



Michael Phillips  
State Ombudsman

**STATE COUNCIL MEETING  
MINUTES  
8/26-27/2021  
Embassy Suites, Altamonte Springs**

STATE COUNCIL MEMBERS			
Sully Sullivan, Northwest	Present <input checked="" type="checkbox"/>	Irene Dion, West Central	Present <input checked="" type="checkbox"/>
Marshall Kapp, Panhandle	Present <input checked="" type="checkbox"/>	Vana Prewitt, Southwest	Present <input checked="" type="checkbox"/>
Sharon Lauter, North Central	Present <input checked="" type="checkbox"/>	Donna Holden, South Central	Present <input checked="" type="checkbox"/>
Marie Brand, State Chair, Withlacoochee	Present <input checked="" type="checkbox"/>	Margaret Riccardi, Palm Beach	Present <input checked="" type="checkbox"/>
Linda Howard, First Coast	Present <input type="checkbox"/>	Valerie Nubi-Collins, Treasure Coast	Present <input type="checkbox"/>
Diane Mongelli, First Coast South	Present <input checked="" type="checkbox"/>	Shazad Kashar, Broward	Present <input checked="" type="checkbox"/>
Tim O'Keefe, East Central	Present <input checked="" type="checkbox"/>	Louis L.I. Grossman, North Dade	Present <input checked="" type="checkbox"/>
Donna Nagel, Brevard	Present <input checked="" type="checkbox"/>	Cristina Clark, S Dade & Fl Keys	Present <input checked="" type="checkbox"/>
Carol Weideman, Mid & South Pinellas	Present <input checked="" type="checkbox"/>	Choice Edwards, At-Large Member	Present <input checked="" type="checkbox"/>
Jane Horowitz, Pasco & North Pinellas	Present <input type="checkbox"/>	Mary Darling, At-Large Member	Present <input checked="" type="checkbox"/>

OMBUDSMAN PROGRAM REPRESENTATIVES	
Mike Phillips, State Ombudsman Lynn Hearn, Legal Advocate York Shuler, Data Analyst Betsy McAllister, State Training Administrator Joe Considine, Operations Analyst II	Lori Berndt, North Region Ombudsman Manager Annette McComas, West Region Ombudsman Manager Jo Ann Quiles, East Region Ombudsman Manager Alice Terry, Budget Analyst

**AUGUST 26, 2021**

**OPEN SESSION**

- Called to order at 1:02 PM                      Quorum Established:     Yes     No
- Open Session Statement                      Minutes Approved:     Yes     No **(6/2/2021)**

**Council Chair - Marie Brand**

- o Each council member and LTCOP program representative introduced him/herself
- o Motion to approve minutes for June 2, 2021 made, seconded, and approved unanimously.

**Questions from the Districts**

1. **Will spot checks be returning?** Mike Phillips – Likely not. Because they involved multiple agencies, facilities would often find out about the inspection in advance. Another limiting factor is the pandemic; AHCA is busy with other matters so a spot check would be difficult at the current time. However, he recommends that district managers attempt to maintain close relationships with APS so you can coordinate when necessary.



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2. **Are Ombudsman mandatory reporters?** Mike Phillips – Under federal law, no; under state law, yes. Federal law trumps state law. Our goal is always to assist the resident; if we want to report to APS we should seek consent.
3. **Under the bylaws of the district council, can we vote on things remotely?** Current procedures require ombudsmen to sign the ballot, which can't be done by people participating in meeting remotely. Lynn Hearn will check the policies and procedures and get back to the council. She believes there is a way to permit a remote vote.
4. **Can we get more information from AHCA regarding them being in the facilities?** Mike Phillips: District managers should be informed by AHCA when they are doing a survey. LTCOP and AHCA have drafted an MOU (Memorandum of Understanding), under which AHCA will inform the district when they are investigating a Transfer/Discharge.
5. **How is staffing and volunteer recruitment going?** Mike Phillips – We have submitted a request to add 3 recruiters, one for each region. Due to advertising our volunteer numbers are up. We also plan to increase our Internet presence. The best method remains word of mouth. As of 8/2/21, LTCOP had 194 certified Ombudsman with 34 in training.
6. **Is there any more guidance being sent out to the field about re-entry into facilities?** Mike Phillips – Most facilities do have active COVID-19 cases and only 40-60% of staff are vaccinated. Guidelines from CMS say a positivity rate over 10% and a resident vaccination rate of less than 70% means the facility can limit visitation. Ombudsmen are not visitors! It is the ombudsman's choice whether or not to conduct in-person visits; please coordinate with DOM and ROM. Note that AHCA's ESS system is not working anymore so we don't have the same information we used to.
7. **How to handle facility's request that we specify which residents we are visiting?** Sign in for every resident, or specify a staff member. Do not disclose actual resident visited unless you have consent.
8. **Discussion regarding entry into facilities that are closed to visitors.** Mike Phillips: An ombudsman must follow the facility's requirements regarding PPE. Visitors must also be allowed in "compassionate care situations." This is not only end-of-life situations; also includes residents who are struggling with change in environment and experiencing emotional distress.
9. **Discussion regarding general ombudsman access to facility.** Lynn Hearn – discussed situation with facility in Miami where administrator wanted to personally introduce ombudsman to each resident. Started out contentious, but after further discussion it was clear the administrator had good intention of familiarizing residents with the ombudsman program because it had not been visible in facility for some time. The resolution was for the ombudsman to attend the facility's town hall meeting and address the residents in a group setting. Having made this introduction, the administrator will allow the ombudsman full access to residents going forward. Mike Phillips



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stated he will be providing training to administrators at AHCA's joint training events in October; he will address access issues.

10. **Are we allowed to ask about/check on the generators that facilities are supposed to have?**

Mike Phillips – No. We are not regulatory. Generators are an AHCA issue. However, if a resident raises a specific concern regarding a facility, you can investigate that in the context of a case investigation.

11. **Can the tablets we purchased be reconfigured to assist the Ombudsman in some way?**

It would be great if we could put in assessments/case information while we are there rather than having to do it later. Mike Phillips – We can look into this. They were not designed for this, and we would have to make sure we have protected the confidentiality of the information.

12. **Is there a way that lunch or snacks can be provided during the monthly meetings?**

Per council member, volunteers would rather have food than the small gifts; or would like input into the gifts. Mike Phillips – We can look into food but we have checked before and the language on food is very specific.

13. **Is there a reason that Ombudsmen sometimes do not receive the proper amount for travel? It seems that we are limited to map mileage even if we may have taken a different route or had to go through a detour.**

Mike Phillips – Remind your DOMs that vicinity mileage is a work-around for situations like those. We should be paying for the mileage that ombudsmen drive.

14. **Resident Council Pins** – There was widespread agreement that the resident council presidents really appreciate the resident council pins.

15. **Questions regarding POA's.** Is there any way to get more training on Power of Attorney documents. Mike Phillips: Remember the POA was given by the resident for their (the resident) wishes to be followed. The resident should ultimately get to make the decision if they are able to. POA represents the resident. We will likely have some training on this topic soon. Also, if the resident has issues with their Power of Attorney you can refer them for legal assistance through the Florida Elder Law Risk Detector, available on the DOEA website.

**Breakout for workgroup meetings** – 2:40 PM

**Reconvened** – 4:10 PM

Pictures of the council were taken.

**Adjournment** – The state council adjourned for the evening at 4:47 PM.



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**AUGUST 27, 2021**

**Meeting called to order:** Chair Brand called the meeting to order at 8:00 AM

## **State Ombudsman Report – Mike Phillips**

- We have stemmed the tide on the loss of volunteers
- We have done a lot of advertising – Internet, radio, television
- It has been a difficult year – we’ve had to think out of the box – some things we tried have worked, some haven’t
- Keep in mind we are here to focus on the residents – if we lose that focus, we lose direction
- Cases are starting to pick up
- We are not going to be able to meet the 100% assessment goal – but will do our best – it is important for residents to see us in the facilities
- One big problem in facilities is that staff are not vaccinated
- Also, staffing shortages - facilities and management need to pay market wages – if they don’t, they aren’t going to be able to get and keep quality staff
- Some facilities are stopping new admissions – that is good – if they don’t have sufficient staff for current residents, shouldn’t take in more
- Thank you for all that you do, the support that you give to the program and to each other

## **Council Member Questions to State Ombudsman**

- Recent announcement by President requiring nursing staff to be vaccinated. Can he do this? Yes – is tied to Medicaid funding. Will be implemented and enforced by CMS/AHCA.
- Are we permitted to ask about a facility’s use of PCAs? Yes, so long as we don’t try to act as regulators. Sharon stated that she asked about PCAs during her assessments. She tells residents about the different badges. Made recommendations to resident council and administrator to educate residents about differences. Major corporate chains create their own training, smaller facilities do their own. CNAs are having to wait 3-4 months to take the test to become certified; this is a problem.

**Old Business** – None

**New Business** - None

## **Advocacy Workgroup Report**

Cristina Clark, Chair, Donna Holden vice-chair

- Ombudsmen continuing visits during COVID-19 outbreaks
- Seeing staffing shortages
- Recommend publishing staff advertising percentages – marketing tool



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- Recommend share best practices of recruiting between facilities
- Suggest State Ombudsman encourage AHCA to reinstate emergency status requirements – e.g. staff vaccination percentages – or publish on website
- PCAs – there should be an identifier for PCA staff – encourage ombudsman to specifically identify in reporting notes whether there are specific concerns with a PCA – forward to central office to help with advocacy
- Will forward legislative ideas to legislative workgroup

## **Training & Education Workgroup Report**

Margaret Riccardi, Chair

- Education Conference in October – Presenters include Kim Smoak, AHCA, FSU College of Medicine, Geriatrics Dept., Elder Law Firm, panel discussion with NH and ALF facilities
- There is a need for POA and Guardianship training
- If ombudsmen don't attend conference, need to fulfill training hours other way
- Starting October 1, 2021, 18 hours of training per year required
- Discussion of concerns in facilities: fear of retaliation, corporate mindset, some staff follow ombudsman around, some just plain rude, staff need more training
- Resident council pins very well received
- New shipment of activity books coming in – theme is resident rights – for NH and ALF
- Memory Care Unit training – can be done at local level
- Planning to start “Ombudsman Corner” again in January

## **Legislative Workgroup Report**

Sharon Lauter, Chair

- Revived committee – up to 6 members
- Personal Needs Allowance for ALFs – working our way through this issue – will not have anything for this session - recommendation for getting involved with FALA re PNA
- Medicaid Assistance for ALFs – Managed Care – covers health care needs for bathing, medication assistance – SMMC-LTC – would like increase training for ombudsmen on this topic – will circulate document and video
- Discussing staffing levels in ALFs
- Next meeting October

## **Recruitment, Retention and Recognition Workgroup Report**

Choice Edwards, Chair

- Discussed recommendations received from District 7
- Consider having different types of ombudsmen: office ombudsman, administrator, visitor, full-service, advocacy, volunteer manager – will distribute this recommendation to state council



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- Want to elevate ombudsman of the year awards (Mike Phillips: notification was sent to local legislators and press releases sent to local newspapers)
- Suggesting putting flyers in senior centers to recruit volunteers– Mike has sample to review and approve for wider distribution
- Bumper stickers
- Ombudsmen request to receive the quarterly newsletter from the central office – they did not know about this
- Mike Phillips: Billboards will be posted in Miami, Ocala and Tampa
- It was suggested that we receive the list of state retirees from DROP

## **Discussion of current/upcoming legislation of interest**

- Lynn Hearn reported the Alzheimers Association will be advancing a bill in the Florida Legislature to increase the training required of all long-term care staff regarding dementia
- Mike Phillips reported H.R. 3733 has been introduced in Congress – Essential Caregivers Act - this would require nursing homes to allow residents to designate two essential care givers who would be allowed to visit residents every day, even during a declared emergency, so long as the caregivers comply with the facility's safety protocols.

**Public Comment** - None

**Adjournment** – A motion to adjourn was made, seconded, and approved at 9:19 AM