



Florida OMBUDSMAN OUTLOOK

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THE OFFICIAL NEWSLETTER OF FLORIDA'S LONG-TERM CARE OMBUDSMAN PROGRAM

A Note from the State Ombudsman

By Michael Phillips, State Ombudsman

I want to take this opportunity to thank our amazing staff and volunteers who never lost sight of our goal and mission to advocate for the health, safety, welfare, and rights of residents in long-term care facilities in Florida. Even in the bleak days of COVID-19 when our contact with residents was being limited, you reached out to them with phone calls, emails, window visits, and tablets that provided virtual meetings. You've handled thousands of complaints and even more consultations with residents, family members, and facilities – all in an effort to fulfill your passion for protecting and making life better for these residents and families. You are truly AMAZING, and I can't thank you all enough!

We are not totally out of the woods, but we've come a long way since March of 2020. Death and infection rates from COVID-19 have plummeted primarily because of the highly effective vaccines that are currently being used. True, the vaccines are considered "experimental" because they have not completed the full trial studies demanded before placing a drug on the market. But consider this: This is probably the largest trial study ever conducted in the history of this country, with hundreds of millions of participants. And the results are astoundingly positive in the vaccine's ability to prevent infection, or if infected, limit its severity, reduce the need for hospitalization and prevent death as a result.

Seventy-three percent (73%) of our nursing home residents and 93% of our assisted living residents have received the vaccination. With such promising protection available to our long-term care residents, I am both alarmed and discouraged that over 60% of the long-term care staff in Florida have chosen not to get vaccinated, thus putting themselves and our unvaccinated residents at risk. *(continued on page 4)*

New Laws Affecting LTC Residents

By Lynn Hearn, Legal Advocate



In its annual 60-day session ending in May of 2021, the Florida Legislature passed several new laws that may affect the long-term care residents we serve. We have highlighted below the provisions of these laws that may be relevant to your work as ombudsmen.

"**Personal Care Attendants**," or PCAs, are a new category of caregivers for nursing home residents that are now authorized under Florida law (HB 485). These positions were allowed on an emergency basis to help with staffing shortages during the COVID-19 pandemic, but were made permanent in law effective July 1, 2021. The purpose of the PCA program is to offer on-the-job-training to prepare individuals for the Certified Nursing Assistant (CNA) exam, without attending a formal CNA training course. PCAs are allowed to work directly with residents after 16 hours of training, and their hours count toward the weekly minimum hours of direct resident care. PCAs may not perform any task requiring "clinical assessment, interpretation or judgment." *(continued on page 4)*

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ADVOCATING FOR QUALITY LONG-TERM CARE

2020 OMBUDSMEN OF THE YEAR

NORTHWEST COUNCIL



Deborah Pitts

PANHANDLE COUNCIL



Marshall Kapp

NORTH CENTRAL COUNCIL



Barbara Mascari

WITHLACOCHEE COUNCIL



Charlene "Char" Soos

FIRST COAST COUNCIL



Linda Howard

MID & SOUTH PINELLAS COUNCIL



Ellen Lamparter

PASCO & NORTH PINELLAS COUNCIL



Kevin Cronin

WEST CENTRAL COUNCIL



John Miller

EAST CENTRAL COUNCIL



Tim O'Keefe

2020 OMBUDSMEN OF THE YEAR

SOUTHWEST COUNCIL



M. Pat Shehorn

PALM BEACH COUNCIL



Anita Yanuck

BROWARD COUNCIL



Ann Garfinkel

NORTH DADE COUNCIL



Edythe Cobb

SOUTH DADE & FLORIDA KEYS COUNCIL



Alma Dean

FIRST COAST SOUTH COUNCIL



Barbara Royere

TREASURE COAST COUNCIL



Linda Grand

SOUTH CENTRAL COUNCIL



Marcia Doscher

BREVARD COUNCIL



JoAnn Williams

CENTRAL OFFICE UPDATES

A Note from the State Ombudsman

By Michael Phillips, State Ombudsman

(continued from page 1)

This will continue to be a discussion that pits individual freedom of choice with moral responsibilities to others.

There is a trend, both small but promising, that long-term care staff are moving toward a willingness to receive vaccinations when encouraged by others to review the data available on the vaccine and to consult with their personal physician. I hope to see that trend continue.

In other news, in Congress this week Representative Claudia Tenney (R- N.Y.) introduced H.R. 3733, a bipartisan bill that would codify the right of residents of long-term care

settings to have designated “essential caregivers” who would be granted special protections during declared emergencies or pandemics. Shortly, we will be posting the text of this bill and asking for your efforts to drum up support. Here is [a link to a panel discussion announcing the bill](#).

I’ve heard from so many of you of the joy you received from going back into the facilities and reuniting with the residents. You have also shared with me some of the heartbreaking effects that isolation has had on your residents. This is vital information that we need in order to assess how we as a state and nation handled this pandemic and how we can do better next time.

Again, thank you for all that you do for our vulnerable residents. I sincerely appreciate each and every one of you.

New Laws Affecting LTC Residents

By Lynn Hearn, Legal Advocate

(continued from page 1)

PCAs may only work for four months — and only in a one facility — before taking and passing the CNA exam.

Please help us monitor the effectiveness of this program by sharing with your District Ombudsman Manager your personal observations of the use of PCAs in facilities.

Facility Immunity from Lawsuits – The legislature granted all health care providers, broadly defined to include nursing homes, ALFs, adult family-care homes, and continuing care facilities, broad immunity from lawsuits related to the COVID-19 pandemic (SB 72). Any lawsuit based upon the diagnosis, treatment, or transmission of COVID-19, or lack of timely treatment for other conditions due to COVID-related government-issued health standards or guidance, must prove the facility’s act or omission constituted “gross negligence” or “intentional misconduct.” A facility can defeat a COVID-related claim by proving that it substantially complied with any government-issued health standard, or that it was not possible to do so due to insufficient time to implement the standard or shortages of equipment or personnel. These protections apply to claims that accrued before the law went into effect, and to claims accruing within a year after the law’s effective date, or March 29, 2022.

Alternative Dispute Resolution Process for Elder Disputes – The legislature authorized judges to appoint “eldercaring coordinators” in high-conflict cases involving

the “care and safety” of elders, such as determinations regarding capacity, appointment or removal of guardians, or other matters involving an elder’s physical or emotional well-being (HB 441). This process has been piloted in eight Florida judicial districts since 2015, with reported reductions in hearings, family conflict, and cases needing determinations of capacity and guardianship appointments. An eldercaring coordinator must hold specific credentials and undergo specific training. After the judge refers a case to an eldercaring coordinator, the eldercaring coordinator engages the elder and other parties in efforts to resolve disputes using effective communication, negotiation, problem-solving, and education strategies. All communications undertaken as part of the eldercaring coordination activity are confidential. The eldercaring coordinator’s fees are to be paid in equal portion by each party referred to the process, unless the court makes an unequal allocation based on the parties’ respective financial circumstances.

Criminal Exploitation – The legislature strengthened several of the criminal laws designed to protect elders from exploitation (HB 1041). This bill expands the definition of abuse of an elderly person to include “intentionally, and without lawful authority, isolating or restricting access” of an elderly person to family members when such isolation or restriction could reasonably be expected to cause physical or psychological injury. The bill also makes it a crime for an elder’s fiduciary to execute a transaction that results in a kickback, or benefit to a third party. Further, the bill allows a vulnerable adult’s durable power of attorney to petition the court for an injunction against exploitation, whereas previously such a petition could only be filed by the vulnerable adult or a guardian.

SUCCESS STORIES & KUDOS

Irene Dion
West Central Council
Serving since 2017

Dr. Irene Dion of the West Coast Council was recently honored with the Salt & Pepper Award for Community Service & Volunteerism. This award is presented by Tampa's Senior Connection Center, a local non-profit organization that helps seniors navigate the care options available to them. The Salt & Pepper Award for Community Service & Volunteerism "recognizes an individual whose personal dedication and history of donating their time, expertise, service and/or talent has had a positive impact on improving the local community in a unique or significant way."

District Ombudsman Manager Lynn Penley – who proudly nominated Dr. Dion to receive this honor – shared the following remarks about Dr. Dion:

As an Ombudsman, Dr. Dion advocates for residents in nursing homes, ALFs, and adult-family care homes. Her role as an advocate includes investigating and resolving resident complaints and visiting residents to ensure they receive the care they need and deserve. Dr. Dion has resolved various complaints, some of which included: refunds, missing property, care planning, staffing issues, care services, and cleanliness. Dr. Dion also enjoys getting involved in resident council meetings and presenting residents' rights bingo so residents understand their rights. Last year alone, she volunteered 630 hours helping others. Irene is admired by her peers, who recently voted her State Council Representative. Irene is a wonderful advocate for others. Her experience, dedication, and willingness to learn makes her an invaluable LTC Ombudsman. In her role as a volunteer, she has reached out to thousands of vulnerable residents to ensure they receive the dignity and respect they deserve.

Dr. Dion was recognized at the Senior Connection Center's annual Rise & Shine awards ceremony, which was held virtually this year. A recording of the ceremony may be viewed [at this link](#).

Congratulations on this recognition, Dr. Dion! It is certainly well deserved!

Bill Hulsey
West Central Council
Serving since 2019

West Central Council ombudsman Bill Hulsey put his skills to work to ensure a positive outcome for a resident in his area. The resident's daughter – also his PoA – contacted the Program with allegations of neglectful contact and stated that she had tried unsuccessfully to have her father transferred to a different facility. After learning of this situation, Bill wasted no time getting to work. Within one day, he successfully arranged for the resident to be transferred to a new facility. The resident's daughter later reached out to thank Bill for listening to her concerns and helping to arrange her father's transfer. Great job, Bill!

Annette Bellingar
West Central Council
Serving since 2013

West Central Council ombudsman Annette Bellingar received a heartfelt thank-you note from the mother of an ALF resident with whom Annette worked. The resident received only a small percentage of his COVID-19 relief stimulus payments. Because the resident could not obtain the payments via direct deposit, the checks were received and processed by the ALF, resulting in a partial sum being delivered to the resident rather than the full payments.

When Annette learned of the situation, she quickly stepped in and successfully facilitated the delivery of the missing funds. In her note, the resident's mother thanked Annette for visiting her son and advocating on his behalf, adding that "if [Annette] hadn't helped, he would not have [received] his money." Excellent work, Annette!

COUNCIL ACTIVITY | NORTH REGION



First Coast South Ombudsman Manager Lisa Dale (right) poses for a picture with Leonard Dills (left), who received the Bronze President's Volunteer Service Award.



The Northwest Council's 2019 Ombudsman of the Year, Rita Poff (left), receiving her award from State Ombudsman Michael Phillips (right).



First Coast South Ombudsman Manager Lisa Dale (right) poses for a picture with Dennis Johnson (left), who received the Bronze President's Volunteer Service Award.



The Withacoochee Council ombudsmen pose for a group picture at their volunteer appreciation meeting in May.



State Ombudsman Michael Phillips (left) and North Region Ombudsman Manager Lori Berndt (right) pose for a picture with the First Coast Council's 2020 Ombudsman of the Year, Linda Howard (center).



The First Coast ombudsmen pose for a group picture with State Ombudsman Michael Phillips (center) and North Region Ombudsman Manager Lori Berndt (right).

COUNCIL ACTIVITY | EAST REGION



North Dade Ombudsman Manager Jessica Gloria represented the Ombudsman Program at a job fair hosted at Miami Dade College.



Congresswoman Maria Elvira Salazar (FL-27) (right) stopped by the LTCOP table at the Miami Dade College's job fair to learn more about the program from North Dade Ombudsman Manager Jessica Gloria (left).



North Dade ombudsman Ana Lazzari and staff member Gustavo Franco pose for a photo on their way to conduct a facility assessment.



North Dade Ombudsman Manager Jessica Gloria (right) gave an interview on a Miami-area radio station to discuss the Ombudsman Program's important work.

COUNCIL ACTIVITY | WEST REGION



State Ombudsman Michael Phillips (center) poses for a picture with the West Central Council's 2019 and 2020 ombudsmen of the year, Irene Dion (left), and John Miller (right), respectively.



Left to right: West Central Ombudsmen Dorann Lucas, Donald Courtney, and John Miller celebrate their 1-year, 12-year, and 1-year anniversaries with the Program, respectively.



The West Central Council welcomes its two newest ombudsmen, Michael Denner (left) and Carrie Lister (right), who were certified in June 2021. Welcome to the team, Michael and Carrie!



The Mid & South Pinellas Council's 2020 Ombudsman of the year, Ellen Lamparter (center), poses for a picture with her husband, Phillip Everett (left), and District Ombudsman Manager Charles Bellows (right).



South Central Ombudsmen Lee Earls (left) and Samantha Kotz (right) set up for their council's monthly meeting in April.



Members of the Mid & South Pinellas Council, joined by District Ombudsman Manager Charles Bellows (left) and Regional Ombudsman Manager Annette McComas (third from left) pose for a photo with their service anniversary awards.

SUMMARY OF TOP COMPLAINTS

Under State law, the Long-Term Care Ombudsman Program is responsible for publishing its complaint data each quarter. The following data reflects verified complaints from cases closed between April 1 and June 30, 2021. The data also shows the number of these complaints resolved.

Complaint Data Terms:

Verified – It is determined after work (interviews, record inspection, observation, etc.) that the circumstances described in the complaint are generally accurate.

Not Verified – It is determined after work (interviews, record inspection, observation, etc.) that the circumstances described are not generally accurate. Verification is determined by the ombudsman

Resolved – The complaint was addressed to the satisfaction of the resident. Resolved is one of several disposition codes used by the Program. Resolution is determined by the resident.

To learn more about the Long-Term Care Ombudsman Program's complaint or facility assessment data, call toll-free 1 (888) 831-0404, and ask to be transferred to a representative in your area. All services are free and confidential.



QUARTER 2 | APRIL 1 – JUNE 30, 2021

Top 5 complaints accepted in Nursing Homes

	# Complaints	# Verified	# Not Verified	# Resolved/ Partially Resolved
Medications	27	12	15	18
Personal property	26	13	13	17
Personal hygiene	22	10	12	13
Visitors	21	12	9	14
Access to health related services	19	10	9	12
Rehabilitation services	19	9	10	13

Statewide Statistics	
Number of Beds	202,133
Number of Certified Ombudsmen	189
Number of Volunteers in Training	33
Facility Assessments	437
Facility Visitations	64
Complaint Investigations*	1,040

Top 5 complaints accepted in ALF and AFCH

	# Complaints	# Verified	# Not Verified	# Resolved/ Partially Resolved
Personal property	16	8	8	10
Dignity and respect	13	5	8	6
Billing and charges	13	7	6	6
Housekeeping, laundry, and pest abatement	12	7	5	7
Food services	12	6	6	6

*All data reflects both initiation and closure dates that may overlap quarterly reporting