

**OKLAHOMA ALLIANCE ON AGING  
EDUCATION COMMITTEE REPORT, NOVEMBER 2004**

**ROLES OF LONG TERM CARE OMBUDSMEN & LONG TERM CARE  
INVESTIGATORS IN LONG TERM CARE SETTINGS**

**BACKGROUND**

The Oklahoma Department of Human Services has a combination of divisions with roles in monitoring staffing and services affecting residents of nursing homes and other long term care settings, including assisted living and residential care.

When the **OLDER AMERICANS ACT** became federal law in 1965, while **Senator Robert Kerr** of Oklahoma was leader of the United States Senate, Governor Henry Bellmon assigned responsibility for implementing the law to the Department of Human Services. Nursing Homes had become a major industry, and monitoring of services to vulnerable older adults became a part of the Aging Services Division of the Department of Human Services. The Long Term Care Ombudsman program was created in 1970 as a demonstration project under the Aging Services Division.

The State Department of Health licenses nursing homes, assisted living facilities, and residential care facilities, administers standards for staffing and services, --and inspects these facilities on a regular basis. The Department has a Long Term Care Facility Advisory Committee, with representation from facility administrators, health department staff, and the general public.

**OKLAHOMA'S LONG TERM CARE OMBUDSMAN PROGRAM**

**Ester Houser, State Supervisor**

The Long Term Care Ombudsman concept was created in 1970, as a federal demonstration project, to help address the problems of scandals in many nursing homes. Standards for receiving federal money to support nursing home services for low-income residents include physical status of facilities, staffing, and advocates for residents.

In Oklahoma, the Ombudsman program was started as a pilot project to meet the national requirement of advocates for rights of residents of long-term care facilities, including Nursing Homes, Residential Care Facilities and Assisted Living Facilities. The program does not duplicate State Health Department inspections of nursing homes and other long term care facilities, and has no enforcements authority, --but focuses on resident rights, quality of life and quality of care. A Long Term Care Ombudsman is a person who receives complaints from residents of long term care facilities, their friends or relatives and attempts to resolve those complaints within the facility. The ombudsman has the authority to explore problems and recommend corrective action.

The program is also supported by local volunteers who are trained by the Area Aging Agency Ombudsman Supervisor in each Area Agency on Aging. The two-day training is in skills such as problem solving and communication; the processes of aging and long-term care facility regulations. A goal of the state program is to have a Volunteer Ombudsman in every nursing home in the state, as a local person who would be able to relate well to residents and family members. The Volunteer Ombudsman spends two hours a week in the facility they serve.

Residential Care facilities and Assisted Living facilities, like nursing homes, are licensed by the State Health Department. Individuals living in Residential Care facilities must be ambulatory. Many of these facilities serve people who are mentally ill and are transported to and from another setting for counseling services. Assisted Living facilities are intended for adults who are more or less able to function alone, but need supportive assistance to a varied extent. Costs in Assisted Living settings may include increased costs for increased levels of care. There is no Medicaid coverage for either Residential Care or Assisted Living in Oklahoma. Many states do have Medicaid coverage for either Residential Care.

The only nursing homes in Oklahoma that are exempt from state licensing are Veterans Centers, which gained an exemption because it was claimed they are subject primarily to federal standards and oversight. When Long Term Care Ombudsman raised the question of the need for visits, the response was that ombudsman might visit, but would have no authority.

Discussion: A question was asked about people who are disabled and residing in nursing homes. It was noted that Oklahoma has for many years had a separate Department of Rehabilitative Services. Disabled people residing in long term care facilities are entitled to the same safeguards as other residents. An Ombudsman can check on an inspection report, and help follow up as needed.

Nursing Homes, Residential Care facilities, and Assisted Living facilities are monitored by Long Term Care Ombudsman staff in each of the eleven Area Agency on Aging districts.

**To contact your Area Agency on Aging Ombudsman Supervisor, call 1-800-211-2116.**

## **LONG TERM CARE INVESTIGATOR ROLES in OKLAHOMA**

### **Barry Harland Administrative Perspective**

Over the years, the Oklahoma Department of Human Services and the State Department of Health perceived problems in long-term care facilities differently. Ombudsman were reporting problems in enforcement of nursing home standards by the State Department of Health. The problems were during years when Dr. Leavitt and Brent VanMeter were in control, and nursing home owners had undue influence on how problems were or were not addressed.

The federal government became aware of the situation and the Board of Health became involved. It was a difficult time... The State Department of Health is now doing a much better job and situations are addressed by administrative and supervisory personnel who care.

**Long Term Care Investigators** were in the Aging Services Division of the Department of Human Services until a decision was made by the Administration to move both **Adult Protective Services (APS)** and **Long Term Care Investigators** to the Sequoya Building. These two programs still function well in relation to the Nursing Home Care Act, with **APS** now in the **Social Services Division of Field Operations**, and covering a broader spectrum of individual rights, local law, etc.

**Long Term Care Investigators** are neither regulatory nor enforcements agents, but protect the rights of nursing home residents. The state is divided into three districts

geographically. Staff is checking care issues, environmental issues, and nursing home issues related to abuse and neglect. All allegations are taped and reviewed.

About 3000 calls a year are received, and about a third are investigated. It has been essential to have clear and convincing information as evidence. About half of the reports are unsubstantiated.

All reports are documented in area format, and sent to the Ombudsman office, the State Department of Health, and the District Attorney. It has been taking 72 hours to 5 days to complete an investigation. People in a nursing home may complain about failure of a nurse aide to listen and act. Result may be that a nurse aide in a nursing home is suspended. By the time the process is completed, the nursing home resident may be gone.

Many calls come in through the statewide hotline, **1(800) 522-3511**. The Long Term Care Investigators Hotline is **405-521-3440**. There are now four investigators. In an emergency, they can go anywhere, anytime.

Problems may involve the Board of Nursing (e.g. an R.N. serving two different facilities), a problem Nursing Home Administrator, sexual abuse, police roles, and guardianship issues. Courts are not used in Long Term Care situations. A temporary guardianship may be ordered if there is no family.

Investigators may only investigate one person in one nursing home. About half of problems are unsubstantiated. Numbers of cases are up, now from 3000 to 3200 per year.

## **DISCUSSION**

Ester Houser believes we need more comprehensive reports from nursing homes. Changes are being made. The Nursing Home Licensing Board needs to restore the Nursing Home Administrator training program it used to provide.

ADULT PROTECTIVE SERVICES is working to assure training and guidance on specific issues.

A “neighborhood” concept should be encouraged in nursing homes.

A “Culture Change” in Nursing Homes is being fostered by the Oklahoma Foundation for Medical Quality, with the aid of the federal funding.

Vivian Smith  
Chairman