

Residents of Long-Term Care Facilities Lacking Access to Advocates

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Contact: [Mark Johnson](#), 518-474-4015

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Office for Aging Facing Drop in Ombudsman Volunteers

Many residents of long-term care facilities in New York state lack regular access to ombudsman services due to a decline in the number of volunteers and a severe shortage of paid staff, according to an [audit](#) released today by State Comptroller Thomas P. DiNapoli.

“Ensuring that residents of nursing homes and assisted living centers have regular and open contact with ombudsmen to resolve issues and provide a voice to those who feel overwhelmed is crucial to ensuring their quality of life,” DiNapoli said. “The Office for the Aging needs to improve access to these important services for some of the state’s most vulnerable residents.”

Under the federal Older Americans Act of 1965, to be eligible for certain federal grants, each state is required to establish an Office of the State Long-Term Care Ombudsman. In New York, this office is within the New York State Office for the Aging (NYSOFA) and serves as an advocate and resource for the elderly and persons with disabilities who live in long-term care (LTC) facilities.

Among their duties, ombudsmen identify, investigate and resolve complaints made by or on behalf of residents. There are about 1,500 LTC facilities in the state, housing more than 160,000 residents who have a need for ombudsman services, according to NYSOFA.

DiNapoli's auditors found that as of January 2019, only about 600 of the state's LTC facilities have an assigned volunteer ombudsman, leaving the remaining 900 facilities to be covered by just 50 paid local staff, about half the minimum number recommended in NYSOFA's guidelines, which are based on information from the Institute of Medicine.

Eleven of NYSOFA's 15 regional programs fell short of the recommended minimum number of staff for the federal fiscal year (FFY) ended Sept. 30, 2018, and about 30 percent of facilities were not visited by an ombudsman during that period. New York City, the region with the highest number of residents and facilities, was recommended to have 28 staffers, but had only five.

New York's paid staff per 2,000 beds ranked 39th compared to other states as of Sept. 30, 2017.

According to NYSOFA, the number of facilities associated with at least one complaint increased significantly – by about 84 percent – from 247 in the FFY ended Sept. 30, 2016 to 454 in the FFY ended Sept. 30, 2018. Nearly all complaints – 98 percent – arose from facilities that had been visited prior to the complaint, indicating that an ombudsman's visit plays a role in a key part of the office's mission: being accessible to residents who wish to air their concerns.

"We greatly appreciate Comptroller DiNapoli's continued leadership in efforts to ensure that New York's nursing home residents have access to good care and life with dignity," said Richard J. Mollot, Executive Director of the Long

Term Care Community Coalition. "The LTC Ombudsman Program plays a critical role in helping residents overcome challenges and reduce abuse and neglect. This audit lays the groundwork for strengthening the program, and ensuring that all residents and families in New York have access to its vital services."

"Resolving complaints and assuring the rights of long term care patients in New York State is a critical effort," said Suzanne Mattei, strategic advisor, Gray Panthers NYC. "Today, it's even more important. Proposed and recently enacted regulations at the federal level make it far more difficult to protect the rights of long term care patients. Strengthening and expanding NYS's Ombudsman program helps. Now, that some of the deficiencies in the program have been identified, it's time to resolve them. Thank you to Comptroller DiNapoli for bringing light to this previously under-recognized problem."

"New York StateWide Senior Action Council thanks State Comptroller DiNapoli for documenting the tremendous need that nursing home residents and families are experiencing in having an advocate to represent them at a time when they are in most need," said council Executive Director Maria Alvarez. "New York state is experiencing an increase of senior citizens and residents in nursing homes. The decline of ombudsmen dedicated to helping them to assert their rights is disconcerting. We look forward to working with the Comptroller's Office and the New York State Office for the Aging in exploring ways to improve this situation and ensure that New York's nursing home residents are able to lead dignified and comfortable lives."

Although ombudsmen may be volunteers or paid staff, NYSOFA relies heavily on citizen-volunteer ombudsmen to visit the LTC facilities and make contact with their residents. Each regional program has a full-time, paid ombudsman coordinator who recruits, trains and supervises its volunteers. Still, recruitment

and retention has been a problem. NYSOFA data show a 37 percent decrease in the number of volunteer ombudsmen during the three-year period ending Sept. 30, 2018. NYSOFA officials suggested that a restructuring of the program that resulted in larger service areas for a reduced number of local offices could have contributed to the decline, and cited other recruitment and retention challenges.

To help retain volunteers. NYSOFA said that some regional programs have begun paying a monthly stipend to some volunteers who work at least four hours per week conducting additional facility visits or entering data.

DiNapoli's auditors also found issues with ombudsman training. A look at training records for 50 volunteers for one calendar year found that 31, or 62 percent, did not meet the annual training requirements. That included 12 volunteers who missed four of the six annually required in-person training sessions.

Office personnel use an electronic system to maintain all information required by the federal Administration for Community Living (ACL) through that agency's National Ombudsman Reporting System (NORS). This includes information on complaints received and investigated as well as number of facilities covered by the office, number of staff and volunteers in each region, and related training activities.

Auditors determined that certain data maintained in NYSOFA's computer system may not be reliable. They found, at the individual entry level, incomplete fields and differences with other supporting information – that may limit the data's usefulness in analyzing results and trends. For example, a comparison of system complaint data to hard copy complaint documentation showed that 46 of the 66 system records reviewed either differed from the complaint form, had incomplete fields, or had both types of issues.

DiNapoli recommended that NYSOFA:

- Improve the reliability of system-generated office data;
- Take steps to identify and understand reasons for the decline in volunteers and differences in regional program results;
- Develop and implement strategies to improve access to ombudsman services, including access to volunteer ombudsmen;
- Strengthen efforts to ensure that volunteer ombudsmen receive required annual training; and
- Develop a long-term advocacy plan that is informed by reliable data and that identifies key advocacy goals and activities.

NYSOFA officials agreed with the audit recommendations and indicated the actions they have taken so far to implement them. Their full response is included in the audit.

Read the [report](#), or go

to: <https://www.osc.state.ny.us/audits/allaudits/093020/sga-2020-18s48.pdf>

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