



Issue in Brief: Safeguarding Residents’ Interests

Problem:

The legal and financial interests of long-term care residents are placed at risk by questionable practices that are all too common among long-term care facilities. Residents may be coerced or deceived into signing agreements that limit their ability to pursue future legal action. Other residents may unknowingly receive assistance from, or grant legal authority to, people with a financial interest in the long-term care facility. This creates a clear conflict when the best interests of the facility and the resident do not align.

Solution:

The New Jersey Office of the Long-Term Care Ombudsman (LTCO) supports enactment of New Jersey Senate Bill S3023. The bill is modeled after Bill S1962/A1888 from the previous legislative session, which passed the Senate but did not gain Assembly approval before the session ended Jan. 12. Assembly Bill A1752 is similar, but not identical, to S3023. The LTCO will support amending the Assembly bill to match the provisions of S3023.

Legislative Overview:

Current Situation	What Bill S3023 Would Do:
People affiliated with long-term care facilities sometimes obtain power of attorney for residents or individuals who are navigating the admission process. This represents an obvious conflict of interest.	Anyone affiliated with a long-term care facility is prohibited from doing this. Exception: People affiliated with long-term care facilities may represent residents who are family members.
Facilities may include an arbitration agreement in the agreement that residents sign before admission. The agreement typically restricts the resident’s right to pursue future legal action to the facility’s benefit.	Long-term care facilities must use a new standard admission agreement. Arbitration agreements must be separate AND residents must be informed that they do not have to sign the agreement to be admitted.
Non-lawyer Medicaid assistors help residents or individuals involved in the admission process apply for Medicaid. These people may have conflicts of interest and lack the expertise to advise residents appropriately.	Medicaid assistors must receive training and disclose any financial ties to a long-term care facility. Residents and their families must be informed that they have the right to independent counsel.

Nursing home residents are eager to meet with legislators or policymakers on this issue. To connect with residents or family members, please contact LTCO’s Community Engagement Program at 609-690-4740 or community@ltco.nj.gov.