



National Association of Local Long Term Care Ombudsman
3232 S. Higuera Street, Suite 101B
San Luis Obispo, CA 93401
Karen Jones, Board Chair
805-785-0132 Phone

KARENJONES@OMBUDSMANSLO.ORG Email
WWW.NALLTCO.COM Website



October 7, 2024

Beverly Laubert
Administration for Community Living
Attention: Beverly Laubert 330 C Street SW
Washington, DC 20201

Re: Public Comment on OMB Control Number 0985-0005 - State Annual Long-Term Care Ombudsman Report

Dear Ms. Laubert,

The National Association of Local Long Term Care Ombudsman (NALLTCO) and the California Long Term Care Ombudsman Association (CLTCOA) are submitting comments regarding the State Annual Long-Term Care Ombudsman Report. We appreciate the efforts of the ACL staff to update this important report.

NALLTCO represents Local Ombudsman also known as Ombudsman Representatives throughout the United States. Our members provide all levels of Ombudsman services directly to residents in long-term care facilities. NALLTCO members are based in a variety of Ombudsman program types, including state agencies, county/local government agencies, direct services of Area Agencies on Aging (AAA), and non-profit organizations and have a wealth of “hands-on” experience in Ombudsman services.

CLTCOA is a membership organization composed of all 35 local Long-Term Care Ombudsman Programs, their staff, certified volunteers, and program supporters. Since 1979, CLTCOA's mission has been to provide a unified voice in advocacy and assistance to the local LTC Ombudsman Programs in California to better enable those local programs to provide Ombudsman services to the residents of long-term care facilities.

Our comments (below) reflect the input and expertise of our members in arriving at our recommendations to update the State Annual Long-Term Care Ombudsman Report.

Per ACL's request:

(1) We feel that the proposed collection of information is necessary for the proper performance of ACL's functions and that the information collected has a practical utility, specifically:

- The data clarifies the unique and important role of the Long Term Care Ombudsman Program for residents of long term care facilities.
- The data provides a unique perspective of the challenges affecting residents of long term care facilities.

(2) We recommend that ACL consider a study to determine the burden of collecting Ombudsman data from local/regional Ombudsman programs. A significant majority of the data reported in the State Annual Long-Term Care Ombudsman Report is generated by the local/regional Ombudsman. The amount of time the local/regional Ombudsman spend to record data is a necessary burden to the programs and reduces resident access to the Ombudsman program where program resources are limited.

(3) Please see below for our specific recommendations to enhance the quality, utility and clarity of the information to be collected.

(4) We recommend that ACL consider methods to enhance the ability of local/regional Ombudsman programs to access and utilize technology such as AI, tablets, wireless internet and other methods to instantly record data related to Ombudsman services. Many local/regional Ombudsman programs are recording data on paper while in care facilities and then traveling to an office location to enter the data into a computer. This double entry is burdensome and unnecessary as technology advances.

Our recommendations to enhance the quality, utility and clarity of the information to be collected:

Table 2: Complaint Codes and Definitions

- **Abuse: Psychological: A03 (Abuse, Gross Neglect, Exploitation)**
 - We agree with NASOP's recommendation to add language for Abuse: Psychological: A03, to Examples and Reporting Tips about postings to social media that includes disparaging and derogatory terms against residents. We also recommend adding language to include posting of photos where the resident is partially clothed or unclothed or in a vulnerable position.
- **Privacy: D04 (Autonomy, Choice, Rights)**
 - We agree with NASOP's recommendation to add language to Examples and Reporting Tips to include no consent to record a resident or inappropriate electronic monitoring usage. This could be added to Privacy: D04 or utilize NASOP's recommendation to add this language to Dignity and Respect: D03.

- **Lack of Supervision: New Code in Code F (Care) or Code J (Facility Policies, Procedures and Practices)**
 - We recommend adding a new code for lack of supervision when this is the cause of resident-to-resident abuse and for instances when the resident elopes (leaves facility without needed supervision).

- **Supplies, storage and furnishings: I-03 (Environment)**
 - We recommend adding language to Examples and Tips to identify that this code should be used when knives, cleaning products and other items that would be unsafe for residents with cognitive impairments are accessible to residents.

- **Resident representative or family conflict: L-01 (Systems: Others, Non-Facility)**
 - We recommend adding language to the Definition and the Examples and Reporting Tips to include resident's friends or visitors who are not family members/representatives as persons who would be involved in a family conflict.

- **Resident-to-Resident (Cognitive Impairment): New Code in Code L (Systems: Others, Non-Facility)**
 - We recommend adding a new code for resident-to-resident abuse where the resident who causes the abuse has cognitive impairment and is not able to act with willful intent to commit abuse. This would be used for instances where the abuse does not result in great bodily harm to another resident and is not the result of lack of staffing/supervision.

- **Discrimination: M (New Code)**
 - We agree with NASOP's comments to add a new complaint category to capture complaints specifically related to discrimination. We recommend that in addition to adding language for the type of discrimination, individual codes should be created to capture the diverse types of discrimination. For example, create a code/value for each of the following:
 - Gender/Gender Identity
 - Sexual Orientation
 - Race/Country of Origin/Ethnicity
 - Religion
 - Financial/Insurance/Payor Source
 - Age
 - Disability
 - HIV Status

And create a Code and Examples and Reporting Tips for the following issues directly related to discrimination:

 - M01: Admission
 - M02: Accommodations or Special Needs
 - M03: Service Animal or Assistive Devices
 - M04: Visitor Discrimination
 - M05: Self-Expression

- **Special Data Collection: Z (New Code)**

- We recommend creating a new complaint category to allow for one-time/short-term collection of specific data. This will allow state data systems to retain the code in their reporting systems without the need for significant changes when ACL needs one-time/short-term specific data.

Table 3: State Program Information

We recommend adding the following new reporting Elements to Part D: Staff and Volunteer Data Elements:

- **Statewide Turnover Rates for Certified Ombudsman Based on the following categories:**

- State Ombudsman
- State Paid Staff
- State Volunteers
- Local/Regional Paid Staff
- Local/Regional Volunteers

This would be calculated by dividing the total number of Certified Ombudsman in each category throughout the State who are no longer part of the Ombudsman program during the reporting year by the number of Certified Ombudsman on the first day of the reporting period. For example:

Local/Regional Certified Ombudsman Paid Staff on October 1 = 100

Number of Local/Regional Certified Ombudsman Paid Staff who left during the program between October 1 and September 30 = 25

Turnover rate: $25/100 = 25\%$

Rationale: Turnover rates can be used to identify successes and challenges in the statewide program and are a highly valuable tool to demonstrate program needs.

- **Years of Experience for Certified Ombudsman Based on Category**

- State Ombudsman
- State Paid Staff
- State Volunteers
- Local/Regional Paid Staff
- Local/Regional Volunteers

This would be calculated using the date of Certification for each person in the category throughout the State and the last day of the reporting period and should be reported using whole numbers. For example:

Total number of Local/Regional Certified Ombudsman Volunteers in the State: 3

Reporting Year: 2023

Certification Dates for the Volunteers:

2002, 2021, 2018

$2023 - 2002 = 21$

$2023 - 2021 = 2$

$2023 - 2018 = 5$

Total Years of Experience: 28

Rationale: Years of Experience rates can be used to identify successes and challenges in the statewide program and are a highly valuable tool to highlight the knowledge and skills of the Ombudsman.

- **Number of Facility Beds per Certified Ombudsman**

This would be calculated by dividing the total number of facility beds in the State that are under the Ombudsman program's jurisdiction by the Statewide total number of Certified Ombudsman and should be reported using whole numbers. For this reporting element, only Certified Ombudsman who provide Ombudsman services to residents will be counted. For example:

Total number of facility beds: 100,300

Total number of Certified Ombudsman providing services to residents: 42

Number of facility beds per Certified Ombudsman: $100,300/42 = 2,388$

Rationale: The 1995 IOM Study identified 1:2000 beds as a base level of Ombudsman staffing. This is the only study that provides a recommended Ombudsman staffing ratio. When the IOM study was published, most facilities were owned by individual families or non-profit organizations with complaints that were based on individual residents. Today, most facilities are owned by for-profit corporations and that have significant corporate level staffing and care complaints. The IOM standard is no longer a good measure of Ombudsman staff ratios due to the increase in complaint complexities. Tracking this information on the State reports will help develop an accurate Ombudsman staffing ratio.

Additional Items

- **Facility Visits, Not Complaint Related vs. Complaint Related**
 - Reporting systems in many states require Ombudsman to designate facility visits as complaint related or not complaint related. Just like we see in traffic when a police officer is visible and vehicles slow down to speed limits, this requirement ignores the improvement in care that occurs when facility staff are aware of an Ombudsman in the facility. All Ombudsman visits are a benefit to facility residents, regardless of the Ombudsman's intent to investigate a complaint while performing the visit. Ombudsman data systems falsely identify that the Ombudsman program has failed to provide at least a quarterly visit because of this requirement, even when the Ombudsman has been in the facility multiple times during the quarter.
- **Require States to resolve quarterly visit reporting when the facility opens or closes during the year**
 - Reporting systems in many states calculate the total number of facilities visited during the program year each quarter. This is problematic when a facility opens or closes during the year. The reporting system records this as a failure to visit in all four quarters when in fact, the facility was visited in every quarter that it was open. We agree with NASOP's recommendation: "Facilities opened and closed during the reporting period should only be counted for quarters in which the facilities were in operation."

We want to thank ACL staff for their efforts to update the National Ombudsman Reporting System (NORS) and appreciate the opportunity to provide these comments. If you have any questions regarding these comments, please contact me at 805-785-0132 or karenjones@ombudsmanslo.org.

Sincerely,

A handwritten signature in blue ink that reads "Karen Jones".

Karen Jones, Chair
NALLTCO Board of Directors

A handwritten signature in blue ink that reads "Crista Barrett Nelson".

Crista Barrett Nelson, President
CLTCOA Board of Directors