Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

Long Term Care Ombudsman Program: Complaint Trends

JUNE GIBBS BROWN
Inspector General

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OFFICE OF INSPECTOR GENERAL

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OEI's New York regional office prepared this report under the direction of John I. Molnar, Regional Inspector General, and Renee Dunn, Deputy Regional Inspector General. Principal OEI staff included:

REGION

Demetra Arapakos, *Project Leader*
Vincent Greiber
Ellen Vinkey

HEADQUARTERS

Susan Burbach, *Program Specialist*

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EXECUTIVE SUMMARY

PURPOSE

To examine trends in Ombudsman program complaints.

BACKGROUND

While many studies indicate that changes in law and regulations may have had a positive effect on improving the environment and overall health care of nursing home patients, recent reports by the Health Care Financing Administration (HCFA) and the General Accounting Office have raised serious concerns about patients' care and well-being The Senate Special Committee on Aging held hearings in the summer of 1998 on these results. Committee staff requested the Office of Inspector General (OIG) to examine the issue of nursing home quality of care. At the same time, we undertook additional studies aimed at assessing the quality of care in nursing homes. This report attempts to determine the extent and nature of quality of care problems by examining trends in ombudsman complaint data. Future OIG reports will address the trend in reported abuse of nursing home residents, the nursing home survey and certification process, and the availability of survey results.

In response to growing concerns about poor quality care in nursing homes and to protect the interests of residents, the State Long Term Care Ombudsman program was established in 1978 in the Older Americans Act. Ombudsmen advocate on behalf of residents of long term care facilities to ensure that they have a strong voice in their own treatment and care. The program operates in all 50 States, the District of Columbia and Puerto Rico, and in hundreds of local communities, using both paid and volunteer staff. Beginning in 1995, the National Ombudsman Reporting System (NORS) has been used to report ombudsman data. Twenty-nine States provided complaint data in 1995, and all States did so for 1996. Prior to 1995, States used a different, pre-NORS, system that was less detailed and lacked common definitions.

We examined complaint data in the 10 States with the largest nursing home population. We also conducted telephone interviews with State and local ombudsmen, and State Unit on Aging Directors.

FINDINGS

Nursing Home Complaints Have Been Steadily Increasing In The 10 Sample States

From 1989 to 1994, total complaints in the 10 sample States increased 44 percent overall,

from 57,954 to 83,669. From 1996 to 1997, total complaints in the 10 States increased seven percent overall, from 60,926 to 65,123. (Due to the transition to a new reporting system in 1995, no comparable data are available for that year). We also calculated a complaint per bed ratio for each of the 10 States in 1996 and 1997. In 1996, the 10 State average was 65 complaints per 1,000 beds. This ratio increased to 69 complaints per 1,000 beds in 1997.

Beginning in 1996, all States reported complaint data using one of five main categories - resident care, resident rights, quality of life, administration, and not against facility. Of these 5 categories, resident care showed the biggest growth between 1996 and 1997, increasing by 13 percent. This category includes complaints about personal care (such as pressure sores and hygiene), lack of rehabilitation (such as mental health services) and the inappropriate use of restraints. Each of the remaining 4 categories increased less than 10 percent.

On a more specific level, the growth in certain complaints is particularly dramatic. Out of 128 specific types, when we looked at those types with at least 100 reported complaints, we found that 12 complaints increased by at least 24 percent from 1996 to 1997. Two of the top 12 complaint types are related to nursing home staffing - staff turnover and lack of staff training. These staffing complaints could indicate problems with the care residents receive. Two examples of care problems which increased are hydration complaints, which grew 26 percent from 1996 to 1997, and complaints about weight loss due to inadequate nutrition, which increased 24 percent.

Complaints About Resident Care And Residents' Rights, Which Include Some Of The More Serious Complaints, Are Most Common In 1997

In 1997, the majority of all complaints (63 percent) fell into 2 of the 5 categories - resident care (32 percent) and residents' rights (31 percent). Resident care complaints include personal care, inappropriate use of restraints, and lack of rehabilitation. Examples of residents' rights complaints include abuse and neglect, problems with admission and eviction, and the exercise of personal rights.

More specifically, the 10 most frequently reported complaints in 1997 comprise one-third of all nursing home complaints for that year. Three of the top ten are related to insufficient nursing home staffing (unanswered call lights, dignity and respect/staff attitudes, and shortage of staff). All of these can result in poor care for residents. Specific examples of poor care, such as poor hygiene, physical abuse, and improper handling and accidents, are also among the top 10 complaints for 1997.

Ombudsmen believe higher complaint rates do not always indicate more problems. Some ombudsmen point out that higher complaint rates could be due to a greater presence of ombudsman staff in nursing homes. However, when we compared each State's staffing ratio and visitation rate to their complaint ratio, we found that States with more staff and more frequent visits do not necessarily have more complaints.

Nevertheless, ombudsmen and State Aging Unit Directors confirm that problems continue to exist in some nursing homes. The problem they report most frequently is insufficient nursing home staff, and all stress that such insufficient staffing directly impacts the care residents receive. As an example of this impact, ombudsmen offer specific examples of how insufficient staffing can lead to other problems, such as failing to properly care for pressure sores and assist residents with eating so that they receive adequate nutrition.

One-third or more of State and local ombudsmen also identify inadequate nutrition, bed sores, dehydration, and poor hygiene as big problems. A number additionally mention that residents are often not treated with dignity and respect. Finally, a few State Aging Unit Directors (three) and ombudsmen (two) say that physical abuse (intentional bodily harm) is also one of the biggest problems faced by residents in their State.

A Few Nursing Homes Are Chronically Substandard, According to Ombudsmen

While ombudsmen generally agree that most nursing homes in their State provides good care, three-fourths say there are some homes that routinely treat residents poorly. Virtually all of the 8 State ombudsmen that offer an opinion report that 10 percent or fewer of the nursing homes in their State routinely provide poor care. Eight local ombudsman also estimate the number of chronically substandard homes in their locality. Two say 30 percent are chronic poor care providers, another 2 say between 10 and 20 percent, and 3 report that less than 10 percent of the homes in their locality routinely provide poor care.

CONCLUSION

Both the volume and nature of complaints reported to ombudsmen suggest that more must be done to improve nursing home care.

In OIG companion reports on nursing home care we offer specific recommendations about improvements that can be made in both the Ombudsman program and in the survey and certification process.

AGENCY COMMENTS

We received comments on the draft report from the Administration on Aging (AoA) and the Health Care Financing Administration (HCFA). Some parts of the report were modified in response to AoA's technical comments.

The full comments are presented in Appendix B.

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INTRODUCTION

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BACKGROUND

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In 1987, Congress passed major nursing home reform legislation with the Omnibus Reconciliation Act of 1987 (OBRA 1987). This legislation required nursing homes with Medicare and Medicaid residents to comply with specific quality of care standards by providing "services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident." Now more than a decade later, concerns still exist about the quality of care provided in nursing homes.

Ombudsman Program

A nursing home is a long term care residential facility for individuals with physical or mental impairments that prevent them from living independently. A nursing home provides its residents with a room, meals, assistance with daily living, and, in most cases, some medical care. According to data provided in State ombudsman reports, in 1996 there were 18,066 nursing homes and 1,845,791 nursing home beds. Medicaid payments to nursing homes totaled $29.6 billion, while Medicare payments totaled $10.6 billion.

In response to growing concerns about poor quality care in nursing homes and to protect the interests of residents, the State Long Term Care Ombudsman program was established in 1978 in the Older Americans Act. The ombudsmen advocate on behalf of residents of long term care facilities to ensure they have a strong voice in their own treatment and care.

The Ombudsman Program operates in all fifty States, the District of Columbia and Puerto Rico, and in hundreds of local communities and uses both paid and volunteer staff. The program receives funding from Federal, State and local levels, and is overseen by the Administration on Aging (AoA). Most State ombudsmen operate within the State Units on Aging (SUA), some of which are independent and others of which are part of a larger State umbrella agency. The remaining State Ombudsman programs are located organizationally outside of the SUA. These programs are operated by non-profit organizations or legal services agencies, or they are freestanding Ombudsman programs.

State Ombudsman programs have multiple functions which are mandated by law, many of which are closely tied to ensuring quality care for long term care residents. They include:

- identifying, investigating, and resolving complaints made on behalf of long term care residents;
- protecting the legal rights of patients;
- advocating for systemic change;
- providing information and consultation to residents and their families, and;
- publicizing issues of importance to residents.

Several national associations have been established to support State Ombudsman programs. One of these, the National Long Term Care Ombudsman Resource Center, was established by law in 1993. This center is funded by AoA and run by the National Citizens' Coalition for Nursing Home Reform (NCCNHR) in cooperation with the National Association of State Units on Aging (NASUA) and serves as a clearinghouse for information on the national Ombudsman program. One of its functions is to identify issues of significance to the Ombudsman program, including identifying ways the ombudsman can improve quality of care in nursing homes; it also trains ombudsmen and provides technical assistance. Additionally, the National Association for Long Term Care Ombudsman Programs (NASOP) was established by State ombudsmen to provide a common voice for all State programs and promote the sharing of ideas and experience among ombudsman staff.

Ombudsman Complaint Data

States have recently started to collect and report standardized data. In FY 1995, States began to systematically collect and report data under the National Ombudsman Reporting System (NORS). Prior to NORS, States reported data to AoA which was of limited use due to the lack of common definitions for key data elements. The NORS was created in response to earlier recommendations made by the General Accounting Office and the Office of Inspector General and was developed by the ombudsmen themselves. It includes more specific data elements than were previously reported. For example, it separates complaints by type and distinguishes between complaints and complainants. In 1995, 29 States reported under NORS, and all States did so annually in 1996.

Also for 1995, the first Long Term Care Ombudsman Program Annual Report was

published. This report utilizes NORS case and complaint data for 29 programs and pre-NORS data for the other 23 programs, and describes both the experiences of long term care residents and the operation of ombudsman programs nationwide. The report also describes the broad range of ombudsman activities, including training and technical assistance programs, visitations, and community outreach.

Prior Studies

Many studies have reported on the progress and impact of the Ombudsman program. One of the most recent, "Real People, Real Problems," published in 1995 by the National Academy of Sciences' Institute of Medicine, reported on State compliance, conflicts of interest, effectiveness, resources, and the need for future expansion of the program. It found that, overall, the Ombudsman program is effective. It also reported lack of access to ombudsman services by residents and their families, disparities in ombudsman visitation patterns and service provisions, and uneven availability of ombudsman legal services.

Additionally, the Inspector General issued several reports on the Ombudsman program in 1991 and 1992. First, "Successful Ombudsman Programs," (OEI-02-90-02120), the main report in a series, found that successful programs are highly visible and obtain adequate funding and support. Furthermore, "State Implementation of the Ombudsman Requirements of the Older Americans Act," (OEI-02-91-01516), found, among other things, that State program staffing and long term care facility visitation rates vary significantly. It also found that ombudsmen use many methods to increase their visibility.

In July 1998, the Secretary of the Department of Health and Human Services released a report to Congress on nursing home care. While the report found that some progress had been made in nursing home care, particularly in the more appropriate use of physical restraints and drugs, it also indicated that further improvements were needed. In conjunction with this report, the President announced a new nursing home initiative to provide enhanced protection to residents and target needed improvements in care.

Also in July, 1998, the General Accounting Office (GAO) released a report on California nursing homes. This report found that care problems still exist, despite Federal and State oversight. Among the problems it describes are poor nutrition, dehydration, and pressure sores.

METHODOLOGY

We used two methods for this inspection. First, we analyzed data from Ombudsman program reporting systems to determine complaint trends. Second, we conducted telephone interviews with State and local ombudsmen, as well as State Units on Aging Directors to obtain their perspective on nursing home quality of care problems.

Sample Selection

We selected a purposive sample of 10 States for this data inspection. These States are New York, California, Texas, Ohio, Illinois, Pennsylvania, Massachusetts, Florida, New Jersey, and Tennessee. They represent 55.8 percent of the total skilled nursing beds and 53 percent of all Ombudsman program complaints nationally for 1996. They also account for nearly half (43 percent) of all State and local ombudsman programs nationwide and half of all program funding.

Ombudsman Data Analysis

We analyzed two sets of data for this inspection. For 1996 and 1997, we analyzed data from the National Ombudsman Reporting System (NORS). For 1989 to 1994, we examined data from the pre-NORS reporting system. Most of our analysis is of NORS data, since it is both more recent and more comprehensive.

In reporting our findings, we discuss several different data elements. For pre-NORS data, we present figures for both total complaints and seven broad complaint categories. For NORS data, we examine three levels of complaints. First, we look at total complaints. Second, we look at the following five complaint categories:

- Residents Rights (abuse, neglect, admission, personal rights, and property);
- Resident Care (care, rehabilitation or maintenance of function, and restraints);
- Quality of Life (activities, social services, dietary, and environment);
- Administration, (policies and procedures, attitudes, and staffing); and
- Complaints Not Against Facility (certification and licensing, State Medicaid Agency, and long term care system).

Third, we looked at 125 specific complaint types. We also report ratios for the number of complaints per 1,000 skilled nursing home beds in each State.

Limitations of Data Analysis

During our analysis, it became evident that NORS and pre-NORS data are not comparable for several reasons. First, pre-NORS and NORS data do not count complaints in the same way. Second, despite having some similar complaint categories, the individual data elements comprising those categories differ between pre-NORS and NORS. Because of these differences between the two data sets, we were not able to combine them in our analysis. We therefore present data from each of the two data sets separately. We will refer to the former as "pre- NORS data" and the latter as "NORS data."

A final factor limiting our analysis is the lack of comparable data in 1995. Due to the transition to the new NORS system in this year, only 29 States reported NORS data. Since only 5 of our 10 sample States reported NORS data for 1995, resulting in incomparable data, we do not report findings for that year.

Telephone Interviews

We conducted a total of 30 structured interviews for this inspection. In each of the 10 States, we spoke with the State ombudsman, one local program ombudsman, and the Director of the State Unit on Aging (except for one State, where we interviewed the Deputy Director). We selected these three groups of respondents to obtain their different perspectives of the program.

In selecting ombudsmen from local programs to interview, we selected individuals from a variety of local programs. Five of the local programs represented are operated by Area Agencies on Aging (AAAs), while the other five are operated by non-profit or legal service agencies. Furthermore, five of the local programs are rural and five are urban.

During our interviews, we asked respondents about the problems faced by nursing home residents in their State. We also discussed chronically substandard nursing homes.

This inspection was conducted in accordance with the **Quality Standards for Inspections** issued by the President's Council on Integrity and Efficiency.

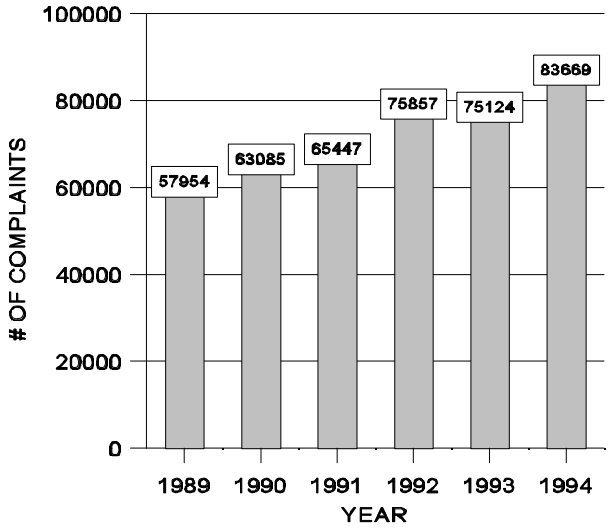
FINDINGS

Nursing home complaints have been steadily increasing in the 10 sample States

From 1989 to 1994, total complaints increased 44 percent

Based on pre-NORS data from 1989 to 1994, complaints in the 10 sample States have been increasing gradually. As shown in Graph A below, total complaints in these States grew from 57,954 to 83,669, an increase of 44 percent. (Due to the transition to a new data system in 1995, we do not have comparable complaint rates for that year).

Graph A
Total Nursing Home Complaints, 1989 to 1994



Some differences among the 10 States in this time period are particularly noteworthy. Overall, complaints in Florida and Ohio decreased, 19 percent and 15 percent, respectively. Complaints in Texas, Tennessee and Massachusetts, on the other hand, increased more than 100 percent during that time period (189, 123, and 108 percent respectively).

Complaints about residents' rights, nutrition and food, and resident care increased at a rate higher than the overall rate during this time period

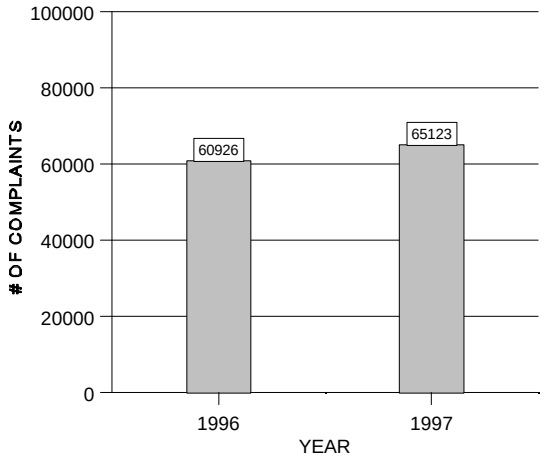
From 1989 to 1994, complaints were categorized into one of nine different categories. Some of these categories increased at an even higher rate than the overall increase. The

largest growth was in administrative complaints, which increased 188 percent. Resident rights complaints in the 10 States increased 125 percent during these years, followed by complaints about food and nutrition (89 percent) and resident care (72 percent).

From 1996 to 1997, total complaints increased seven percent

Data from NORS for 1996 and 1997 also show an increase in total complaints in the 10 sample States. Graph B below shows that complaints increased seven percent during this time period, going from 60,926 up to 65,123. This is similar to the yearly rate from 1989 to 1994.

Graph B
Total Nursing Home Complaints, 1996 to 1997



Total complaints increased the most dramatically during these 2 years in Florida (25 percent) and in Pennsylvania (19 percent.) Another 5 States (California, Illinois, New York, Ohio and Texas) saw increases of 10 percent or less. Complaints decreased slightly in New Jersey, Massachusetts, and Tennessee.

To examine the volume of complaints ombudsmen receive in relation to the number of nursing homes they serve, we calculated a complaint ratio for each of the 10 States (see Appendix A). In 1996, these ratios range from 187 complaints per 1,000 beds in Massachusetts, to 31 complaints per 1,000 beds in Ohio; the 10 State average was 65. In 1997, Massachusetts still topped the list with 180 and Ohio was still lowest with 31. The average ratio for this year increased to 69 complaints per 1,000 beds.

Resident care complaints had the largest overall growth from 1996 to 1997

Beginning in 1996, all States reported complaint data using one of five main categories - resident care, resident rights, quality of life, administration, and not against facility. The category with the largest growth from 1996 to 1997 is resident care, which increased 13

percent. This category includes specific complaints about personal care (such as pressure sores and hygiene), lack of rehabilitation (such as mental health services), and the inappropriate use of restraints. Quality of life, administration and resident rights complaints each increased less than 10 percent from 1996 to 1997.

Twelve specific complaints each increased at least 24 percent between these 2 years, including complaints about hydration, inadequate nutrition, and nursing home staff

On a more specific level, the growth in certain complaints is particularly dramatic. Out of 128 specific types, when we looked at those with at least 100 reported complaints, we found that 12 had increases of 24 percent or more from 1996 to 1997. These 12 complaints are shown in Table 1 below. Two of the top 12 complaints are related to nursing home staffing - staff turnover and lack of staff training. These staffing complaints could indicate problems with the care residents receive.

Table 1
Top 12 Increases in Complaints From 1996 to 1997

Complaint Type	Number, 1996	Number, 1997	% Increase, 1996 - 1997
1. Info. re advance directive*	178	458	157%
2. Denial of eligibility	188	292	55%
3. Staff turn-over, overuse of nursing pools	107	159	49%
4. Psychoactive drugs-assessment, use, evaluation	122	176	44%
5. Other: activities & social svcs**	194	262	35%
6. Vision and hearing	174	226	30%
7. Administrator(s) unresponsive, unavailable	242	308	27%
8. Symptoms unattended, no notice to others of change in condition	1,193	1,507	26%
9. Staff training, lack of screening	374	471	26%
10. Fluid availability /hydration	459	576	26%
11. Furnishing/storage	338	421	25%
12. Weight loss due to inadequate nutrition	216	267	24%

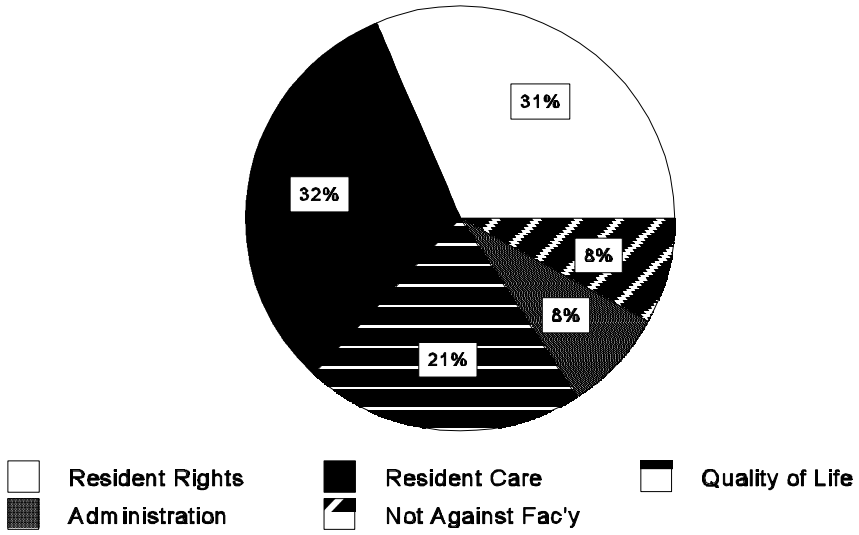
* Failure to notify resident in advance of changes in nursing home policy or procedure.
Miscellaneous complaints about resident activities and social services. **Source: NORS data

Complaints about resident care and residents' rights, which include some of the more serious complaints, are most common in 1997

Resident care and residents' rights complaints comprise more than half of all complaints in 1997

In 1997, ombudsmen in the 10 sample States received just over 65,000 nursing home complaints. All of these complaints were classified into one of five categories. The majority of these complaints (63 percent) fell into 2 of the 5 categories - resident care (32 percent) and residents' rights (31 percent), as shown in Chart A below. Resident care complaints include personal care, restraints, and rehabilitation. Residents' rights complaints include abuse and neglect, admission and eviction, and personal rights.

Chart A
Breakdown of Complaint Categories, 1997



States vary in how their complaints are concentrated. While residents rights' complaints comprise 31 percent of the total in the 10 States overall, in three States (NJ, CA and OH) they represent 40 percent or more. Furthermore, in two States (MA and TX) quality of life complaints make up one-third of all their complaints, which is higher than the 10 State average of 21 percent.

In 1997, the 10 most common types of complaints account for one-third of all complaints; the 3 relating to insufficient nursing home staffing impact on resident care

The 10 most frequently reported types of complaint comprise one-third of total nursing home complaints in 1997. Table 2 below shows what these 10 complaints are. Three of

the 10 relate to insufficient nursing home staffing (unanswered call lights, dignity and respect/staff attitudes, and shortage of staff). All of these can result in poor care for residents. Specific examples of poor care, such as poor hygiene, physical abuse, and improper handling and accidents, are also among the top 10 complaints for 1997.

Table 2
Top 10 Complaints Types, 1997

Complaint Types	Number	% of Total Complaints
1. Call lights, requests for assistance	3,235	5%
2. Personal hygiene	2,515	4%
3. Dignity, respect-staff attitudes	2,039	3%
4. Accidents, improper handling	2,011	3%
5. Discharge/eviction-planning, notice, procedure	1,906	3%
6. Menu-quantity, quality, variation, choice	1,865	3%
7. Personal property lost, stolen, used by others, destroyed	1,789	3%
8. Physical abuse	1,757	3%
9. Shortage of staff	1,715	3%
10. Medications-administration, organization	1,595	2%
TOTAL	20,427	31%

Source: NORS data

Ombudsmen and State Aging Unit Directors confirm that problems continue to exist in some nursing homes

Ombudsmen believe higher complaint rates do not always indicate more problems. As discussed in our companion report on program capacity, some ombudsmen point out that higher complaint rates could be due to a greater presence of ombudsman staff in nursing homes; with more visits, they provide residents with more opportunities to register complaints. However, when we compared each State's staffing ratio and visitation rate to their complaint ratio, we found that States with more staff and more frequent visits do not necessarily have more complaints.

Nevertheless, in all States, State and local ombudsmen, as well as State Aging Unit Directors, identify problems in nursing homes that compromise the quality of care residents are receiving. In fact, a few of their written program procedures specify the

kinds of problems ombudsman staff should look for when visiting nursing homes. Many of the problems ombudsmen identify are the same problems indicated by data in the National Ombudsman Reporting System. In fact, ombudsmen generally rate this system high for accuracy, usefulness, and comprehensiveness.

Insufficient nursing home staffing is the biggest problem ombudsmen see

The problem ombudsmen say they see most frequently in nursing homes is insufficient nursing home staff; seven State ombudsmen and eight local ombudsmen believe that many nursing homes do not have enough staff to provide quality care. Similarly, four State Aging Unit directors also suggest that inadequate nursing home staffing is a major problem. For example, six State ombudsmen believe unanswered call lights is one of the biggest problems nursing home residents face. As already shown, unanswered call lights/ requests for assistance is the most common nursing home complaint in 1997.

Ombudsmen and State Aging Unit directors stress the importance of having sufficient nursing home staff because it directly impacts the quality of care provided to residents. As an example of this impact, ombudsmen offer specific examples of how insufficient staffing can lead to other problems, such as failing to properly care for pressure sores and assist residents with eating so that they receive adequate nutrition.

Ombudsmen offer other examples of how inadequate staffing impacts nursing home care. One gives the example of a home where residents were left to sit in their urine and feces for extended periods of time before being cleaned because of insufficient staff. Another says that in one home with a lack of staff, in the afternoon residents were often still in their nightgowns and in a disheveled state. In addition to insufficient staffing, some ombudsmen say nursing homes often experience high staff turnover and others report that many staff are not qualified or sufficiently trained.

Nutrition and other types of personal care problems are also noticed

Malnutrition and other dietary concerns are also volunteered by four State and seven local ombudsmen as some of the biggest problems nursing home residents face in their State. One says some homes do not provide residents with adequate nutrition, while another speaks of homes that generally do not provide enough food. Some ombudsmen speak of nursing homes that do not allow their residents enough time to eat and do not assist residents with eating who need such help.

State and local ombudsmen, as well as State Aging Unit Directors, report other types of personal care problems nursing home residents face in their State. These include bed sores, dehydration, poor hygiene, over-medication, and toileting. Furthermore, a number of ombudsmen specifically mention that nursing home residents are not treated with dignity and respect, with one saying that nursing home residents are treated as “objects.” Complaints about personal hygiene and lack of dignity and respect are the second and third most frequently reported complaints for 1997.

Physical abuse is cited by a few ombudsmen and State Aging Unit directors

Three State Unit on Aging Directors and two ombudsmen volunteer that physical abuse is one of the most significant problems faced by nursing home residents in their States. In fact, physical abuse is one of the top 10 most frequently reported complaints in 1997, comprising 3 percent of all complaints for that year. In discussing physical abuse, some ombudsmen generally make a distinction between abuse caused by intentional bodily harm and gross neglect due to inadequate staffing. Says one, while "the number of cases which we hear about that curdle your blood is relatively small, such cases do happen enough [to warrant the public's attention.]"

A few nursing homes are chronically substandard, according to ombudsmen

Ombudsmen report that some nursing homes routinely provide poor care

While ombudsmen generally agree that most nursing homes in their State provide good care, three-fourths say there are some homes that routinely treat residents poorly. Of the 8 State ombudsmen that offer an opinion, 7 report that 10 percent or fewer of the nursing homes in their State routinely provide poor quality of care. The remaining State ombudsman says it is many as 30 percent. Local ombudsmen cite higher percentages of homes that provide poor quality of care. Of the eight that offer an opinion, two say 30 percent are chronic poor care providers, another 2 say between 10 and 20 percent, and 3 report that less than 10 percent of the homes in their locality routinely provide poor care. The remaining local ombudsman says no nursing home in his locality provides poor care. Several State and local ombudsmen identify certain types of nursing homes that are more likely to provide poor care than others. Several mention that nursing homes in urban communities more likely to have serious problems than those in rural communities, because the latter are smaller, and the nursing home staff and residents are more likely to have personal relationships. Two other ombudsmen believe nursing homes that serve lower-income populations are more likely to provide poor care.

CONCLUSION

Both the volume and nature of complaints reported to ombudsmen suggest that more must be done to improve nursing home care.

In OIG companion reports on nursing home care we offer specific recommendations about improvements that can be made in both the ombudsman program and in the survey and certification process.

COMMENTS

We received comments on the draft report from the Administration on Aging (AoA) and the Health Care Financing Administration (HCFA). Some parts of the report were modified in response to AoA's technical comments.

The full comments are presented in Appendix B.

APPENDIX A

Complaints Per 1,000 Beds, 1996 and 1997

State	Complaints per 1,000 Beds: 1996	Complaints per 1,000 Beds: 1997*	%Increase or Decrease
MA	187	180	-3.7%
CA	126	132	4.8%
TX	69	75	8.0%
FL	47	63	34%
NY	42	48	14%
PA	38	48	26%
NJ	45	44	-2.2%
IL	38	43	13%
TN	35	34	-2.9%
OH	30	31	3.3%

* Nursing home bed figures on based on 1996 data Source: NORS data

APPENDIX B

In this appendix, we present in full the comments from the Administration on Aging and the Health Care Financing Administration.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Administration on Aging

Washington, D.C. 20201

MAR 5 1999

TO: June Gibbs Brown
Inspector General

FROM: Assistant Secretary for Aging

SUBJECT: Comment on Draft Reports "Long-Term Care Ombudsman Program: Overall Capacity," OEI-02-02-98-00351 and "Long-Term Care Ombudsman Program: Complaint Trends," OEI-02-00350

Thank you for the opportunity to comment on the above-referenced reports, which we found informative and instructive.

Report on Overall Capacity

We agree that the state and local ombudsman programs need guidelines and other forms of assistance on program visibility; number and length of visits to facilities (not in response to a complaint); ratio of staff to beds; and recruitment, training, placement and supervision of volunteers. We plan to work with the states to develop such guidelines.

A national definition for *number of visits to facilities, not in response to a complaint,* is included in the ombudsman reporting instructions, which are attached. *Regular basis* for facility visitation is defined on page 12 as "weekly, bi-weekly, monthly or quarterly."

Most states would need significant increases in state and local ombudsman staff to reach targets which might be set through guidelines in these areas. Even if there were increased reliance upon volunteers for visibility and increased facility coverage, successful volunteer programs tend to require paid staff. We were pleased to see that the reports acknowledge that increased resources are necessary. While Congress provided $3 million in new funding for the Ombudsman Program this year, further additional resources would be necessary to attain the Institute of Medicine's (IOM) recommended ratio of one paid full-time-equivalent ombudsman staff person to every 2,000 long-term care beds. The nationwide ratio for FY 1996, the latest year for which national data has been compiled, was one staff person for every 2,973 long-term care facility beds, including nursing homes, board and care, and similar homes.

The AoA has widely publicized the IOM staffing recommendation and the need for additional funding for ombudsman programs to carry out the functions assigned to them under the Older Americans Act.

Information about how to recruit, train , place and supervise volunteers is provided annually to ombudsmen through training and technical assistance by the AoA-funded National Long-Term Care Ombudsman Resource Center. In addition, the American Association of Retired Persons'

(AARP) Legal Counsel for the Elderly, Inc., (LCE) has produced and disseminated an exemplary manual entitled "Developing and Managing Long-Term Care Ombudsman Volunteer Programs," which was developed with substantial input from ombudsmen. LCE also has assisted some ombudsman programs to recruit large numbers of needed volunteers through the AARP in targeted areas.

We believe that the elements in NORS are sufficiently detailed in instructions provided to states several times over the past three years, most recently in September, 1998 (see attached). The NORS system, as designed by the state ombudsmen, replaced a previously unworkable system which attempted to account for open cases. This data was difficult to determine and meaningless at the national level. Hence, ombudsmen recommended that case and complaint data be collected on cases only after they are closed - the system adopted in the NORS, although there is one collection element for cases opened during the reporting period. We work closely with new state ombudsmen to help them understand the NORS design. Certainly more could be done to promote broader understanding and to encourage the state ombudsmen to train local ombudsmen in the correct case and complaint documentation.

Thus, the second and fourth recommendations in the reports should read as follows:

- further highlight and promote strategies for recruiting, training and supervising volunteers;
- ensure that all state ombudsmen understand and use the definitions in the reporting system and train local ombudsmen and volunteers in standard utilization.

Inasmuch as increases to the OAA programs have been small, we appreciate acknowledgement on page 17 that "additional funds may be required." However, to avoid deliberately placing more elders at risk, we request that the phrase "and that this may involve difficult trade-offs" not be included.

Complaint Trends

We note that you determine from NORS complaint data that physical abuse is among the top ten most frequently reported complaints in 1997 and that ombudsmen make a distinction between abuse caused by intentional bodily harm and gross neglect due to inadequate staffing. We believe that further articulation of this distinction mentioned on page 16 would be useful to include.

The AoA staff have provided OEI staff with minor corrections and clarifications. Thank you again for the opportunity to comment.

Jeanette C. Takamura

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administrat

Office of the Administrator
Washington, D.C. 20201

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Date Sent 3-4

To: June Gibbs Brown
Inspector General

From: Nancy-Ann Min DeParle
Administrator
Health Care Financing Administration

Subject: Office of the Inspector General Draft Reports: "Long-Term Care Ombudsman Program: Overall Capacity"; and "Long-Term Care Ombudsman Program: Complaint Trends."

I very much appreciate the opportunity to review and comment on these two draft reports that examine trends in Ombudsman complaints and describe the overall capacity of State Long Term Care Ombudsman programs to promote and monitor the quality of care in nursing homes.

Last July, the Clinton Administration unveiled an aggressive comprehensive initiative to ensure that all nursing homes comply with federal standards for the delivery of quality care. Since that time, we have made progress in strengthening nursing home inspection systems and cracking down on nursing homes that repeatedly violate safety rules. In addition, the Administration has taken other steps to reduce the incidence of bed sores, dehydration and malnutrition in nursing homes and to give consumers ready access to comparative information about nursing-home quality. HCFA also has implemented a new system to oversee the States, which have primary responsibility for conducting on-site inspections and recommending sanctions against poor-quality nursing homes. However, HCFA and state agency survey staff cannot be in every nursing home in every state continually monitoring care at all times.

For this reason, President Clinton specifically has called for the reauthorization of the Older Americans Act, which includes the Ombudsman program. Though Ombudsmen lack enforcement and regulatory oversight authority, their function is absolutely critical in maintaining quality care in nursing homes. In making regular visits to nursing homes and acting as advocates for residents, the Ombudsmen frequently are the source of complaint investigations that HCFA and the state survey agencies follow up on. The Ombudsmen are clearly an important partner for HCFA in our mutual goal of enforcing nursing home standards and ensuring that all nursing home residents are treated with dignity and compassion.

Though progress has been made in improving the quality of care in nursing homes, we need to continually build upon it. To this end, HCFA is willing to work with the Administration on Aging (AOA) to increase their effectiveness and to facilitate communications between AoA and State survey agencies to better serve nursing home residents.