



South Dakota  
Long-Term Care  
Ombudsman Program

Federal Fiscal Year 2018

Annual Report

October 1, 2017—September 30, 2018

# Message from the State Long Term Care Ombudsman

I am pleased to present the annual report of the Office of the State Long-Term Care Ombudsman (LTCO) for federal fiscal year 2018 in accordance with federal regulations and the Older American's Act.

Ombudsmen are mandated to advocate for and protect the rights of individuals residing in long-term care facilities. The care settings covered by the South Dakota LTCO program are: board and care homes (assisted living centers, adult 60+ transitional care units, adult 60+ care centers), nursing homes (skilled and non-skilled), registered residential centers, and long-term geriatric psychiatric care centers.

A certified, dedicated and passionate staff of seven promote a person-centered approach to advocacy. Ombudsmen work to improve the quality of care and life of individuals residing in long term care. Ombudsmen work for resolutions that preserve dignity, health, rights, safety, and welfare of this valued population of South Dakotans.

It is our belief that person-centered care leads to better outcomes for residents as well as contributes to higher staff satisfaction and retention. In an effort to remain working within the person-centered goals of the program and in accordance with federal requirements the LTCO, staff obtain verbal consent from a resident or resident representative, when possible, prior to starting any action on the concern.

Ensuring that residents have regular and timely access to the LTCO program is a requirement of the State Long-Term Care Ombudsman Programs; Final Rule 45 Code of Federal Regulations part 1324. To meet this requirement 2,476 visits were made to the 318 long term care communities which includes 12,442 licensed/registered beds. Adverse weather and nursing home closures were constant topics within the program this year.

Additionally please note the important months/dates below:

April is Older Americans Month

June is Elder Abuse Awareness Month, Alzheimer's and Brain Awareness Month

June 15th is Elder Abuse Awareness Day, June 20th is The Longest Day Alzheimer's

September is Dementia Awareness Month

October is Resident Rights Awareness Month

Donna Fischer,  
South Dakota State Long Term Care Ombudsman



**SOUTH DAKOTA  
STATE LONG-TERM CARE  
OMBUDSMAN PROGRAM**

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**Your Life. Your Rights. Your Voice.**

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## What do individuals have to say about the LTCOP?

**“Without your advocacy we would not have been able to get our patient back to her home. I wish to formally thank you for all the great work you [both] did to make this happen.”**

**“I credit [both] of you for your assistance & advocacy in making this positive outcome occur.”**

**“Thank you for your visit with dad. I can read my dad very well and I could tell he was comforted with your presence.”**

**One resident had a do not resuscitate (DNR) order, they moved to a new facility. After a few days, they changed their DNR status because now they “want to live”.**

**“Thank you. Your position as an Ombudsman has helped my family.”**

***“Many thanks from the Medicaid Fraud Control Unit to Department of Social Services, Department of Human Services, and Department of Health folks who have worked very hard to assist these individuals. We appreciate your efforts, and obviously, the residents appreciate your help as well.”***

**“Thank you for listening to our side of the story”**

# Advocating for the rights of residents

## The Long-Term Care Ombudsman Program

is a person-centered advocacy program. The Ombudsman advocates, mediates, investigates, and educates residents as well as others and has a responsibility to act in situations involving vulnerable individuals.

The Ombudsman advocates by providing information, by assisting in problem solving, and by promoting individual and group self-advocacy skills.



## The Purpose of the Long-Term Care Ombudsman Program

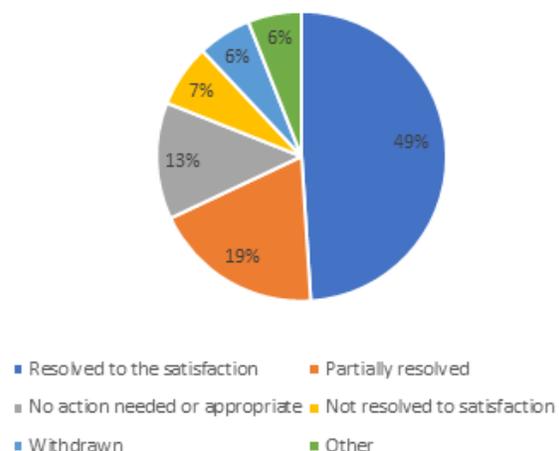
is to protect and improve the quality of care and quality of life for residents of long term care facilities through advocacy for, and on behalf of, residents. The Older Americans Act directs the Ombudsman Program to receive, investigate and resolve, to the best of their abilities, complaints made by, or on behalf of, individuals who are residents of long term care facilities.

The primary focus of the Ombudsman Program is the resident; therefore, the Ombudsman advocates on behalf of and at the direction of the resident. Complaints may relate to the actions, inactions, or decisions of providers or their representatives, public or private agencies, guardians or others which may adversely affect the health, safety, welfare, or rights of residents.

Complaints are verified through interviews, observation, and possibly record review. When a complaint is verified, that means the circumstances described in the complaint existed or were primarily accurate.



Disposition of Cases



# When should you call the Ombudsman??

If a Resident of a  
Nursing Home or  
Assisted Living  
Community is being  
discharged from a facility  
against their wishes

To ask for help  
addressing facility  
wide issues and/or  
state wide issue



To report a problem or  
concern

To get information on  
Long Term Support or  
Services

South Dakota Department of Human Services  
Office of the State Long Term Care Ombudsman

3800 E. Hwy 34 Hillsview Plaza

C/O 500 E Capitol

Pierre, SD 57501

Telephone: 1-605-773-3656 Toll-Free: 1-866-854-5465

Fax: 1-605-773-4085

## CASE SCENERIOS

(Names have been changed to protect confidentiality)

The Office of the Long Term Care Ombudsman received a referral for a resident residing in a South Dakota nursing home. For purposes of this report we will call him Howard. Howard talked to the local ombudsman about receiving notification from the State Medical Review Team that he could benefit from a less restrictive environment. At the time Howard received the notification, his care and support needs were classified as nursing home level of care, and this letter suggested that he could benefit from assisted living. Howard was upset by the letter and stated to ombudsman that he “requires nursing home level of care” as he believes that he needs assistance with activities of daily living (ADL’s).

In addition to his physical health needs Howard has several mental health diagnoses. Howard gave the local ombudsman permission to visit with social services at the facility. A fair hearing was requested to dispute the level of care determination. On the date of the fair hearing, Howard informed the local ombudsman and facility social services that he was ill and unable to attend the hearing. Howard agreed to have the local ombudsman and facility social services speak on his behalf. The judge recognized Howard was having difficulties that affected Howard's daily living; the judge requested that Howard’s mental health and medical needs be reviewed inclusively.

After reviewing additional documentation regarding his physical and mental health needs. Howard’s level of care was determined to be nursing home appropriate and he remained in his home. The fair hearing was not rescheduled due to this determination.



CASE SCENERIOS CONTINUED  
(Names have been changed to protect confidentiality)

The local ombudsman was asked to attend a care conference with family for a family member residing in a long term care community in South Dakota. For the purposes of this report we will call the resident Dorothy. Staff reported that Dorothy, who suffers from dementia, has been striking out at staff and other residents as well as needing two staff for cares. The facility stated that they were unable to manage her aggressive behaviors. Pharmaceutical interventions have been ordered by a psychiatrist, however, family has refused to allow the facility to use them. The local ombudsman suggested that facility create lists of what is and is not working with non-pharmaceutical interventions prior to the care conference.

A 30-day notice was issued, by the facility, at the care conference. During the course of the conference, the administrator suggested that Dorothy be moved to facility that specializes in dementia with a smaller environment. Family agreed that Dorothy would benefit from smaller and quieter environment. The local ombudsman suggested non-pharmaceutical interventions be discussed; the facility had a long list of interventions written down, however family argued that staff did not try the interventions enough, maybe only once or twice and not using different approaches.

The local ombudsman reminded the group the family had the right to appeal notice. The administrator stated that the facility could not guarantee that Dorothy would not be sent to emergency room for a mental health evaluation if family decided to appeal the 30-day notice of discharge. The local ombudsman reminded the facility that it is their responsibility to find an appropriate placement for Dorothy. It was also discussed that hospital placement may cause Dorothy more distress and would not necessarily solve or improve the behavior issues.

After the conference, the local ombudsman visited with the family. The local ombudsman further discussed the appeal process; family decided that they did not want to pursue appeal. They stated that they would also be looking for placement for Dorothy, but had concerns regarding the time restraints. Local ombudsman discussed concerns about the potential of the facility sending Dorothy to the hospital and suggested that family be available to come to the facility and stay with Dorothy if she becomes aggressive and upset in the nursing home. "Thanks in part to your concern, [local ombudsman], my brother was with my parents" which helped the resident to remain in the nursing home and not be sent to the emergency department and/or psychiatric unit until a suitable transfer could be arranged.

Update from family after the move: Dorothy is eating actual food, she loves the juice and food; she had been living on Ensure for the past year. Dorothy is singing up and down the halls, singing all the time. She is bathing twice a week and getting her teeth brushed regularly, they clean under her fingernails, trim her toenails and chin hairs, and curl her hair. She has energy and is making friends. She participates in activities instead of sleeping all the time, and loves the music provided through the day. "The anger and frustration are gone!" Dorothy is getting out of bed without help and walking to the bathroom without assistance after being non-ambulatory, in an alarmed wheelchair for the past 4 1/2 years. As a result Dorothy's husband is able to relax knowing Dorothy is receiving good care.

"Any facility can provide good support and training for Alzheimer's patients if they want to. Mom is a perfect example of the difference good care can make. Until you've seen the differences, you naturally assume all services are the same. Not the case!" "Thank you for listening to our side of the story."

# Quick Facts FFY 2018

6,594 beds in  
108 nursing  
facilities

5,848 beds in  
210 Board &  
Care Homes

Investigated 510  
complaints

Conducted  
2,222 routine  
visits

Verified 381  
complaints

Conducted 22  
in-service  
training sessions

Participated in  
58 facility  
surveys

Provided 294  
consultations  
to individuals

Opened 372  
cases

Attended 122  
resident council  
meetings

Provided 709  
consultations to  
facility staff

Conducted 254  
complaint related  
visits

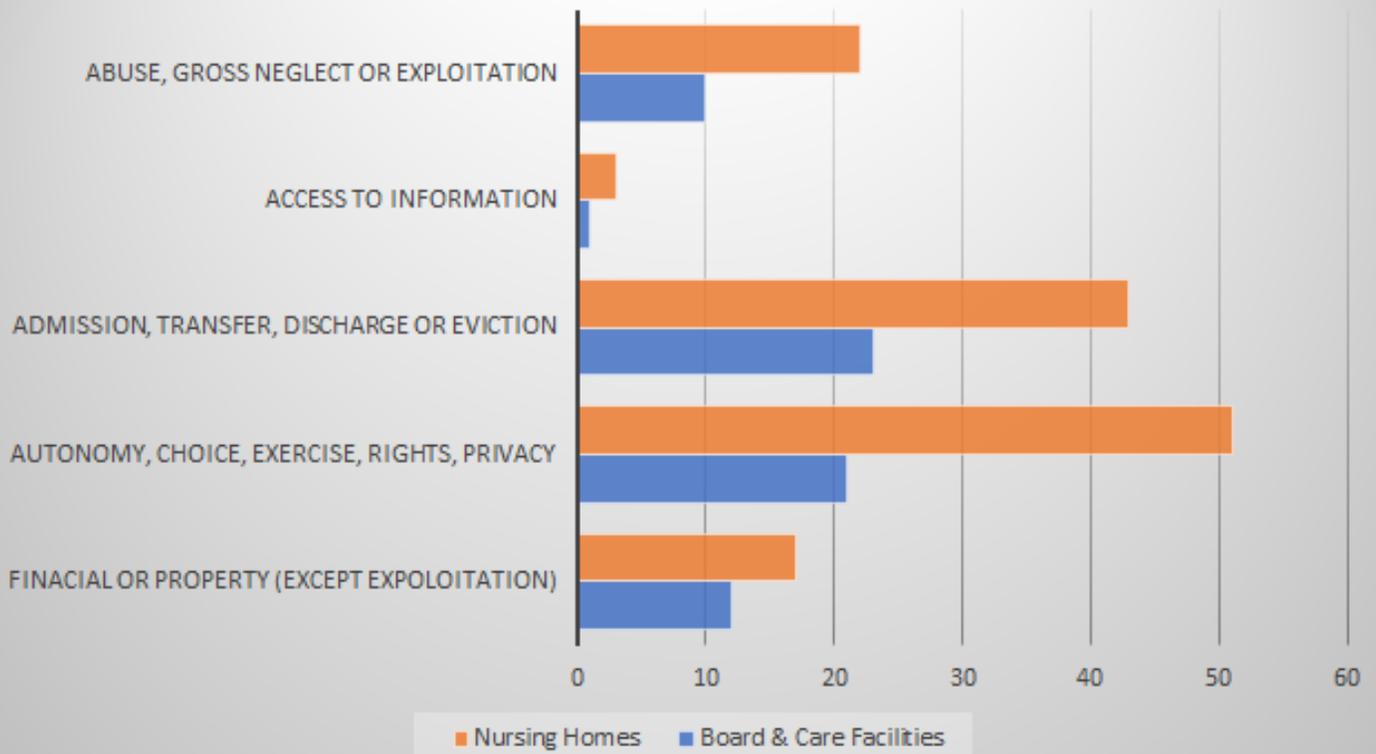
Closed 355 total  
cases

6 Local and 1 State  
Long Term Care  
Ombudsman

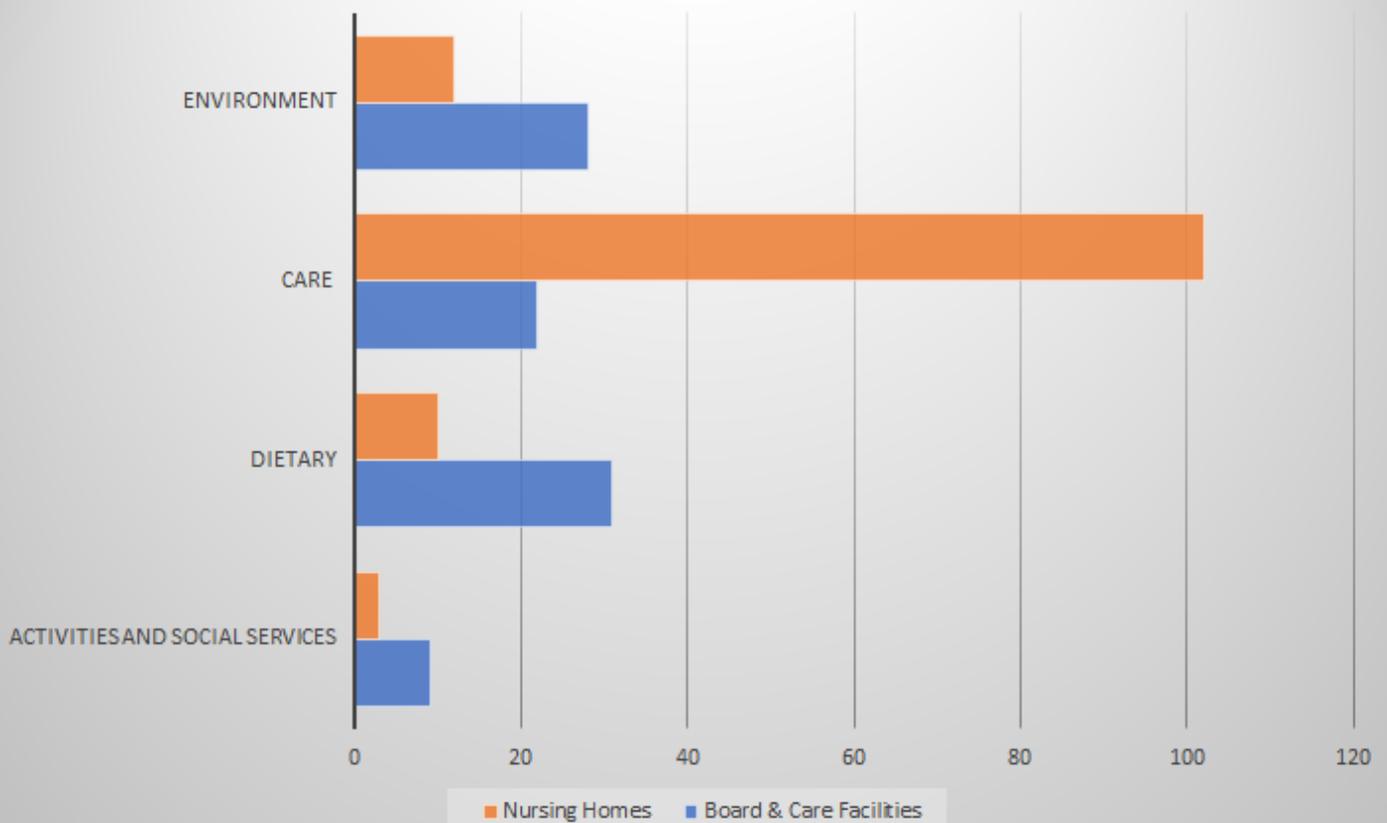


# Ombudsman Statistics FFY 2018

## Resident Rights Complaints



## Resident Care Complaints



The Long Term Care Ombudsman Program (LTCOP) has identified there is a difference between the needs of residents and availability of nursing/care staff in long-term care communities. Long term care communities in South Dakota often cite that the standard they are held to is “staffing adequate to meet the needs of the residents” which is in federal regulation; however, this ambiguous interpretation of “the needs of the residents” creates a discrepancy in staffing levels that we believe affects quality long-term care operations. An enhanced definition of “staffing adequate to meet the care needs” would aid facilities in providing adequate staffing, perhaps even assist the facility budgeting and forecasting decisions. Some factors that have been identified as barriers to resolution of the staff shortage are low number of applicants, low wage for workers, and in-adequate training. The need for traveling staff is prevalent in a large number of facilities; this contributes to budget shortfalls and inconsistent care for residents.

The State Long Term Care Ombudsman is working in collaboration with the Department of Health Office of Licensure and Certification, South Dakota Association of Healthcare Organizations, Great Plains Quality Innovation Network, and South Dakota Health Care Association to develop a long term care health care workforce initiative program in an effort to resolve the staffing concerns in South Dakota.

Possible additional solutions to resolve these barriers include, but are not limited to, fostering a societal attitude that values individuals who choose care-giving as a field of employment. High schools could offer a work readiness/career exploration class where interested students could job shadow a CNA or work in a nursing facility for a few hours a week to gain a better understanding of what the career includes. Higher education opportunities and funding should be available for these high demand occupations, through both employer support and state labor agencies. Staff with higher education levels would also increase starting wages for these positions.

Behavioral health is a continued concern for older South Dakotans residing in long-term care communities.



Some communities are ill equipped to manage disruptive behaviors that are directly related to a mental health or dementia diagnosis. This skill set requires further development of educational tools. The lack of educational opportunities is currently not being addressed adequately by a systematic approach in long term communities or their parent organizations. Projected closures of nursing homes that provide care for residents with mental health and/or behavioral issues will have an impact. With staffing shortage and subsequent shortage of trained specialized staff, placing residents with extensive behavior needs with the vulnerable elderly adult is and will continue to be difficult for facilities, residents, families, and staff.

The LTCO will work to become Dementia Care Certified in an effort to provide a more cohesive approach to problem solving and to effectively provide consultation assistance to staff. The implementation of Person Centered Care specifically addresses short comings in the broader sense of resident rights; however, further development of educational tools addressing where behavioral health, dementia care, mental health, and long-term care intersect is needed. Sufficient adequately trained staff plays a large role in solving these concerns. The ombudsman program continues to attend Person Centered Thinking training to better assist and education residents, families and staff.