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Tennessee
Long-Term Care Ombudsman
**ANNUAL
REPORT**



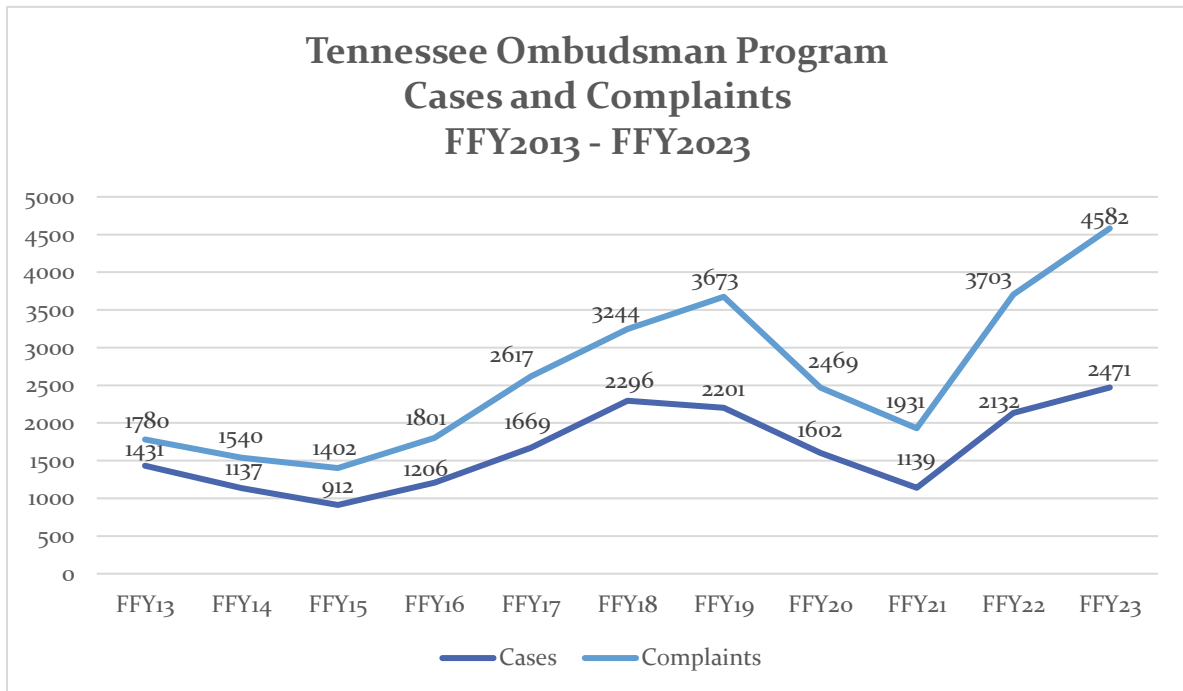
The Office of the State Long-Term Care Ombudsman is a programmatically independent advocacy service located within the Tennessee Department of Disability and Aging (DDA). Points of view, opinions, or positions of the Ombudsman do not necessarily represent the view, positions, or policy of DDA [45 CFR part 1324.11(e)(8)]. This annual report is compiled and distributed to meet federal law requirements.

State Ombudsman Introduction

Dear Long-Term Care Residents and Stakeholders,

I am pleased to present the 2023 Annual Report of the Tennessee Office of the State Long-Term Care Ombudsman (Office). The Office serves as an independent advocacy service for residents of long-term care facilities in Tennessee. Long-term care ombudsmen (ombudsmen) provide individual advocacy services to long-term care residents while advancing systemic change to improve the lives of all residents.

For the second year in a row, I can report that my office responded to a record number of complaints this year, the most complaints for a given year in its recorded history. Supplemental COVID-19 funds made a significant impact on the program, allowing us to bring temporary ombudsman staff on board to support our small team and provide focused attention on residential care communities. As we faced an increased workload, adding part-time staff to each district ombudsman program, most of which previously had only one staff ombudsman covering the entire district, proved invaluable.



Long-term care residents and their loved ones deserve excellent ombudsman services, and we stand at a pivotal point in time to elevate the ability of the Office to provide them. At the dawning of State Fiscal Year 2025, the Tennessee Department of Disability and Aging was born, the result of Governor Lee's decision to merge the Tennessee Commission on

Aging and Disability and Tennessee Department of Intellectual and Developmental Disabilities. With the establishment of this new cabinet-level department, Governor Lee signaled the importance of and his commitment to serving older Tennesseans, and ombudsmen stand ready to seize the opportunities afforded us with the invigorated focus.

I welcome your feedback and am eager to partner with anyone interested in improving the quality of care for Tennessee's long-term care residents.

A handwritten signature in black ink that reads "Teresa Teeple". The signature is written in a cursive style with a large, sweeping initial "T".

Teresa Teeple

State Long-Term Care Ombudsman

Executive Summary

Overview

- The Tennessee Long-Term Care Ombudsman Program is a federally mandated advocacy program for residents of long-term care facilities that provides informal complaint resolution and promotes system change on behalf of residents' interests. The program consists of a state office housed at the Tennessee Department of Disability and Aging and nine district ombudsman programs.
- There are approximately 17.5 full-time equivalent district ombudsmen serving residents in just under 700 long-term care facilities across 95 counties.
- In Federal Fiscal Year (FFY) 2023, the program responded to 4,582 complaints, the most complaints recorded in a single year in the history of the program.
- The top three complaint categories for FFY 2023 included:
 - Abuse, neglect, and exploitation
 - Care quality
 - Autonomy, choice, and rights
- There continue to be too few long-term care ombudsmen in Tennessee to meet the high—and growing—demand for services. As such, funding is one of the primary barriers to providing excellent ombudsman services to Tennessee's long-term care residents.

Recommendations to Strengthen the Tennessee Long-Term Care System

- Support the Office of the State Long-Term Care Ombudsman with Dedicated State Funding
- Address the Issue of Too Few Assisted Care Living Facilities That Accept TennCare CHOICES
- Develop an Online Long-Term Care Resource for Consumers
- Adequately Address the Behavioral and Mental Health Needs of Nursing Home Residents

An Introduction: The Tennessee Office of the State Long-Term Care Ombudsman Program

The Tennessee Long-Term Care Ombudsman Program is an advocacy program for residents of long-term care facilities. It was established under the federal Older Americans Act of 1965 and Tennessee Code Annotated § 71-2-109. Every state and territory must have an Office of the State Long-Term Care Ombudsman (Office) that is established by the State Unit on Aging and headed by a full-time State Long-Term Care Ombudsman (State Ombudsman) who directs the program statewide. In Tennessee, the Office is housed within the Tennessee Department of Disability and Aging (DDA), Tennessee's State Unit on Aging. The State Ombudsman is required to:

- Identify, investigate, and resolve complaints made by or on behalf of residents
- Provide information to residents about long-term services and supports
- Ensure that residents have regular and timely access to an ombudsman
- Represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect residents
- Analyze, comment on, and recommend changes in laws and regulations pertaining to the health, safety, welfare, and rights of residents

Ombudsman services are free and confidential and are available statewide.

Ombudsman in Action: A resident was being financially exploited by her deceased husband's cousin who was established as the agent of a power of attorney for her after her husband's death. The resident's cousin moved her into an assisted living facility and kept her belongings, including her jewelry and vehicle, both of which she used. She also put her name on her bank accounts and changed her life insurance policy to make herself the beneficiary. The resident's long-standing friends from another state, where she lived much of her life, called the ombudsman for help. With assistance from local police who explained her right to revoke the power of attorney, the resident was able to get access to her assets, totaling over half a million dollars, and most of her jewelry, and have her vehicle returned to her.

Structure of the Office

The Office is comprised of a State Office, housed at DDA, and nine district ombudsman programs that provide advocacy services at the local level statewide. The State Office contracts with each of the state's nine Area Agencies on Aging and Disability. Five of the

nine agencies further contract with local, community-based organizations and other entities to provide ombudsman services. While these local entities are responsible for the personnel management of ombudsmen they house, the State Ombudsman is responsible for managing all ombudsman activities statewide. At the time of issuing this report, the Office consists of the State Ombudsman and 15 full-time and five part-time district long-term care ombudsmen (district ombudsman) who provide services in nearly 700 facilities across the state. The program is also supported by trained and certified volunteers who increase its reach by visiting facilities and educating residents. During Federal Fiscal Year (FFY) 2023, there were 63 volunteer ombudsmen who contributed 1,661 hours to the program.

FFY 2023: A Year in Review

FFY 2023 was an exciting year for the Tennessee Long-Term Care Ombudsman Program. While complaints continued to flow in at unprecedented rates, the team came together to:

- Meet in person for the first time in years to participate in two State Office-hosted trainings. Speakers included long-term care experts at both the state and national level.
- Implement consistent Ombudsman certification training across the state, coming into compliance with federal training standards of an initial 36-hour training process for both staff and volunteer ombudsmen.
- With use of supplemental American Rescue Plan Act (ARPA) funds, hire temporary part-time staff at the district level who assisted with targeted visits to residential care communities, increasing the number of routine access visits made, facility surveys and resident councils participated in, and training sessions provided for facility staff.
- Comment on proposed revisions to the Older Americans Act regulations, United States Senate requests for information to support increased funding for state survey agencies, and legislation to increase Tennessee's personal needs allowance to \$75 per month.

Tennessee was also selected to host the 2023 State Long-Term Care Ombudsman Conference, and State Ombudsmen and long-term care experts from across the country spent a week together in Nashville.

LICENSING LONG-TERM CARE FACILITIES IN TENNESSEE

Tennessee is home to residents 700 long term care facilities including nursing homes, assisted living facilities, homes for the aged, traumatic brain injury homes, and adult care homes.

The Tennessee Health Facilities Commission is responsible for licensing and certifying these homes across Tennessee. The Commission also completes annual and complaint surveys in long-term care facilities to monitor compliance with state and federal laws and regulations and to ensure resident safety.

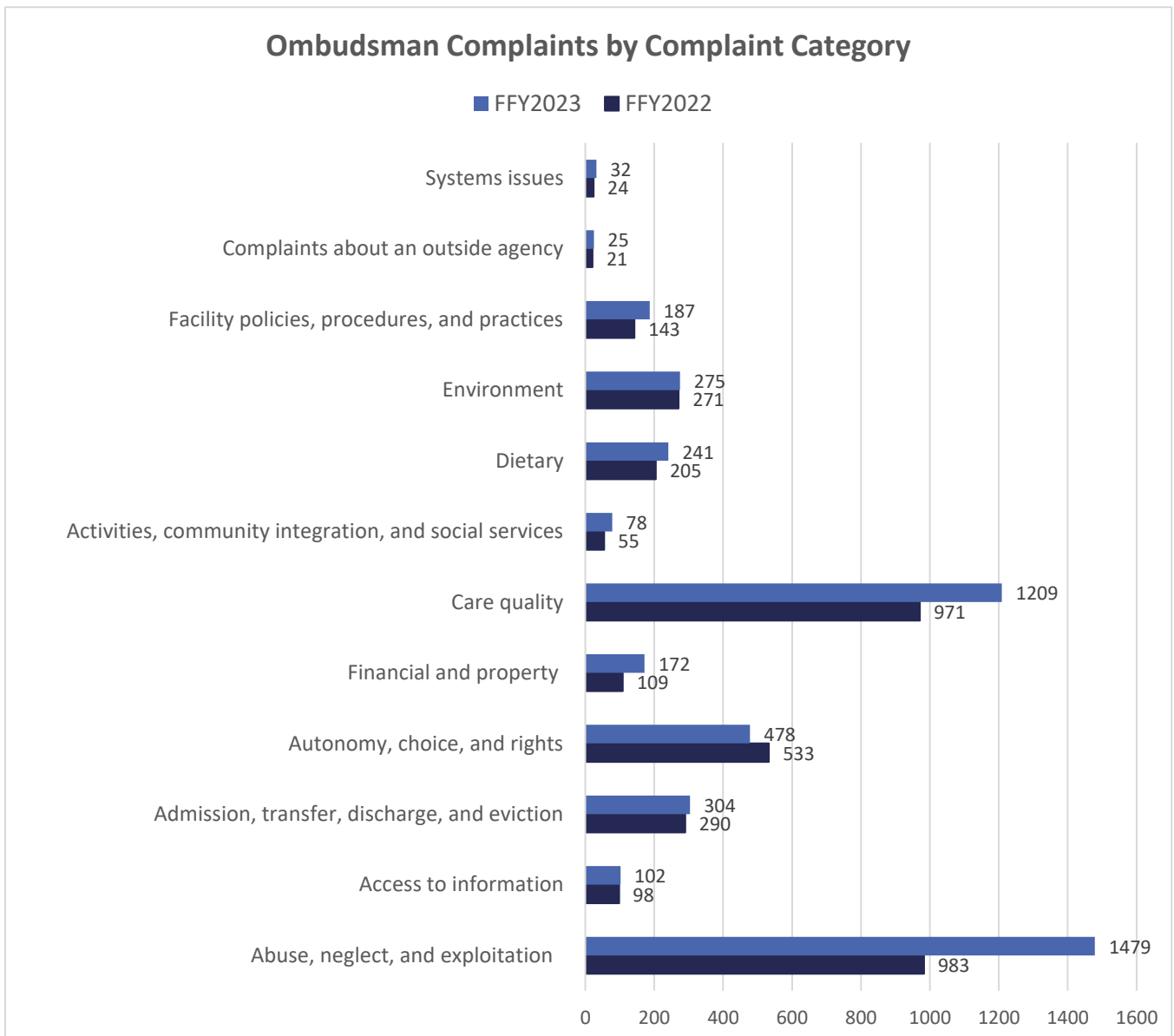
Complaints may be filed by calling 1-877-287-0010.

Addressing Resident Complaints

Most of a district ombudsman’s time is spent investigating complaints brought to the ombudsman by, or on behalf of, long-term care residents, and that was certainly true for FFY 2023. In all, complaints jumped from 3,703 in FFY 2022 to 4,582 in FFY 2023.

The top 3 complaint categories addressed by ombudsmen in in FFY 2023 were:

- Abuse, neglect, and exploitation
- Care quality
- Autonomy, choice, and rights



Ombudsman Work Supporting Residents and Facility Staff

The Older Americans Act tasks long-term care ombudsmen not only with addressing individual complaints, but also with being powerful, consistent voices for residents and support for facility staff. Ombudsmen do this by supporting resident and family councils, helping facility staff address complex issues through a residents' rights and person-centered care lens, and providing education to the broader community about long-term care issues and options. In FFY 2023, ombudsmen made a total of 4,492 visits to long-term care facilities to talk with and educate residents and staff, observe the homes, and investigate complaints. They provided information and assistance to 1,923 individuals, acting as a trusted local source of information on topics such as residents' rights, visitation, and selection of a long-term care facility. Finally, they provided guidance to facility staff members 1,048 times when staff reached out for assistance.

Ombudsman in Action: The ombudsman received a complaint from a resident's family member and power of attorney stating that the resident had a rash in multiple places on his body that appeared irritated, raw, and bloody and had been there for months. While visiting the facility, the ombudsman noted several other residents with visible rashes. She talked with facility administration and asked if comprehensive testing had been done to identify the rash and learned it had not been done. Staff privately disclosed to the ombudsman that they had acquired the rash and were told it was scabies by their personal physicians, but the facility didn't want them to tell others. The ombudsman connected facility staff with the Health Acquired Infections team at the Tennessee Department of Health who quickly provided resources to coach and support the facility on next steps. The ombudsman also referred the complaint to the state survey agency due to the nature of the issue. Shortly thereafter, appropriate treatment was provided, and the rash outbreak ended.

Additionally, with use of ARPA funds, part-time, temporary staff were hired, trained, and certified to assist district ombudsmen. In five of the nine districts, this marked the first time in recent history that there was more than one staff ombudsman serving in the district. This opportunity helped to demonstrate the significant impact of increased staffing.

Barriers of the Tennessee Ombudsman Program

Inadequate Resources to Support the Ombudsman Program

There are too few long-term care ombudsmen in Tennessee to meet the high, and growing, demand for services. As such, funding is one of the primary barriers to providing excellent ombudsman services to Tennessee’s long-term care residents. Currently, Tennessee has about 60,000 licensed long-term care beds between nursing homes, assisted care living facilities, residential homes for the aged, adult care homes, and traumatic brain injury homes. Tennessee is unique in that there is no dedicated state funding for the Tennessee Long-Term Care Ombudsman Program. Nearly every other state and territory, including every state surrounding Tennessee, receives dedicated state funding, as the table below illustrates. The only state funding expended by the program is for the State Ombudsman position, as it is housed within a state agency and uses general administrative funds for personnel costs.

FFY 2022 National Ombudsman Reporting System (NORS) Data for Tennessee and Surrounding States						
State	LTC Facilities	Resident Capacity	Staff FTE	Complaints	Program Expenditures	LTC Bed to Staff Ombudsman Ratio
MS	412	26,986	18	1,673	\$1,509,784	1,499
AR	425	36,994	12	937	\$1,503,585	3,083
AL	570	38,573	25	977	\$2,273,139	1,543
KY	609	40,795	30	2,126	\$1,914,657	1,360
TN	697	60,073	18	3,703	\$1,166,660	3,356
VA	862	70,705	30	3,381	\$2,011,184	2,326
SC	863	48,551	33	2,967	\$3,116,407	1,471
MO	1,162	84,006	19	2,517	\$2,252,584	4,538
NC	1,576	89,710	38	3,240	\$4,687,322	2,376
GA	3,163	88,379	43	4,518	\$3,310,702	2,044

Recommendations

More Staff Ombudsmen are Needed: Support the Office of the State Long-Term Care Ombudsman with Dedicated State Funding

Tennessee must significantly increase support for the Long-Term Care Ombudsman Program using state general revenue funding. The Tennessee Department of Disability and Aging contracts with Area Agencies on Aging and Disability and development districts across Tennessee for the provision of local ombudsman services. The program receives less than \$450,000 in federal funds annually for the exclusive use on ombudsman services and relies heavily on dedicated and nondedicated funding sources at the district level. District ombudsmen and the agencies that employ them report insufficient funding to meet the demand for ombudsman services.

The Institutes of Medicine (IOM) report, “Real People, Real Problems: Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act (1995),” recommends a minimum ratio of one paid ombudsman full-time equivalent (FTE) to 2,000 beds, not including the State Long-Term Care Ombudsman. There has been a significant increase in acuity of long-term care residents since this study was published in 1995, resulting in increasing complexity in ombudsman case work. Nevertheless, the IOM report remains the primary tool with which ombudsman programs assess staffing needs. According to the IOM recommendation, Tennessee would need at least 30 ombudsman FTEs to be adequately staffed. As of the date of issuing this report, Tennessee only has 15 full-time and five part-time district ombudsman positions statewide, or around 17.5 FTEs. Further, some of these positions are funded with ARPA funds, which will be exhausted within the next year, and other unsecured funds.

Address the Issue of Too Few Assisted Care Living Facilities Accepting TennCare CHOICES

There are too few well-performing assisted care living facilities that accept TennCare CHOICES, making it more difficult for qualified individuals to receive long-term care services in a setting that is less restrictive than a nursing home. As of the date that this report was issued, there were 329 assisted care living facilities licensed by the state of Tennessee; meanwhile, it appears as if TennCare managed care organizations were in contract for CHOICES with only approximately 70 of these assisted care living facilities. It should be noted that many of these homes are in contract with multiple plans, and it's not uncommon for facilities to have wait lists in place. The lack of choice has a significant impact on consumers. For example, in a recent assisted care living facility closure, many residents had to move nearly two hours from home to the only assisted care living facility that accepted CHOICES and had beds available.

Develop an Online Long-Term Care Resource for Consumers

Prospective and current residents, and their loved ones, frequently contact the Office asking for assistance in understanding the Tennessee's long-term services and supports system. Currently, there is not a resource that spans agencies and provider types and furnishes other important information like the basics of paying for long-term care. Tennessee should build a comprehensive resource that includes information about each licensure type and the types of services that each may provide. Consumers and providers alike would benefit from being able to sort through current licensed providers and filter by categories such as specialized services that they provide, like respirator or dialysis care, as well to access and review inspection reports issued by state agencies. Guidance on how to choose an appropriate facility for an individual, payment options for long-term care, including the CHOICES program, and the options for reporting complaints to get help should be available, as well.

Adequately Address the Behavioral and Mental Health Needs of Nursing Home Residents

Too many Tennessee nursing home residents needlessly suffer because adequate behavioral and mental health supports are not available to them. Ombudsmen are witness to this while making regular visits to facilities, and facility staff call ombudsmen regularly to ask for related technical assistance. Facility leadership tell ombudsmen that they are pressured into accepting residents they believe they may not be well positioned to care for, often by their corporate offices. In any case, when the resident is admitted to their care, the facility must work to meet the resident's needs.

However, it's rare that, in these instances, when asked facilities report having completed a comprehensive resident assessment, implemented a person-centered care plan, and trained staff on the use of that care plan. These are basic and fundamental pieces of the puzzle to providing good care. Further, it often appears as if staff do not know what to do when a resident exhibits a common behavioral symptom and staff jump to requesting unnecessary and sometimes harmful medications. Ample and consistent staff, person-centered activities that encourage socialization, and the thoughtful use of non-pharmacologic de-escalation techniques are far too rare. Further, from the ombudsmen's experience, many of these residents are CHOICES members that would benefit from having greater interaction with their managed care plan care coordinator.

Unfortunately, what too often results, despite ombudsman intervention, is the resident being involuntarily discharged because they're said to be harmful to others in the home. Ombudsmen have also watched as residents languish in psychiatric hospitals, who report they are ready to go back to their homes, as the nursing homes refuse to accept them back.

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