

ANNUAL REPORT FEDERAL FISCAL YEAR 2017

New Jersey Office of the State Long-Term Care Ombudsman



Guidance. Support. Advocacy

NEW JERSEY OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN OVERVIEW

The New Jersey Office of the Long-Term Care Ombudsman (LTCO) is part of a national resident-focused, person-centered advocacy program. LTCO is an independent advocate for older individuals receiving long-term care. Representatives of the Office work with individual residents to help them address challenges they face; in addition, NJLTCO seeks opportunities to bring about change on local, state, and federal levels and by advocating for policy and legislative initiatives and participating in activities that support the Office's core mission to advance the rights, the dignity and the self-determination of elderly individuals living in long-term care.

In Federal Fiscal Year (FFY) 2017 (Oct. 1, 2016 to September 30, 2017) the programs administered by the LTCO included: the LTCO Investigations and Advocacy unit; the Volunteer Advocate Program; the I Choose Home NJ/Money Follows the Person outreach program; and a program to support designated Regional Ethics Committees throughout NJ.



Investigations and Advocacy

The New Jersey Office of the Long-Term Care Ombudsman (LTCO) is a resident-focused advocacy organization. The primary function of the LTCO is to advocate for residents of long-term care facilities who are over age 60 by investigating and resolving complaints made by or on behalf of those residents. Under federal law and state law, the Ombudsman's

office: accepts confidential complaints from any source and/or anonymously via phone, fax, in writing and by email; investigates those complaints and either resolves and/or refers the problem to a regulatory or law enforcement entity for further action; conducts public or private hearings and can subpoena documents or personal testimony; has unrestricted access to elderly residents of long-term care facilities and their records; and works with resident councils to empower residents to advocate for themselves.

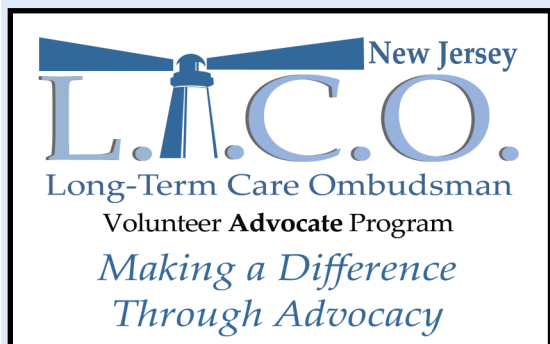
Once a case is opened and assigned, the Investigator/Advocate makes an unannounced visit to the facility, visits with the resident to obtain consent to proceed, conducts a complete review of the facts, obtains records and interviews the resident, staff and other relevant witnesses.

The primary function of the investigation is to resolve the problem at the direction of the resident and to the satisfaction of the resident and to ensure that the resident is safe and that their rights and dignity are being upheld. If the Investigator/Advocate verifies or suspects that the resident has been the victim of abuse, neglect or exploitation, the Investigator/Advocate will formally refer his/her findings to a regulatory or law enforcement entity for possible further investigation and action.



NEW JERSEY OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN OVERVIEW

Volunteer Advocate Program



The LTCO is aided in its mission by a cadre of highly-trained Volunteer Advocates who are assigned to nursing facilities throughout the state. These volunteers are an extension of the Office and are trained to observe the quality of services provided by long-term care communities and advocate for long-term care residents' rights. (See page 7)

Regional Ethics Committees

The LTCO also oversees the operation of several Regional Ethics Committees that provide assistance to consumers, families and long-term care facilities when confronted with difficult medical decisions in a long-term care environment. (See page 10)

Structure

The Ombudsman for the LTCO has been designated the State Long-Term Care Ombudsman pursuant to and in accordance with the provisions of the federal Older American's Act, 42 U.S.C. §§ 3058g et seq. In 1977, the New Jersey Legislature created the Office of the Ombudsman for the Institutionalized Elderly, N.J. S.A. 52:7G – 1 to 16. The name of the agency was changed to the New Jersey Office of the State Long-Term Care Ombudsman in 2017.

The LTCO is responsible for securing, preserving, and promoting the health, safety, and welfare of New Jersey's elderly population, through investigations of abuse, neglect, and exploitation; legislative and regulatory advocacy; policy work; and education and outreach.

The LTCO is considered "in but not of" the NJ Department of the Treasury. However, the Ombudsperson is considered independent of any supervision or control by the NJ Department of Treasury. As per state law, the Ombudsperson is directly appointed by the Governor.

Resources

In FFY 2017, the LTCO expended \$1,615,083 in state funds, \$468,032 in Title VII Older American's Act funding and \$650,277 in federal Money Follows the Person funding. The work of the LTCO was conducted by 22 full-time employees, six part-time employees and approximately 250 volunteer advocates and dozens of volunteers working on Regional Ethics Committees throughout the state.

I Choose Home NJ



Finally, the LTCO has partnered with the NJ Department of Human Services to promote the state's federally-funded Money Follows the Person program, called I Choose Home NJ (ICHNJ). Under ICHNJ, assistance is provided to nursing home residents of any age who wish to transition back to the community with the services and supports they need. (See page 11)



2017 ACTIVITIES AND ACCOMPLISHMENTS

In FFY 2017, the LTCO:

FILED 7,550 calls made to the LTCO toll-free intake line (1-877-582-6995). In addition, approximately 500 complaints were received by email and/or fax.

INITIATED 2,581 investigations and closed out 2,795 investigations involving 5,631 separate complaints.

RESOLVED or partially resolved 94 percent of these complaints to the satisfaction of the resident.

CONSULTED with 6,407 individuals seeking information on a wide variety of topics including: residents' rights, LTCO services, care concerns and involuntary discharge.

PROVIDED information to 4,346 facility staff on a range of topics including: compliance with Peggy's Law (see page 15), emergency transfer requirements, involuntary discharge, mandatory reporting and residents' rights.

ATTENDED 660 resident council meetings.

CONDUCTED or attended 233 training sessions for facility staff.

PROVIDED information and input to state surveyors in 107 facilities.

ENGAGED the community during 115 community education sessions.



Of the 2,795 investigations involving 5,631 separate complaints that were closed during FFY 2017, complaints that relate to residents' rights comprised the largest percentage.

TYPE OF COMPLAINTS

Category	Percentage of Total	Specific Issues
Residents' Rights	36%	Physical and Verbal Abuse, Access to Information, Resident to Resident Physical or Sexual Abuse, Transfer, Discharge, Discharge/Eviction, Loss of Property, Choice, Exercise of Rights, Privacy, Financial, Staff Attitude, Language Barrier
Resident Care	35%	Care Planning, Personal Hygiene, Symptoms Unattended, Wandering, Chemical and/or Physical Restraints, Toileting
Complaints Against Others (Not Against the Facility)	13%	Certification/Licensing Agency, State Medicaid Agency, System/Others, Financial Exploitation, Family Conflict, Guardianship Issues, Abuse/Neglect by Family Members
Quality of Life	10%	Resident Conflict, Activities, Food Services, Weight Loss, Fluid Availability, Infection Control
Facility Administration	5%	Abuse Investigation, Inappropriate Policies, Shortage of Staff
Complaints about Services in Other Settings	1%	Complaints about Services in Settings Other Than Facilities or by Outside Provider in Facilities (Home



LTCO JURISDICTION

FACILITY TYPE	CATEGORY	# OF UNITS	# OF BEDS
LONG-TERM CARE			
	Skilled Nursing Home	370	52,885
BOARDING AND CARE			
	Assisted Living Residence	196	18673
	Residential Dementia Care	28	486
	Residential Health Care	12	593
	Boarding Homes	120	2060
	Freestanding RHCF	77	3007
	Comp. Personal Care Home	35	2786
	TOTAL	486	27,605
OTHER			
	Adult Day Health Care Services	150	16912
	Independent Living of CCRC	28	7621
	Developmental Center	5	1429
	Specialty Hospital	13	676
	Comprehensive Rehabilitation	14	876
	Psychiatric Hospital	11	1291
	TOTAL	249	28,805
GRAND TOTAL		1,059	109,295

The LTCO also has jurisdiction in 4 Adult Family Care homes, 14 Assisted Living Programs, and 28 Social Daycare facilities.

Federal Fiscal Year 2017 Spending

State Funds: \$1,615,083

Federal Funds: \$1,118,309

Total: \$2,733,392

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VOLUNTEER ADVOCATE PROGRAM

As representatives of the Office of the Ombudsman, Volunteer Advocates are part of a resident-focused advocacy program trained to observe the quality of services provided by the nursing home staff.

When problems are identified in a nursing facility, the Volunteer Advocate can play a crucial role in resolving issues of quality of care and quality of life as close to the bedside as possible.

Volunteer advocates deal with issues such as staff responsiveness, food and nutrition issues, hygiene problems, lack of activities, missing personal belongings such as clothing, dentures, eye glasses, etc., and, of course, residents who are not being treated with courtesy, consideration and respect – all basic civil rights. Complaints of abuse, neglect and exploitation are referred to the Office of the Long-Term Care Ombudsman for investigation.

Challenges and rewards of participating in the Volunteer Advocate Program are varied and many.

Deirdre Mraw, State Volunteer Program Coordinator, manages the Volunteer Advocate Program at the state level while four Regional Volunteer Program Coordinators manage the program at the regional/county level:

<u>Sue Rosenkranz (Region I)</u> Essex, Hudson, Morris & Union	<u>Clara Krever (Region II)</u> Bergen, Passaic, Sussex & Warren
<u>Beth Mané (Region III)</u> Middlesex, Mercer, Somerset, Hunterdon, Monmouth, and Northern Ocean	<u>Janet Khanlian (Region IV/V)</u> Burlington, Cumberland, Camden, Gloucester, Salem, Atlantic, Cape May, and Southern Ocean

The Regional Coordinators are responsible for training and managing between 235 and 250 advocates located throughout the state. These Regional Coordinators are committed not only to the success of the Volunteer Advocate Program, but also to the Volunteer Advocates who serve in their counties. Without them and the dedicated volunteers, the Volunteer Advocate Program would not exist!



VOLUNTEER ADVOCATE PROGRAM

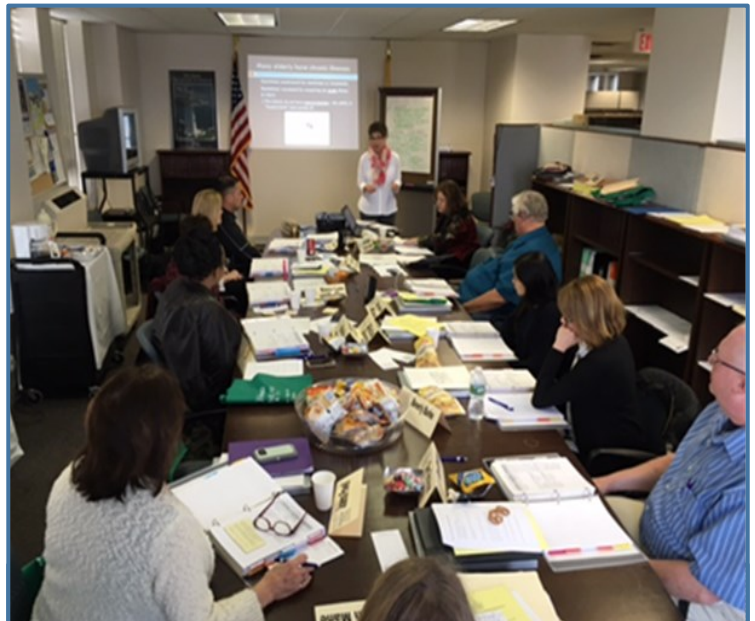
Training

Volunteers must complete a 32-hour training program to become a certified Volunteer Advocate. The training curriculum was developed by UMDNJ-School of Medicine and Rutgers School of Social Work and is modeled after the National Ombudsman Resource Center curriculum. The training program and training manual were recently updated to reflect industry changes, trends, and new federal nursing home regulation. Intensive classroom instruction and additional on-site orientation is conducted by the Regional Volunteer Program Coordinator.

Training topics include:

- ◆ Overview of the Volunteer Advocate Program
- ◆ Demographics of the Elderly Population
- ◆ Normal & Abnormal Conditions of Aging
- ◆ Medication and the Elderly
- ◆ Communication Skills
- ◆ The Long-Term Care Setting
- ◆ Social, Financial, Legal, and Ethical Issues in Long-Term Care Facilities
- ◆ Residents' Rights
- ◆ Elder Abuse, Neglect, and Exploitation
- ◆ The Office of the Long-Term Care Ombudsman Complaint Process
- ◆ Visiting a Long-Term Care Facility

The success of the Office of the Ombudsman Volunteer Advocate Program is predicated on the dedication and devotion of our citizens who willingly give back to their communities, and their ability to effectively resolve issues on behalf of the population we serve.



According to 2017 NORS data:

1:1 Resident Interaction: 95,569

Total Volunteer Hours to the Program: 42,064

Trained Advocates: 239+

Percent of Nursing Homes Covered in NJ: 69%

CONTINUING EDUCATION FOR VOLUNTEER ADVOCATES

Ongoing training of the Volunteer Advocates is essential to the success of the Program. After receiving the initial 32 hours of training, Volunteer Advocates increase their learning of the long-term care setting by attending quarterly regional meetings or annual state conferences.

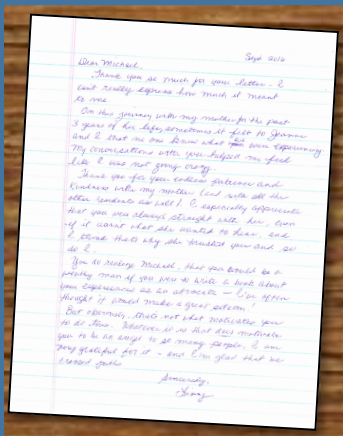
Training curricula and methods are constantly being revised and re-evaluated to provide current information to our team of advocates. Content experts in the field of geriatrics, disability services, blind and visually impaired, cultural diversity, LTC assessment and licensing, activities, person centered care approach, and residents' rights, have presented to our volunteers and staff.



In a recent annual meeting, Beth Nolan, Ph.D. of Positive Approach™ to Care and a former Assistant Professor of Public Health and the Senior Associate Director for the Evaluation Institute at the University of Pittsburgh's Graduate School of Public Health, provided a presentation of understanding dementia, focusing not simply on what is lost in dementia, but also what is retained. As representatives of the Office, it is important that all our Advocates have the information needed to help improve the quality of life and the quality of care experienced by nursing home residents.

Making a Difference through Advocacy!

This is a letter written by a family member of a long-term care resident to a dedicated Volunteer Advocate.



"Dear Michael,

Thank you so much for your letter. I can't really express how much it meant to me.

On this journey with my mother for the past 3 years of her life, sometimes it felt to Jeanne and I that no one knew what we were experiencing. My conversation with you helped me feel like I was not going crazy.

Thank you for your endless patience and kindness with my mother (and with all the other residents as well). I especially appreciated that you were always straight with her, even if it wasn't that she wanted to hear, and I think that's why she trusted you and so do I.

You do realize Michael, that you could be a wealthy man if you were to write a book about your experiences as an advocate – I've often thought it would make a great sitcom!

But obviously, that's not what motivates you to do this. Whatever it is that does motivate you to be an angel to so many people, I am very grateful for it—and I'm glad that we crossed paths."

REGIONAL ETHICS COMMITTEE

Difficult Decisions

As individuals grow older and struggle with advanced illness and frailty, they, their families, and their care providers will likely be faced with difficult decisions about their care and treatment.

Decisions can include whether to provide or remove particular treatments, such as dialysis or artificial nutrition, adjust medications, or refer to palliative care or hospice.

For individuals in long-term care communities, the Ombudsman provides support and ensures that decision-making is resident-focused and consistent with ethical and legal standards.

One way the Ombudsman does that is through Regional Ethics Committees (RECs). RECs provide an impartial, comprehensive evaluation and assessment of the situation and offer non-binding recommendations to the individuals involved. RECs provide much-needed education, conflict resolution, and ethical guidance to facilities and families when difficult decisions need to be made.

NJ Supreme Court Case Law

- In re Quinlan, 70 N.J. 10 (1976)
- In re Conroy, 98 N.J. 321 (1985)
- In re Farrell, 108 N.J. 335 (1987)
- In re Peter, 108 N.J. 365 (1987)
- In re Jobes, 108 N.J. 394 (1987)

Ethical Decisions at End-of-Life Ombudsman

Process

As with all of the Ombudsman's work, the primary focus of the process is to ensure that the resident's wishes are respected. The Office works with the resident, his or her family and friends, and facility staff to identify the resident's wishes, wherever possible.

In addition to exploring the resident's wishes, the Office also gathers clinical information regarding the resident's cognition, condition, and prognosis, to ensure that legal standards for withholding/withdrawing treatment are met.

Regional Ethics Committees (RECs)

- Multi-disciplinary teams, including social workers, nurses, clergy, and hospice workers
- Established to serve as a resource to residents and health care professionals of LTCF'S who face ethical dilemmas:
 - ◇ Treatment decisions
 - ◇ Health care conflicts
 - ◇ Withholding/withdrawing LST
 - ◇ Quality of life issues
- Consultation not required and recommendations not legally binding but can often resolve ethical dilemmas as close to the bedside as possible.



I CHOOSE HOME NJ

Advocacy and Outreach

The NJ Long-Term Care Ombudsman (LTCO) has played a key role in the I Choose Home NJ program (also known as Money Follows the Person) since 2012. I Choose Home NJ helps people living in nursing homes and developmental centers to move back to the community with Medicaid supports and services they need to live fully integrated lives. In the process, it generates savings that the State must use towards more home and community-based services to allow people to age in place. LTCO works closely with NJ Department of Human Services and the Centers for Medicare/Medicaid Services (CMS) to carry out this important work. From 2008 to 2016, New Jersey's I Choose Home team successfully transitioned more than 2,200 people from institutions back into home and community-based settings for a savings of over \$25 million.

2008 - 2017

Older Adults – 788
Intellectual/Developmental
Disabilities – 818
Younger Adults w/ Physical
Disabilities—708
Total: **2314**

2017

Older Adults – 144
Intellectual/Developmental
Disabilities – 58
Younger Adults w/ Physical
Disabilities—150
Total: **352**



LTCO staff act as the advocacy and outreach arm of the program for the nursing home population, spreading the I Choose Home message that “*A Nursing Home May Not Be the Only Option*” and advocating strongly for nursing home residents who want to move out. Because I Choose Home Outreach and Advocacy Coordinators are also Ombudsman’s staff, they have the authority to freely enter nursing homes, to speak confidentially with all residents and (with their permission) review medical records, to question staff about activities, and to provide education to nursing home staff as needed. This unique role allows Outreach and Advocacy Coordinators to more effectively identify residents who want to move out, to fiercely advocate for them with all relevant parties, and to help resolve any barriers or issues that may arise.

In addition to identifying and supporting program participants, LTCO educates nursing home staff, community health care providers, caregivers, families, and the general public about the program. We have exhibited and given presentations about I Choose Home at over 200 venues and have advertised throughout the state via television commercials, commuter rail ads, radio spots, newspapers, diner placemats, church bulletins, Facebook, and many other platforms.

I CHOOSE HOME NJ

LTCO's Program Benchmarks

2017 Program benchmarks required that LTCO staff:

CONTACT every nursing facility in the State at least one time per calendar year.

VISIT 25% of all nursing facilities annually to provide in-services for staff and/or residents and to search for ICHNJ candidates.

ADVOCATE for individuals who have been found MFP-eligible but who are in need of housing.

ATTEND community events directed at I Choose Home populations, including but not limited to elder/disability expos and fairs, senior days, faith-based events, etc.

SPEAK / PRESENT to community and professional events, conferences, and institutions of higher learning (including social work, nursing, etc.)

INCREASE consumer contacts made through the I Choose Home hotline phone number, email inquiries, and website visits by 15% per year.

MEET with at least 15 targeted individuals or entities to advance housing opportunities for ICHNJ-eligible individuals.



The I Choose Home NJ team has consistently met or exceeded these benchmarks.

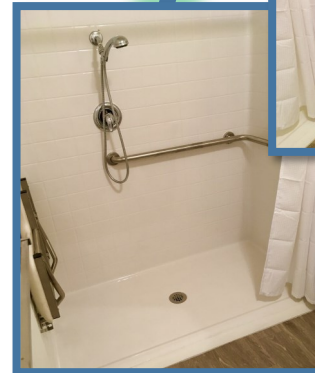
I CHOOSE HOME NJ

Affordable, Accessible Housing for Aging and Disabled Populations

Since 2014, LTCO has filled the Statewide Housing Coordinator role for I Choose Home NJ, a role that has rapidly expanded. The statewide lack of affordable, accessible housing continues to be the primary barrier to I Choose Home nursing home transitions. As such, the Statewide Housing Coordinator acts to identify and create more affordable housing opportunities for people coming out of nursing homes, and to help people maintain housing stability after they move. Examples of housing advocacy include alerting nursing home social workers to local affordable housing opportunities, meeting with housing developers to explore possible collaboration, training managed care organizations about housing for their Medicaid members, and working with participants to overcome challenging issues with their tenancy (threats of eviction, housing voucher problems, budgeting, etc.).

The Statewide Housing Coordinator role has also been at the leading edge of policy changes related to housing for NJ Medicaid populations. From 2015-2016, LTCO participated in a housing/Medicaid Innovation Accelerator Program (IAP) hosted by the Centers for Medicare/Medicaid Services (CMS), to bridge high-level Medicaid and housing policy makers in New Jersey. Through this very productive process, I Choose Home staff provided important feedback to New Jersey's Medicaid Waiver Renewal Application, which will now include Medicaid services to help people find, access, and maintain housing. IAP collaboration also resulted in access to HUD 811 housing vouchers that were previously unavailable for I Choose Home participants.

The most exciting example of recent housing-related work has been the development of the Money Follows the Person Housing Partnership Program (MFPHPP), a collaboration between the NJ Department of Human Services and NJ Housing Mortgage Finance Agency to give developers loan money to build affordable housing for people waiting to leaving nursing homes. LTCO staff was central to the development and implementation of this program, which launched in December 2015 and provides a pool of \$2.85 million of capital loan money to developers in exchange for 38 affordable, accessible apartments. LTCO and I Choose Home looks forward to these units being completed and occupied by dozens of former nursing home residents.




1-855- HOME-005
4 6 6 3

A Nursing Home May Not Be the Only Option!

Success Story

Sherrie found herself in a nursing home at age 23 after developing rheumatoid arthritis, a debilitating and excruciating condition that left her unable to walk. For nearly three years, she fought hard to get out of the nursing home and back to the community. Unfortunately, the lack of affordable, accessible housing made it impossible for her to find a place she could afford to live that also had accessibility features she needed. Through I Choose Home, Sherrie was able to get a housing voucher for non-elderly disabled people, move into a lovely apartment close to family and friends, and get back to her life. She was able to connect with Medicaid services she needs, including an aide that helps her with every day tasks, and her medical professionals who generally come to her. She also found a job after working with an I Choose Home NJ Employment Peer Mentor, a professional (also with a disability) who helped her navigate the world of work without negatively impacting her benefits. After returning to community living, Sherrie explains, smiling, “I can have family around, friends. You can eat whatever you want to eat, as opposed to the nursing home where you can’t. At the nursing home, you have to be woken up at a certain time for medications. Here, there’s no noise, which I kinda like.”

“Of course I want to go home, I’m young!”
– Sherrie, moved home April 2015



STATE LEGISLATION

Peggy's Law

In early October 2017, Senate Bill 1219 – also known as “Peggy’s Law” -- which amends N.J.S.A. 52: 27G- 1, et seq., the enabling statute for the Office of the State Long-Term Care Ombudsman, became effective.

The primary purpose of “Peggy’s Law” was to ensure that police and the LTCO are notified in a timely way in the event of a serious injury to a resident of a long-term care facility. The law was named for Peggy Marzolla, a 93-year-old woman who died in 2010 from injuries sustained in the LTC residence in which she lived.



Specifically, the new law:

- Requires that the LTCO have a system in place to receive complaints 24-hours-a-day.
- Requires that people subject to abuse and neglect mandatory reporting laws must also report crimes against LTC residents to the local police as well as to the LTCO.
- Establishes timelines for reporting such crimes: 2 hours for crimes that result in serious bodily injury and 24 hours for crimes that do not result in serious bodily injury.
- Establishes a \$2,500 fine for facilities that fail to report abuse, exploitation or crimes affecting residents of LTC facilities.
- Requires that the LTCO marketing materials to residents and family members include a provision stating that reporters can/should call 911 in addition to the LTCO.
- Requires that LTC facility staff must be trained on the revised mandatory reporting requirements.

The LTCO supported the implementation of this law and has updated its materials to reflect the changes included in the law. In addition, the LTCO has provided specific guidance on its revamped website for facilities on how to comply with the provisions of Peggy’s Law.



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Long-Term Care Ombudsman
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