



**BAY AREA**<sup>®</sup>  
**LEGAL SERVICES**  
— A NONPROFIT LAW FIRM

*Creating pathways to justice*



Long-Term Care  
**Ombudsman**  
**Program** FLORIDA

## **Issues Impacting Long-Term Care Residents:**

**Practical Tools Enhanced By The  
Collaboration Between Legal Aid  
Advocates and the Long-Term Care  
Ombudsman Program**

## WHY A LONG-TERM CARE OMBUDSMAN PROGRAM?

Because *"....conditions in long-term care facilities in this state are such that the rights, health, safety, and welfare of residents are not fully ensured by rules of the Department of Elderly Affairs or the Agency for Health Care Administration or by the good faith of owners or operators of long-term care facilities."* §400.061, FS



**THE LONG-TERM CARE OMBUDSMAN  
PROGRAM (LTCOP)  
Chapter 400, Part I, FS**



## BY THE NUMBERS

**34 paid staff and 300 volunteer ombudsman** safeguard the rights, health, safety, and welfare of residents in:

- **698** Nursing Homes
- **2993** Assisted Living Facilities
- **216** Adult Family Care Homes

**TOTAL LONG-TERM CARE RESIDENT  
POPULATION – 205,021**



**LTCOP + Legal Aid+ Florida Health Justice  
Project =**

**A holistic collaborative to address the needs  
of a vulnerable population**

# THE LEGAL ADVOCATE

## §400.0063(3)(a) and (b)

- Can assist the representatives of the State LTCOP in carrying out their responsibilities
- Can pursue administrative, legal, and other appropriate remedies on behalf of **RESIDENTS**



# LTCOP TRANSITIONS ADVOCATE

- Oversees all facility-initiated transfer and discharge processes for long-term care residents
- Reviews Transfer and Discharge Notices
- Investigates complaints
- Identifies statewide trends to guide advocacy initiatives
- Collaborates with legal aid, hospitals, and insurance case managers
- Monitors facility closures to support smooth resident transitions and coordinated placements
- Develops and delivers comprehensive training for ombudsman field staff and long-term care facility personnel on Transfer and Discharge procedures and documentation

# Super Powers of the Legal Advocate and the LTCO

## FS Chapter 400, Part I

- Access to records....without a subpoena
- Access to facility .....without need for a warrant or advance notice
- Access to residents....because it's the law §400.0081, FS



# PROTOCOL

- Access to resident
- Consent to LTCO Involvement
- Consent to LTCO referral to legal aid

# LTCO CONSENT FORM



A Department of Elder Affairs Program  
4040 Esplanade Way  
Tallahassee, FL 32399-7000  
888.831.0404  
850.414.2377 (F)  
<http://ombudsman.elderaffairs.org>

## Consent to Release Information

Case #: \_\_\_\_\_

### Complainant Consent

I, \_\_\_\_\_, hereby give permission to \_\_\_\_\_, certified Long-Term Care Ombudsman, or other representatives of the Office of State Long-Term Care Ombudsman, to:

- Disclose my identity to the resident
- Disclose my identity to the facility's administration/staff
- Disclose my identity to other agencies in order for the Long-Term Care Ombudsman to investigate and resolve this complaint

I understand that I may withdraw this consent at any time. This consent will automatically expire when the activities I have authorized the Office of State Long-Term Care Ombudsman to conduct are complete.

\_\_\_\_\_  
Signature of Complainant                      Signature of Ombudsman if Verbal Consent Obtained                      Date

### Resident Consent

I, \_\_\_\_\_, hereby give permission to \_\_\_\_\_, certified Long-Term Care Ombudsman, or other representatives of the Office of State Long-Term Care Ombudsman, to:

- Open a case investigation and proceed with advocacy to resolve this complaint
- Access and make copies, if needed, of the following records pertinent for the Office of State Long-Term Care Ombudsman to advocate and resolve this complaint:
  - Medical records                       Financial records
  - Social records                               All records

- Disclose my identity and relevant information regarding this complaint to other agencies in order for the Long-Term Care Ombudsman or other agencies to investigate and resolve this complaint
- Disclose my identity to the facility's administration/staff

I understand that I may withdraw this consent at any time. This consent will automatically expire when the activities I have authorized the Office of State Long-Term Care Ombudsman to conduct are complete.

\_\_\_\_\_  
Signature of Resident                      Signature of Ombudsman if Verbal Consent Obtained                      Date

\_\_\_\_\_  
Signature of Legal Representative                      Consent granted by:  
| Resident  
| Legal Representative \_\_\_\_\_

# HYPOTHETICAL #1

- **Issue** -- Attorney denied access to resident by guardian
- **Resolution**--Direct contact by LEGAL ADVOCATE with the facility administrator

## HYPOTHETICAL #2

- **Issue** -- Overzealous agent with Durable Power of Attorney
- **Resolution**-- Revocation of DPOA and advocacy by attorney for treatment options

## HYPOTHETICAL #3

- **Issue** -- LTCO denied access to resident's records
- **Resolution**--Direct contact by LEGAL ADVOCATE with the facility administrator

## HYPOTHETICAL # 4

- **Issue** -- Resident threatened with imminent discharge despite pending fair hearing and Medicaid application
- **Resolution**--Direct contact by LEGAL ADVOCATE with the facility administrator

# HYPOTHETICAL #5

- **Issue** -- Proving an element in defense of involuntary discharge case
- **Resolution**--An affidavit from the LTCO District Manager

# WHEN TO REACH OUT??



**ANYTIME!**

# CONTACTS

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