-Connecticut Chapter; State Representative Jeffrey Berger; Weiner Associates, State Representative Dennis Cleary; Senator Mary Ann Handley; Barbara Yard, Health Systems Supervisor, CT. Dept. of Public Health; Commissioner Patricia Wilson-Coker of the Department of Social Services; Mrs. Helen Kaddy and Mrs. Delia Potter, founding members of the SCRC; William “Bill” Hanley, SCRC Executive Board Member; and Judge Jerry Wagner, Hartford Superior Court.

# VOICES '05

## Photos



*Courtesy of the LTCOP*

# NINTH ANNUAL VOICES FORUM

On Tuesday, September 27, 2005, the Office of the State Long Term Care Ombudsman sponsored the Ninth Annual Voices Forum. The event was co-convened by the Commissioner Patricia Wilson-Coker of the State of Connecticut Department of Social Services, and the Statewide Coalition of Resident Councils. More than 200 individuals attended the VOICES Forum this year, representing 75 long-term care facilities. Several members of the aging network were on hand to engage in face to face discussions with residents about their concerns and ideas for improvements in the long term care system. Council Presidents were pleased to have the opportunity to speak with representatives from the CT. General Assembly, Commission on Aging, Area Agencies on Aging, AARP, Department of Social Services, Bureau of Rehabilitation Services, CT. Association of Health Care Facilities, CT. Association of Not-for-Profit Providers for the Aging, CT. Association of Independent Living Centers and the CT. Department of Public Health.

On arrival, residents had time for informal, facilitated table discussions while waiting for all guests to arrive. Presidents were able to discuss the challenges most commonly faced by Resident Councils and identify the issues they would like to see addressed through legislative and policy changes (see chart, page 8).

Maggie Ewald, Acting State Ombudsman, delivered opening remarks. In keeping with the theme of Residents' Rights Week 2005, *Together We Can - Achieve Resident Directed Care*, her message centered on the fundamental principles of resident self-advocacy and empowerment. She underscored the importance of strong Resident Council leadership and the need for each Council to operate with as much autonomy as possible.

## VOICES FORUM Continued

The morning workshop, *“How to Run an Effective Resident Council: The Leader’s Perspective”* incorporated an exciting new format for 2005. This year, a panel of Resident Council Presidents conducted the workshop with facilitation by Barbara Yard from the Department of Public Health. The residents spoke about their experiences as Council Presidents from a “peer perspective” and gave examples of creative strategies they have developed to address issues in their own facilities. They also engaged the audience in a lively question and answer period and offered encouragement and support to their fellow residents. The new “resident directed workshop” was a tremendous success with many Resident Council leaders participating enthusiastically in the discussions and requesting that the panel become a permanent feature of the VOICES Forum.

An open microphone session followed wherein residents voiced significant concerns related to: inadequate staffing levels; poor staff attitudes; lack of supervision and training; fear of retaliation; non-medical transportation; overall quality of care; and access to needed medical services such as dental care and podiatry. Residents were also concerned about the instability in many homes due to the frequent turnover of top management personnel as well as CNA staff.

Of particular note, the specific concern of “Fear of Retaliation” was voiced repeatedly as a specific barrier to complaint resolution for residents. While this issue has always been a “known factor” in residents’ rights discussions, this year’s VOICES Forum marks the first time that it has been brought out as a widespread, prominent issue.

In October, this same systemic concern was reflected at the 30<sup>th</sup> Annual Meeting of the National Citizens Coalition for Nursing Home Reform (NCCNHR) held in Virginia. The representative for Resident Councils of Washington State identified the need for “Fear of Retaliation” to be addressed in a formal resolution, the first of its kind related to Resident Councils, according to NCCNHR’s Director Alice Hedt. On behalf of Connecticut’s Statewide Coalition of Resident Councils, CT’s Acting State Ombudsman seconded the motion.

## VOICES FORUM Continued

Following an enjoyable luncheon, Maggie Ewald presented the 2005 *Carol Rosenwald "Spirit of Advocacy" Award to State Representative Peggy Sayers*. Representative Sayers was recognized for her commitment to quality of care and quality of life issues for long term care residents. She has demonstrated a true concern for residents' well-being and provided a strong voice in support of proposals to address residents' needs.

The afternoon workshop served to educate residents about the Nursing Facility Transition Grant Program (NFTG). The program, known as "My Community Choices" is designed to inform residents of their right to seek information about their options, including the right to community based alternatives to nursing home care. The Connecticut Association of Centers for Independent Living (CACIL), the coordinating agency for the Nursing Facilities Transition Grant (NFTG), organized and presented the workshop. The program's Director, Paul Ford, served as facilitator for an expert panel comprised of Transition Coordinators, disability experts, and a former nursing home resident who successfully transitioned to the community. Residents and staff were given an overview of the evaluation process and encouraged to consider resource available to them.

As in past years, a highlight of the afternoon's activities was an open-microphone session wherein residents were invited to voice concerns and questions on any topic. If desired, residents also had the opportunity to ask a panel comprised of Regional Ombudsmen and a Nurse Consultant from the Department of Public Health to respond to their questions and concerns.

# Residents Talk About Their Concerns...

Table facilitators began discussions on issues as soon as nursing home residents arrived. Residents were asked “what are the issues most frequently brought up at Resident Council meetings?” Facilitators documented the responses of residents and the results are shown in the table below.

The column on the left reflects the issue or topic as voiced by residents while the column on the right indicates the number of tables from which the issue or topic was reported. There were 28 tables with an average of four residents seated per table. **It is important to keep in mind that although more than one resident may have raised the same issue, it is counted only once per table.**

Issue/Concern Raised	Number of Tables Reporting Concerns
Accessibility (elevator panels)	1
Access to DME	1
Bed tax (discriminatory)	1
Food - cold	9
Food - lack of variety/quality	4
Inadequate state funding of care	2
Laundry - missing/damaged	1
Medicaid - needed services not covered	4
Personal Property - Stolen/ lost (excludes laundry)	2
PNA - Need Increase	5
Quality of Life - can't go outdoors or into community	6
Quality of life - residents with wandering/behaviors	3
Recreation - Choice/availability on weekends	3
Recreation - lack of staff	3
Resident Council - no response from Admin	2
Resident Council - lack of participation/effectiveness	8
Resident Rights - Inappropriate room changes	1
Resident's Rights - Staff unaware	1
Resident's Rights - Fear of retaliation	2
Staff - verbally abusive	2
Staff - disrespectful	5
Staff - does not know residents or RCPs	5
Staff - Need background checks	6
Staff - no/slow response to call bells	12
Staff - noisy at night/turn on lights	2
Staff - physical therapy short staffed	2
Staff - poor quality/pool staff	3
Staff - Shortage	16
Staff - speak other languages/talk on cell phones in res. rooms	3
Staff - unavailable/noone to walk with	5
Supplies - high cost/noncovered items	1
Transportation - unavailable/too costly	7
Visitation (for residents w/no family)	1
Water/hydration - unavailable/inaccessible	4

# Residents' Legislative and Policy Recommendations

The primary legislative concerns raised by residents at the VOICES Forum included:

- Improved Staffing - increased staffing levels to ensure resident care plans are fully implemented and residents' individual needs are met
- Quality of Life - consistency of dignified and respectful care, access to transportation, increased community involvement, availability of weekend activities
- Increased Training - ongoing, professional training to caregivers to support provision of high quality care
- Criminal Background Checks - to protect resident's safety and right to keep and use personal belongings

These issues have been raised by Presidents of Resident Councils at every VOICES Forum for the past nine years. The LTCOP, on behalf of the Statewide Coalition of Resident Councils, will present these priorities to legislators and policy makers at the beginning of the 2006 legislative session, and throughout the year. The LTCOP will strongly urge legislators to consider these issues and concerns for legislative action.

The Office of the State Long Term Care Ombudsman will also submit this final report to Patricia Wilson-Coker, Commissioner of the Department of Social Services to keep her informed on these important issues and concerns of Connecticut citizens residing in nursing homes and other long term care settings.

Residents are strongly encouraged to continue advocating with local lawmakers and state legislators through their individual Resident Council activities. Elected officials need to hear about the issues directly from residents as much as possible! The Ombudsman Program has provided training and materials at past Voices Forums and Statewide Coalition meetings to support residents in drafting petitions, writing letters, and contacting elected officials to invite them to Resident Council meetings. For additional copies of these materials, or to request technical assistance from Ombudsman Program staff, please contact your Regional Ombudsman's office.

## *Legislator Contact Information*

House Democrats  
800- 842-8267  
House Republicans  
800-842-1423

Senate Republicans  
800-842-1421  
Senate Democrats  
800-842-1420

## *Acknowledgements*

The Connecticut Long Term Care Ombudsman Program acknowledges the following individuals who served as workshop facilitators and panelists:

### **Workshop I Running An Effective Resident Council:**

Facilitator

Barbara Yard, Health Program Supervisor, Department of Public Health

Panelists:

Jack Cretella, President, Hewitt Memorial - Shelton

Tom Molway, President, Wethersfield Nursing Center - Wethersfield

Mary Frost, West Side Multi Care Health Center - Manchester

Anita Amendola, President, Hancock Hall - Danbury

### **Workshop II The Road To Independence:**

Facilitator

Paul Ford, Project Director,

Nursing Facilities Transition Grant

Ct. Association of Centers for Independent Living

CACIL

Panelists:

Claudia Keeley, Program Director, Independence Unlimited - Hartford

Thomas Welton, NFTG alum - Southbury

Patti Clay, Benefits Specialist, BRS Connect to Work Center - Hartford

Open Microphone Response Panel:

Maureen Klett, Health Program Supervisor, CT Department of Public Health  
Michael Michalski, Regional Ombudsman, CT LTCOP  
Theresa Velendzas, Regional Ombudsman, CT LTCOP  
Cristina MacGillis, Regional Ombudsman, CT LTCOP  
Brenda Foreman, Regional Ombudsman, CT LTCOP

Our thanks to the staff of Dept. of Social Services  
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Your efforts are sincerely appreciated.

Ned Grayeb  
Dicie Balash  
Debbie Blondin  
Hiram Negrón

A special thanks to our Volunteer Resident Advocates  
who served as table facilitators and support  
Resident Councils throughout the year



**LONG TERM CARE OMBUDSMAN PROGRAM  
ADVOCATING FOR THE RIGHTS OF LONG TERM CARE RESIDENTS**

**To contact your Regional Ombudsman's office  
call our statewide toll free number  
1-866-388-1888  
or  
contact the LTCOP central office  
860-424-5200**

**via e-mail:  
[ltpop@po.state.ct.us](mailto:ltpop@po.state.ct.us)**

**You may also wish to visit us at:  
[www.ltpop.state.ct.us](http://www.ltpop.state.ct.us)**

# Resources & Materials

VOICES '05

# *“Working toward the self-empowerment of Connecticut's long-term care residents”*

## **The Statewide Coalition of Resident Councils & The CT Long Term Care Ombudsman**

### Combined Mission Statement

To pursue a partnership supporting resident self-advocacy by uniting, enlightening, and strengthening resident councils as a vehicle for self advocacy; co-sponsoring Coalition meetings for the purpose of identifying major trends and issues of concern to residents; bringing residents’ voices and agendas to the legislative process; and establishing a process for creating systemic change.

Resident Council Offices are instrumental in resolving problems and effecting change within individual facilities. Councils are a vital part of this process and serve as leaders in their nursing home communities.

The Statewide Coalition of Resident Councils (SCRC) represents the collective voice of Resident Councils from every corner of the state. The Coalition, in partnership with the Ombudsman Program, works to enhance the quality of life for all nursing home residents by developing best practices and advocating for legislative and policy change.

Regional meetings of the SCRC are attended by representatives of Resident Councils. Regional meetings are held during the year to discuss trends and share issues of concern. Whenever possible, meetings are held during the legislative session to enable Resident Council representatives to be advised on all proposed and raised bills and contact legislators or relevant committees as needed. Furthermore, Coalition members testify before the legislature, make appointments to visit with legislators, and when appropriate, send letters to the editor of major newspapers. Through their involvement at Coalition meetings, Resident Council members represent the interests of all nursing home residents.

The Coalition also meets several months before the VOICES Forum to discuss the issues of greatest concern to residents and plan the forum's educational workshops. A review of any changes or developments during the last legislative session is also presented. Best practices used by nursing home Resident Councils to address and/or resolve various situations are highlighted and encouraged. The meetings culminate in a planned agenda for the VOICES Forum based on the input from Coalition members and nursing home residents at large.

## A MODEL RESIDENT COUNCIL IS...

- *Run by residents*
- *Given support, with minimal interference, from staff at the facility*
- *Where issues are brought forward and followed up at the next meeting*
- *Where different committees address and follow-up on issues raised*
- *Where concerns and problems are promptly addressed by the appropriate departments*
- *Where all residents feel comfortable in raising issues and speaking freely*
- *Where residents can have access to information as needed and requested by the Council*
- *Where residents are treated in a dignified manner and their issues are taken seriously*

## *Ways to run an effective Resident Council*

*Start by evaluating the following...*

**1.) Do the residents know the function of the Resident Council?**

If not, you may want to hold an informational meeting regarding the council, its function and how to get involved.

**2.) Do the residents know who is on the Resident Council and who to talk to if they have a problem?**

Introductions of Resident Council members can be done at the informational meeting mentioned above. Additionally, you may want to set up a bulletin board in the facility dedicated to the Resident Council. you can post the executive committee with their pictures and room numbers, dates and times of meetings, as well as highlights of situation(s) the Resident Council was successful in resolving.

**3.) Are there other opportunities for residents to get involved?**

Does the Resident Council have committees residents can sit on instead of being an officer? Consider starting subcommittees of the Resident Council that will address problems of that nature when they arise, i.e. Food Committee, Safety Committee, Welcoming Committee, etc. If residents are not able to get to meetings, is there a designated person that can voice their concerns from their floor or wing? Create positions on the Resident Council for floor/wing representatives.

**4.) Are the meeting times convenient and posted?**

Talk to residents and find out if they are aware of the meetings, their time, location and date. Some Councils hold morning meetings, while others prefer afternoon meetings. Some Councils hold two meetings per month to accommodate for those residents who are not able to make the other meeting time.

**5.) Are the meetings organized?**

Residents may not want to be involved in a “gripe session” or the personal agenda of one member. Create an agenda and stick to it. This will allow positive work to be accomplished in an effective, efficient manner.

**6.) Are residents with hearing or visual impairments accommodated?**

Seat those with hearing and visual deficits closest to the officers to facilitate participation of those members and to avoid frustration and lack of participation and interest.

## **Ways to overcome fear of retaliation.**

Being dependent on nursing facility staff for much of their direct care causes many nursing home residents to fear retaliation from staff if they complain about their care or about other aspects of the nursing home in which they reside. Recognizing the vulnerability of nursing home residents, the U.S. Congress passed The Nursing Home Reform Act in 1987, containing nursing home residents' rights which addresses this concern and protects residents. The law states "A resident shall be permitted to present grievances on behalf of himself or others to the administrator, the Long Term Care Facility Advisory Board, the residents' advisory council, State governmental agencies or other persons without threat of discharge or reprisal in any form or manner whatsoever." (4153-122 Grievances) Furthermore, the law goes on to state that staff may not "transfer a resident" if the resident makes a report. (4153-608 Retaliation)

In addition, residents need to feel comfortable discussing their issues and complaints at Resident Council meetings. Therefore, strict confidentiality must be maintained in regard to complainants. It is critical for accountability reasons that the minutes of Resident Council meetings contain all complaints registered during meetings. However unless otherwise noted, complainants should be anonymous. Some Resident Councils hold a strictly "members only" session at the beginning of the meeting without the presence of nursing home staff. During this session, members bring up those expressed concerns in an anonymous way.

## **Ways to get a better response to grievances once people speak up**

It should not be a secret what goes on at the Council meetings. Minutes should be taken at each meeting to document the activities and complaints of the Council. Some Resident Councils may ask the Activity Director to take minutes, however if the Resident Council does not want staff attending, but needs someone to take the minutes, a tape recorder may be requested. The minutes can be typed from the recording immediately following the meeting. The Council should maintain all meeting minutes in a manner that allows them to be easily available to residents who wish to review actions/discussions of previous meetings.

Minutes should be provided to all departments with the permission of the Council within a designated amount of time. If there is an urgent matter, it needs to be addressed immediately. Complaints that are documented in the Resident Council meeting and are registered with administration or staff should be responded to, in writing, within a reasonable amount of time.

If complaints are not responded to, the Resident Council can register complaints with the Department of Public Health or other outside agencies, like the Long Term Care Ombudsman Program, to get assistance. Staff will realize that it is to their advantage to respond personally and promptly to the Council. It is important that Presidents of Resident Councils share the Council minutes with surveyors from the Department of Public Health during their annual survey process. Once again, the minutes should never state who is making a suggestion or complaint unless the resident gives permission to have their name recorded. For example, if a resident voices concern about slow response to call bells, but is reluctant to be identified, information regarding the shift and/or location can be documented without using the resident's name. This is an essential step in helping residents feel comfortable enough to participate while still safeguarding their privacy and confidentiality.

The minutes should state all issues by department category . The minutes should show a date by which the department head(s) needs to return a resolution. There should be some type of proof attached to the response or resolution. The plan needs to be signed by the department head and dated. For example, a resident complains that the food tray arrives in the room cold. The Dietary Director might meet with the resident to conduct an investigation that tracks the time trays are delivered to the floor, temperatures and the time and temperature of the tray once it is delivered to the room. The Dietary Director submits the findings and what measures were taken to ensure that the tray is delivered hot. Once the department heads follow up on all suggestions and concerns, this information needs to be submitted in writing to the Resident Council before the next meeting.

➤ **Remember ...** an active Resident Council can be very valuable to the facility's management team. By documenting resident's concerns the Resident Council helps the Administrator stay informed about the quality of service being delivered by each department. Proactive Administrators review Resident Council minutes, investigate concerns, resolve issues and respond to the council accordingly. It behooves any Administrator to find out about concerns and rectify them rather than having to respond to a poor survey! In this way, the relationship is mutually beneficial.

➤ **Be consistent ...** it takes time to build a strong Council, however it can be done! Your Regional Ombudsman can answer any questions you may have and assist in strengthening your Resident Council. Call to request a copy of "Resident Councils Best Practices," a compilation of successful and innovative ideas from Councils across Connecticut.

**Other helpful materials are also available on request:**

- ✓ A summary of Resident's Rights suitable for posting or distributing
- ✓ Detailed descriptions of Residents Rights excerpted from the federal *Guidance to Surveyors for Long Term Care Facilities*
- ✓ Synopsis of federal laws pertaining to residents' rights to grievance resolution.
- ✓ Examples of suggested Resident Council committees & tips
- ✓ Tips for protecting residents' rights to vote
- ✓ Medicare's Nursing Home Checklist

## On the cover page...

*Art by Alice F. Palozie*

*Ms. Palozie resided for many years at the Wintonbury Health Care Center, Bloomfield, CT. For the past ten years, Ms. Palozie's rendition of the Connecticut's State Capitol has graced publications of The Long Term Care Ombudsman Program. Ms. Palozie was honored with a commemorative plaque at the 2002 Voices Forum for her artistic contributions which greatly enhanced the quality of life for all residents.*

*Voices Forum Panelists*

*Residents, Ombudsmen and Department of Health representatives participated in the first ever Resident Council Panel at the VOICES Forum. From left to right: Barbara Yard, Theresa Velendzas, Anita Amendola, Mary Frost, Brenda Foreman, Tom Molway, Jack Cretella, Maureen Klett*

*The Long Term Care Ombudsman Program's services are available to all applicants and recipients without regard to race, color, creed, sex, sexual orientation, age, disabilities, learning disabilities, national origin, ancestry or language barriers.*

*The Connecticut Department of Social Services has a line for persons who are deaf or hearing impaired and have a TDD/TTY: 1-800-842-4524. Auxiliary aids are also available for blind or visually impaired persons.*

*The Office of the State Long Term Care Ombudsman is an equal opportunity, affirmative action employer. Published by the Connecticut Department of Social Services Publication No. 97-3, April 1997 (updated march 2005). Patricia A. Wilson-Coker, JD, MSW, Commissioner.*

**Important Phone Numbers and Resources**

-- Provided by --

**CT Association of Centers for Independent Living (CACIL) and CT Nursing Facility Transition Grant (NFTG)**

N2

**Office of the State Ombudsman for Long-term Care**

Statewide – Toll Free (866) 388-1888 <http://www.itcop.state.ct.us/> [itcop@po.state.ct.us](mailto:itcop@po.state.ct.us)  
Bridgeport (203) 551-5530  
New Haven (203) 974-3030  
Norwich (860) 823-3366  
Hartford 1 (860) 723-1390  
Hartford 2 (860) 723-1124  
Waterbury (860) 597-4181

**Infoline** – Statewide information on health and human resources

Statewide – Toll Free Dial 211 <http://www.infoline.org/> [infoline@ctunitedway.org](mailto:infoline@ctunitedway.org)

**Legal Services**

Statewide Legal Services – Hartford & Middletown Toll Free: (800) 453-3320 or (860) 344-0380  
Connecticut Legal Services  
Middletown (860) 344-0447  
Bridgeport (203) 336-3851  
New Britain (860) 447-3023  
Stamford (860) 348-9216  
Waterbury (203) 756-8074  
Willimantic (860) 456-1761  
New Haven Legal Assistance Association (203) 946-4811  
Legal Assistance Resource Center of CT – Hartford (860) 278-5688  
CT Legal Rights Project – Statewide Toll Free (877) 402-2299 or (860) 262-5030  
Bridgeport (203) 551-7638  
Hartford (860) 297-0808  
New Haven (203) 974-7715  
Newington (860) 666-7626  
Norwich (860) 859-4703  
Stamford (203) 388-1566

**Advocacy Unlimited** - Education in self, systems, and legislative advocacy skills for persons in recovery from psychiatric disabilities.  
Statewide Toll Free (800) 573-6929 or (860) 667-0460

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→ **Relay CT** (<http://www.relayconnecticut.com/index.htm>) - provides telephone accessibility to people who are deaf, hard-of-hearing, or speech-disabled. -- Anywhere in CT - **Dial: 711**

## Important Phone Numbers and Resources

-- Provided by --

### **CT Association of Centers for Independent Living (CACIL) and CT Nursing Facility Transition Grant (NFTG)**

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#### Area Agencies on Aging

Southwestern Connecticut Agency on Aging	(203) 333-9288	(Bridgeport)	<a href="http://www.swcaa.org">http://www.swcaa.org</a>
Agency on Aging of South Central Connecticut	(203) 785-8533	(New Haven)	<a href="http://www.agencyonaging-scc.org">http://www.agencyonaging-scc.org</a>
Senior Resources – Agency on Aging	(860) 887-3561	(Norwich)	<a href="http://www.seniorresourcesec.org">http://www.seniorresourcesec.org</a>
North Central Area Agency on Aging	(860) 724-6443	(Hartford)	<a href="http://www.geocities.com/ncaaaus">http://www.geocities.com/ncaaaus</a>
Western Connecticut Area Agency on Aging	(203) 757-5449	(Waterbury)	<a href="http://www.wcaaa.org">http://www.wcaaa.org</a>

**Centers for Independent Living** – Information & Referral, Advocacy, Independent Living Skills Training, Peer Counseling and the Nursing Facility Transition Grant  
Statewide Toll Free (800) 261-3769

*(Routes calls to the Center below serving the area from which the call originates.)*

Center for Disability Rights	(203) 934-7077	(West Haven)
Disabilities Network of Eastern Connecticut	(860) 823-1898	(Norwich)
Disability Resource Center of Fairfield County	(203) 378-6977	(Stratford)
Independence Northwest	(203) 729-3299	(Naugatuck)
Independence Unlimited	(860) 523-5021	(Hartford)

CT Association of Centers for Independent Living (860) 656-0430  
Membership Association of CT Centers for Independent Living

#### **Disability Specific Organizations in Connecticut**

Greater Connecticut Chapter -- National Multiple Sclerosis Society	(860) 953-0601
Western CT Chapter – National Multiple Sclerosis Society	(203) 838-1033
National Spinal Cord Injury Association – Connecticut Chapter	(203) 284-1045
Brain Injury Association of Connecticut – Statewide – Toll Free	(800) 278-8242

#### **State of Connecticut – Department of Social Services – Bureau of Aging, Community and Social Work Services**

CT Home Care for Elders Program	(800) 842-1508	<a href="http://www.dss.state.ct.us/svcs/CHCPE/">http://www.dss.state.ct.us/svcs/CHCPE/</a>
Programs and Services for Persons with Disabilities *	(800) 842-1508	<a href="http://www.dss.state.ct.us/svcs/adults.htm">http://www.dss.state.ct.us/svcs/adults.htm</a>
Bureau of Rehabilitation Services – Connect to Work Center	(800) 537-2549	<a href="http://www.brs.state.ct.us/">http://www.brs.state.ct.us/</a>

\* Personal Care Assistance Waiver, Acquired Brain Injury Waiver and other programs

**State of CT – Department of Mental Health and Addiction Services**  
<http://www.dmhas.state.ct.us/>

**State of CT – Board of Education and Services to the Blind**  
<http://www.besb.state.ct.us/>

**State of CT – Commission on the Deaf and Hearing Impaired**  
<http://www.state.ct.us/cdhi/>

**State of CT – Department of Mental Retardation**  
<http://www.dmr.state.ct.us/index.html>

→ **Relay CT** (<http://www.relayconnecticut.com/index.htm>) - provides telephone accessibility to people who are deaf, hard-of-hearing, or speech-disabled. -- Anywhere in CT - Dial: 711



## ATTENTION: Resident Council Presidents and Leaders

We would like to provide you with the opportunity to *SHARE YOUR SUCCESS* with other councils around the state.

During the year, please use this worksheet to let us know about the creative ways your Resident Council resolves residents' concerns and works to make changes in your facility.

Other Presidents of Resident Council and their council members will benefit greatly from your experience and expertise. Information that is most helpful includes a brief description of:

1. the problem or issue addressed by the council
2. what steps the Council took to address the issue
3. the final outcome or progress toward resolution

Please remember, the focus should be on the work of your Resident Council as opposed to recreational activities. As always, thank you for your leadership and commitment to your Resident Council and to the spirit of self-advocacy.

**Resident Council/Facility:** \_\_\_\_\_

**President/Contact Name:** \_\_\_\_\_  
(optional)

### Best Practice/Success Story:

**Please send to:**

**Office of the State Long Term Care Ombudsman  
State of CT ~ Department of Social Services  
25 Sigourney Street ~ 12th floor  
Hartford, CT 06106  
(Call 1-866-388-1888 with any questions)**



# The Connecticut

Workgroup  
on  
Challenging  
Behaviors



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### **Mission Statement**

*The Connecticut Workgroup on Challenging Behaviors is committed to promoting a healthcare culture that is person-centered and responsive to the behavioral health needs of individuals in long-term care settings. We achieve this by facilitating the development of Best Practices, advocating for legislative and policy change, and coordinating educational opportunities for providers.*

### **Member Organizations**

*Office of the State Long Term Care Ombudsman; Alzheimer's Association; Alzheimer's Resource Center of CT; Apple Health Care; Athena Health Care; Centers for Medicare & Medicaid Services, Region I; CT. Association of Health Care Facilities; CT. Association of Not-for-Profit Providers for the Aging; CT. Department of Mental Health and Addiction Services; CT. Department of Public Health; CT. Department of Social Services: Alternate Care Unit & Social Work and Preventive Services; CT. Legal Rights Project; Greater Hartford Legal Assistance; Haven Health Care; Institute of Living; MedOptions, Inc; UCHC Center on Aging; UCONN School of Social Work.*

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### *Workgroup Overview*

In January 2004, the Office of the State Long Term Care Ombudsman organized the *Connecticut Workgroup on Challenging Behaviors*, a multi-disciplinary group of experts and major stakeholders in the fields of psychiatric and dementia care.

The Workgroup is comprised of three committees, each with distinct goals and objectives. The *Care and Case Discussion Committee* reviews case scenarios, interventions, and outcomes, identifies successful strategies, makes recommendations and drafts model guidelines. The *Training Committee* develops provider education tools designed to support healthcare professionals and caregivers, focusing on areas of need identified by the Care and Case Discussion Committee. The *Policy, Regulation and Legislation Committee* examines current policies, regulations, and resources to enhance care delivery and develop proposals for future policy and legislative guidelines.

For more information about *The Connecticut Workgroup on Challenging Behaviors* please visit our website at [www.cwcb.org](http://www.cwcb.org) or contact The Office of the State Long Term Care Ombudsman at 860-424-5239.

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***The Connecticut Workgroup on Challenging Behaviors  
Activities and Accomplishments  
January 2004 - Present***

- ✓ Hosted 1<sup>st</sup> educational conference “*Caring for Residents with Challenging Behaviors*” - September 2004.
- ✓ Convened regular meetings of the full workgroup and committees to discuss activities and plan the second educational conference “*Challenging Behaviors: What Managers Need to Know*” slated for August 2005.
- ✓ Established a new Membership Committee.
- ✓ Established a comprehensive website for workgroup information.
- ✓ Developed “*Suggested Guidelines and Checklist for Responding to Potentially Dangerous Resident Behaviors*”
- ✓ Conducted a “Needs Assessment” to determine provider’s need for training and education.
- ✓ Produced a comprehensive Position Paper, “*Addressing Resident and Staff Needs in Coping with the Phenomenon of Residents with Challenging Behaviors in Connecticut Nursing Homes*”, including preliminary legislative and policy recommendations.
- ✓ Educated legislators, agency personnel, and long term care professionals about the Workgroup’s mission, resources, and activities.
- ✓ Currently designing a survey of Behavioral Units in Connecticut nursing homes.

*State of Connecticut*

*Office of the*

*State Long Term Care Ombudsman*

FFY 2005 Annual Report