



# **CALIFORNIA LONG-TERM CARE OMBUDSMAN PROGRAM**

**ANNUAL REPORT FFY 2022**

October 1, 2021 - September 30, 2022

## table of contents

<a href="#">Our Mission</a>	3
<a href="#">Letter from the Ombudsman</a>	4
<a href="#">Residents' Rights</a>	6
<a href="#">What We Accomplished</a>	7
<a href="#">Legislation Supported</a>	8
<a href="#">Amplifying Voices</a>	12
<a href="#">Funding and Structure</a>	14
<a href="#">Laguna Honda Update</a>	15
<a href="#">Celebrating Bobbie Wartson</a>	18
<a href="#">Contact the State Long-Term Care Ombudsman</a>	19

## our mission

*seek resolution of problems and advocate for the rights of residents of long-term care facilities with the goal of ensuring their dignity, quality of life, and quality of care.*



# letter from the ombudsman



I am pleased to share the 2022 Annual Report for the Office of the State Long-Term Care Ombudsman. Our Annual Report provides the governor, policy makers, consumer advocates, and the public with an overview of what the Office accomplished using federal and state funds. 2022 was my first year as the State Long-Term Care Ombudsman, and I had the privilege of working alongside the incredible people at the state and local levels who dedicate themselves to helping more than 300,000 older adults and adults with disabilities assert their rights when they are in long-term care facilities.

2022 was a challenging year. It was year three of the worst health pandemic of the 21st century, and we were still learning to live with COVID-19. There were extreme temperatures during the summer months, and heat disproportionately impacts older adults. The largest skilled nursing facility in California, Laguna Honda Hospital and Rehabilitation Center, had its certification terminated on April 14, 2022, due to significant problems that put residents' health and safety at risk. And we experienced a significant decline in our volunteer numbers, which impacts residents' access to long-term care Ombudsman representatives.

The good news is that while we faced historical challenges, the staff and volunteers who are the heart of the program never gave up. The achievements made in 2022 are a testament to the 13 staff members who make up the state team and the approximately 600 staff and volunteers who work daily with residents in nursing homes and assisted living facilities. Some of the key accomplishments in 2022 include:

- Secured \$1.9 million grant from the Administration on Community Living to help California recruit more volunteers for the 35 [Local Long-Term Care Ombudsman Programs](#).
- Secured \$5 million in state general funds to refresh and update the public facing materials and website for the Long-Term Care Ombudsman program.
- Organized and delivered the first in-person Local Long-Term Care Ombudsman Training Conference since the COVID-19 pandemic. California Health & Human Services Agency Secretary Mark Ghaly kicked off this training with a message of gratitude for the work of the local LTC Ombudsman representatives during the pandemic, while California Department of Aging Director Susan DeMarois shared the efforts underway to continue developing an age- and disability-friendly California.
- Organized and delivered the Fall Training Conference for Local Long-Term Care Ombudsman Coordinators entitled, "Together Everyone Achieves More, The Difference is YOU." Speakers

included experts in elder justice from Justice in Aging, the National Consumer Voice Ombudsman Resource Center, and a briefing from the California Department of Health Care Services on the transition from Medi-Cal Fee-for-Service to LTSS Managed Care Plans.

- Launched monthly Long-Term Care Ombudsman coordinator calls to exchange information, provide updates on federal and state regulatory changes, and share systems advocacy opportunities for teams to act in real time.
- Worked to modernize the Quality Review process for the 35 Local Long-Term Care Ombudsman Programs. This was an extensive change management process that required the involvement of all local programs, state staff, and engagement with other State LTC Ombudsman programs to build upon the work that had been done over the past 20 years. The goal of this modernization is to focus on performance outcomes, quality improvement, and data-driven solutions.
- Worked with the Governor's Office of Emergency Services on the [Access and Functional Needs Workgroup](#). This workgroup was established to strengthen communications between the various state departments and programs that serve older adults and people with disabilities to ensure resources were focused where most needed during wildfires, storms, and the extreme heat experienced in 2022. This was critical to ensure appropriate support and response for residents who may depend on electrical devices such as oxygen from an electric concentrator, Hoyer lift or electric adjustable bed, feeding tube/nutrition systems, door alerts, or call light systems.
- Developed a guide for local Long-Term Care Ombudsman programs on how to manage facility closures. This is a playbook and step-by-step guide for local Long-Term Care Ombudsman programs to take the lead in organizing efforts that keep residents' rights at the center of facility closures. This is also one of the initiatives of [California's Master Plan for Aging](#).



Blanca Castro  
State Long-Term Care Ombudsman

## residents' rights

Individuals who live in long-term care facilities do not lose their rights when they enter a congregate living environment. In fact, they are guaranteed additional rights under state and federal laws specific to their status as residents. These rights are provided for primarily in the following sources.

Federal:

- Nursing Home Reform Law: [The Omnibus Budget Reconciliation Act of 1987](#) (OBRA '87), as amended, [Medicaid Provisions \(§1396r\)](#), and [Medicare Provisions \(§1395i-3\)](#)
- Medicare and Medicaid Requirements for Long Term Care Facilities, September 26, 1991, [42 U.S. Code of Federal Regulations \(§483\)](#)

California:

- Skilled Nursing Facilities (SNF): [Health & Safety Code, Section 1289](#)
- Residential Care Facilities for the Elderly (RCFE): [Health & Safety Code, Sections 1569-1569.87](#)
- Skilled Nursing Facilities: [California Welfare and Institutions Code, Title 22, Division 5, Licensing and Certification of Health Facilities, Chapter 3](#)
- Residential Care Facilities for the Elderly: [California Welfare and Institutions Code, Title 22, Division 6, Licensing of Community Care Facilities, Chapter 8](#)

## residents have the right to:



Be treated with dignity and respect.



Be free from chemical and physical restraints.



Manage their own finances.



Voice grievances without fear of retaliation.



Associate and communicate privately with any person of their choice.



Send and receive personal mail.



Have personal and medical records kept confidential.



Apply for state and federal assistance without discrimination.



Be fully informed of available services and any charges for those services prior to admission.



Be given advance notice of plans to transfer or discharge them.

## what we accomplished

In 2022, the State Long-Term Care Ombudsman program successfully wound down most remaining pandemic mitigation measures and recommitted to strengthening operational capacity. At the state level, this included a focus on robust policy advocacy, expanded support to recruitment and training, and an updated Quality Review process. Many local programs focused on staff and volunteer recruitment after the departure of nearly half of all trained Ombudsman representatives during the pandemic. Despite these challenges, Local Long-Term Care Ombudsman Programs across the state:

**DELIVERED** 492 community education sessions at health fairs and in other public settings.

**PARTICIPATED** in 253 facility surveys conducted by state licensing agencies to provide information to surveyors and advocate for residents.

**CONDUCTED** 63,872 visits to long-term care facilities.

**PROVIDED** 81,039 individual consultations on topics such as resident care, Advance Health Care Directives, and Long-Term Care Ombudsman services and responsibilities.

**INVESTIGATED** 40,003 complaints made by or on behalf of residents in long-term care facilities.

**RESOLVED** or partially resolved 57% of complaints to the resident's satisfaction.

**SUPPORTED** resident and family self-advocacy by attending, at the request of council members, 1,809 resident council meetings and 144 family council meetings.

**CONDUCTED** 134 training sessions for facility staff on topics such as elder abuse prevention, mandated abuse reporting, resident rights, and the role of the Long-Term Care Ombudsman in skilled nursing facilities and residential care facilities for the elderly.

**RESPONDED** to 21,143 calls made to a statewide toll-free Long-Term Care Ombudsman CRISISline. Callers reported complaints, obtained assistance with urgent problems, and received information about issues such as resident rights and resident care.

# legislation supported

## 2022 Federal and State Advocacy Efforts & Accomplishments

*In 2022, California's Office of the State Long-Term Care Ombudsman (OSLTCO) actively supported needed state and federal reforms to improve the quality of care provided to residents by sharing Ombudsman program data, experiences, and impacts to residents. We testified, submitted letters in support or opposition, and shared program data for state legislation. We submitted comments to the federal Centers for Medicare & Medicaid Services (CMS) and Administration for Community Living (ACL). Here are the key initiatives in 2022 and the action OSLTCO took on behalf of residents and local Long-Term Care Ombudsman programs.*

## Notable Dates

### April 15, 2022

Centers for Medicare & Medicaid Services (CMS) published a Request for Information on revising the requirements for Long-Term Care facilities to establish mandatory staffing requirements.

- OSLTCO submitted comments to CMS on June 10, 2022, strongly urging the establishment of minimum staffing standards for skilled nursing facilities.

### May 6, 2022

The Administration for Community Living (ACL) published a Request for Information on recommended changes to the Older Americans Act (OAA). ACL asked states to share the challenges faced by older adults, elders, and family caregivers in receiving services under the OAA, and how OAA programs can advance equity.

- OSLTCO submitted comments for Elder Rights Protection Activities including Subpart A - SLTCOP on June 6, 2022.

## President Biden's administration launched nursing home reforms that included:

- Establish minimum staffing standard
- Promote single occupancy rooms
- Reduce unnecessary medications
- Fund inspection activities
- Expand financial penalties and other enforcement actions
- Increase accountability for chain owners
- Deliver QIO support for nursing homes
- Provide transparency of ownership and finances
- Enhance nursing home compare
- Examine private equity
- Ensure affordable nurse aide training
- Support state efforts around staffing and workforce
- Launch national career pathways campaign
- Offer COVID testing, vaccines, boosters in nursing homes
- Establish on-site infection preventionist requirements
- Implement emergency preparedness and pandemic requirements
- Integrate lessons using equity lens

## State Legislation Accomplishments

2022 brought the largest number of bills introduced in the Legislature relating to nursing homes and assisted living facilities, following the devastating effects of COVID-19 on residents in long-term care facilities. Legislative attention was focused on fixing the problems that existed before COVID-19 and were exacerbated during the pandemic. Those problems include the lack of sufficient and well-trained staff in facilities, poor infection control practices, and the negative physical and behavioral health impacts to residents who were confined within facilities and isolated from contact with friends and family.

We successfully advocated for defeat of [AB499](#) (Rubio), the referral source for residential care facilities for the elderly bill. This bill would have weakened current regulations under the [California Health & Safety Code, Section 1569.47](#), holding referral agencies accountable for improper referrals and imposing a high burden on consumers to enforce their rights.

Following is the list of bills we actively supported and the resident right that is protected:

### [Assembly Bill 895 \(Holden\)](#)

Skilled nursing facilities, intermediate care facilities, and residential care facilities for the elderly; notice to prospective resident.

*Resident right: To have access to visits with family, friends, and representatives of certain agencies, including the ombudsman [§483.10 (j)].*

Requires all long-term care facilities for the elderly, skilled nursing facilities, and intermediate care facilities to provide contact information for the LTC Ombudsman upon admission to the facility. *This bill was signed by the Governor.*

### [Assembly Bill 1502 \(Muratsuchi\)](#)

Freestanding skilled nursing facilities.

*Resident right: Right to Information.*

Enacts the Skilled Nursing Facility Ownership and Management Reform Act of 2022, which establishes suitability standards for persons and entities seeking to acquire, operate, or manage skilled nursing facilities (SNFs) in California. Directs the California Department of Public Health (CDPH) to screen all persons and entities seeking licenses to acquire, operate, or manage SNFs. Requires owners and operators, including nursing home chains, to obtain prior approval from CDPH before acquiring, operating, or managing a SNF. *This bill was signed by the Governor.*

### [Assembly Bill 1855 \(Nazarian\)](#)

Long-Term Care Ombudsman Facility Access.

*Resident right: To have access to visits with family, friends, and representatives of certain agencies, including the ombudsman [§483.10 (j)].*

Prohibits a skilled nursing facility or residential care facility from denying entry to a representative of the office acting in their official capacity, except as specified. The bill would authorize a facility, during a state of emergency, health emergency, or local health emergency, to require a representative of the office entering the facility to adhere to infection control protocols for the duration of their visit that are no more stringent than those required for facility staff. *This bill was signed by the Governor.*

### [Assembly Bill 2546 \(Nazarian\)](#)

Designated support person has certain rights to access the facility to visit the resident.

*Resident right: To have access to visits with family, friends, and representatives of certain agencies, including the ombudsman [§483.10 (j)].*

Under the bill, a resident's right to visitation by designated support persons would include the right to leave the facility on outings, so long as reasonable infection control precautions are taken, as specified. *This bill failed to meet legislative deadline.*

### [Assembly Bill 2823 \(Levine\)](#)

Home Upkeep Allowance (HUA)

*Resident right: To manage one's own finances.*

This bill would help low-income persons living in a long-term care facility return home by raising the home upkeep allowance. It would also require the Department of Health Care Services to inform nursing home residents, prospective residents, discharge planners, and Medi-Cal offices about the home upkeep allowance. *This bill failed to meet legislative deadline.*



# amplifying voices

Ombudsman program statistics reflect the real issues experienced by individual residents of long-term care facilities and addressed by trained local advocates. The quantity and type of complaints received and addressed by Ombudsman programs in 2022 highlight where standards of care can be strengthened and where scarce program resources may best be targeted.

These skilled nursing facilities, intermediate care facilities, residential care facilities for the elderly, and residential care centers, with this many beds, are visited quarterly.

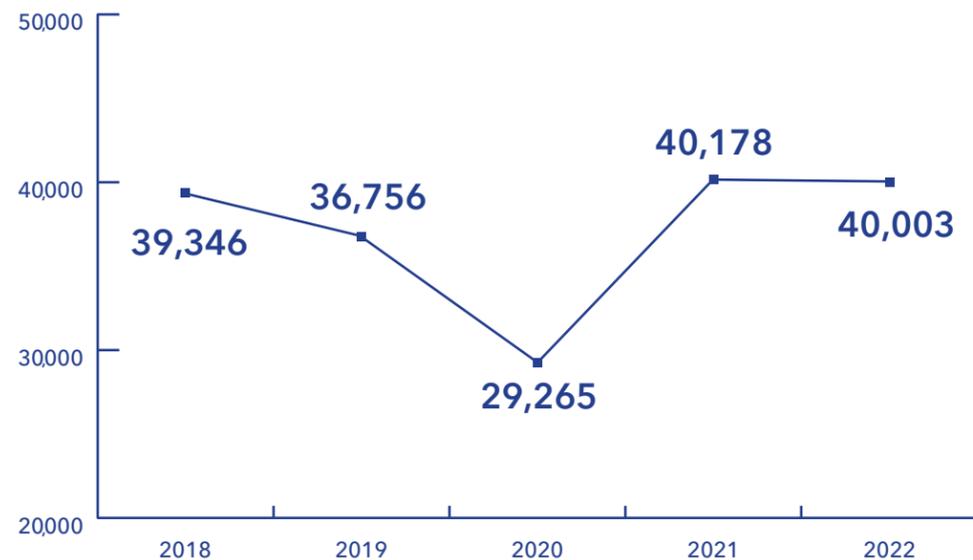
- 1,206** SNF & ICF Facilities
- 7,469** RCFE & RCC Facilities
- 117,229** SNF & ICF Beds
- 200,045** RCFE & RCC Beds

The Adult Residential Facilities (ARFs) are visited by Ombudsman representatives in response to receipt of a complaint ([SOC 341](#)) of possible physical abuse of a resident. These facilities do not receive regular, quarterly monitoring visits.

- 5,740** ARF Facilities
- 38,870** ARF Beds

## Total Complaints by Year - All Facilities

The Ombudsman program experienced a steep decline in the number of complaints received during 2019 and 2020. This corresponds to the COVID-19 pandemic period, during which ombudsman representatives were unable to visit facilities in person and the program experienced a dramatic loss of volunteers. As program staff returned to duty, resident complaints returned to pre-pandemic numbers.



## Complaints by Complainant 2022

Complainant	Total
Resident	6,507
Resident representative, friend, family	4,321
Ombudsman program	3,938
Facility staff	8,037
Representative of other agency or program	5,744
Concerned person	335
Resident or family council	20
Unknown	494
<b>Total</b>	<b>29,396</b>

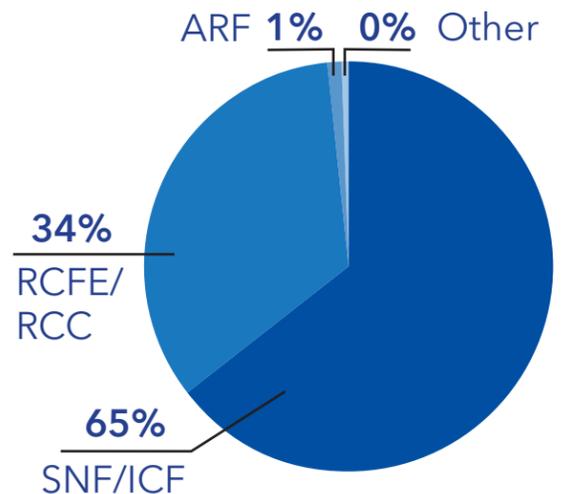
Note: Facility staff submitted the highest number of complaints regarding resident care.

## Top 5 Complaints in 2022

Rank	Complaint Code	Complaints	% of Total Complaints
1	Abuse, Gross Neglect, Exploitation - Abuse: Physical	4,828	12%
2	Abuse, Gross Neglect, Exploitation - Gross Neglect	2,497	6%
3	Admission, Transfer, Discharge, Eviction - Discharge or Eviction	2,003	5%
4	Care - Symptoms Unattended	1,761	5%
5	Care - Medications	1,704	4%

## Total Complaints by Facility Type

Total LTC Complaints	
SNF/ICF	25,963
RCFE/RCC	13,576
ARF	468
Other	132



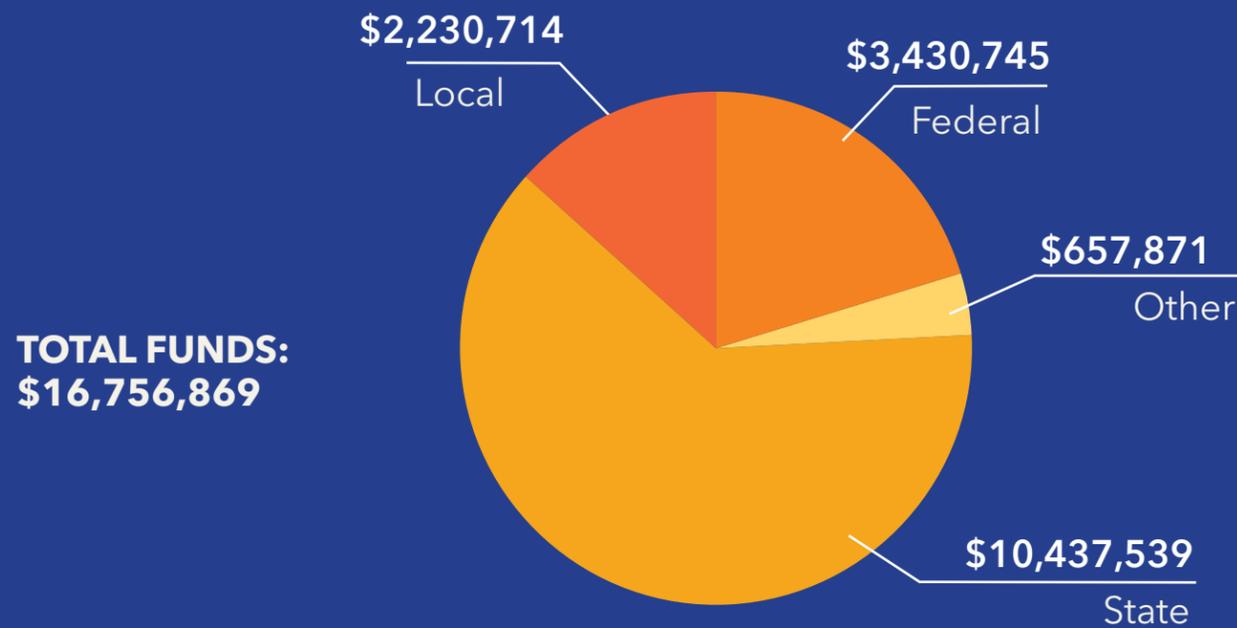
## funding & structure



There are 35 Local Long-Term Ombudsman Programs operating throughout California. This important work is carried out by both paid staff and trained Ombudsman representative volunteers.

### Staffing & Volunteers

**249 Paid Staff**  
**384 Trained Volunteers**



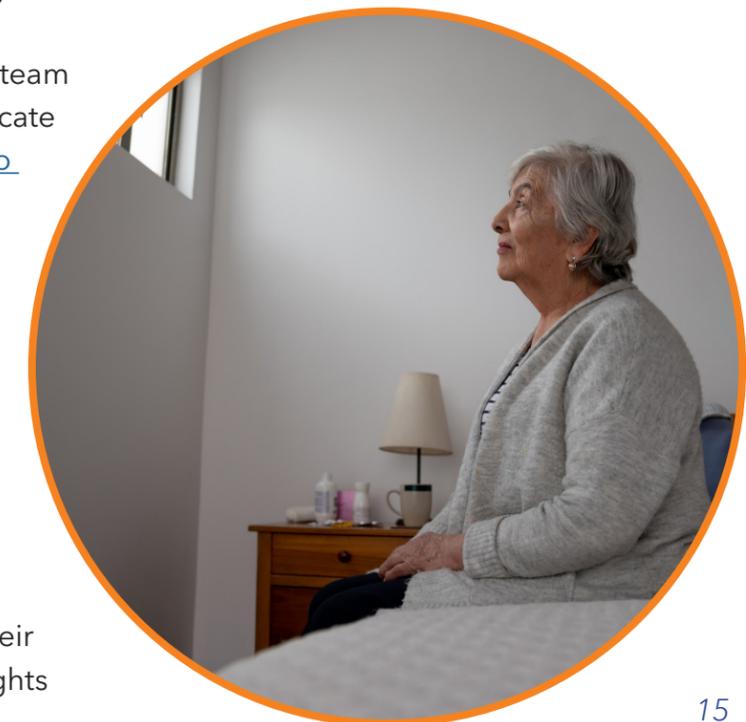
## What if the largest skilled nursing facility in California, housing 700 residents, were to close?

This question became a reality on April 14, 2022, when [Laguna Honda Rehabilitation Center](#) lost its federal certification from the Centers for Medicare & Medicaid Services (CMS) due to findings made by state and federal licensing surveyors. The loss of federal certification resulted in the suspension of funding from Medicare and Medicaid, resources critical to the ongoing operation of this landmark facility.

Located in the Forest Hill neighborhood of San Francisco, Laguna Honda is one of the largest health care facilities in California, with 780 licensed beds providing acute medical and rehabilitation services (11 beds) and skilled nursing services (769 beds). The facility has been operated by a partnership between the City and County of San Francisco Departments of Public Health since 1986.

The residents who receive care at Laguna Honda and call it home include people with a variety of complex medical and social support needs, including dementia, traumatic brain injuries, and substance use disorders. With survey findings determining that residents were in immediate jeopardy due to substandard conditions at the facility, the hospital needed to make deliberate efforts to remedy a number of issues impacting resident health and security. Absent this, Laguna Honda would face permanent closure and the likely displacement of hundreds of medically fragile residents.

Faced with this crisis, the LTC Ombudsman team jumped in and did what they do best: advocate for the rights of residents. The [San Francisco County Ombudsman Team](#), led by Program Coordinator Benson Nadell, was already deeply embedded in and well known by the Laguna Honda community and moved quickly. Working closely with the State LTC Ombudsman, they organized a "strike team" consisting of the program coordinator, six certified field Ombudsman volunteers, and members of the State Ombudsman office. Meeting weekly to provide status updates and to strategize, their primary objective was to ensure resident rights



# What if the largest skilled nursing facility in California, housing 700 residents, were to close? *Continued*

were protected throughout the process. Residents, their families, and representatives were formally notified through a letter on May 16, 2022 that the facility lost its certification. A town hall meeting was quickly organized to share information about residents' rights. Well received by residents, families and facility staff alike, the group hosted and participated in multiple subsequent family and resident town hall meetings to provide ongoing updates on the process and offer information on residents' rights. Ombudsman representatives also testified at San Francisco County Board of Supervisors meetings and hearings with the San Francisco County Health Department about the potential impact a closure or transfer could have on residents.



On July 15, 2022, facing potential closure, Laguna Honda administration began to reduce its resident population through the involuntary transfer of residents. Many of the most frail and dependent adults with guardians moved to a privately run facility outside of San Francisco County, away from their families. Nine residents died soon after being transferred, leading some to conclude that transfer trauma played a role. These sad events activated families and local and state advocates, including the State LTC Ombudsman Program, to call for a pause in the discharges.

## **Collaboration with State and Federal Agencies**

From the outset of the Laguna Honda facility closure, the California Department of Public Health organized weekly stakeholder calls that included the California Association of Health Facilities, LeadingAge California, consumer advocates such as CANHR, Justice in Aging, Disability Rights California, and the LTC Ombudsman. These calls proved to be effective in bringing together different perspectives on the rapidly evolving scenario, clarifying roles, and coordinating actions. The calls were also an opportunity to share updates on what the state and federal regulatory agencies were doing to help Laguna Honda work toward recertification with CMS. Calls with CMS officials were also conducted

to keep them apprised of what Ombudsman staff and volunteers were hearing from residents, their families, and their representatives.

## **The Role of the Long-Term Care Ombudsman Team**

Throughout this period, the LTC Ombudsman team demonstrated an unprecedented level of coordination and collaboration with local, state, and federal elected officials in support of Laguna Honda and for residents living in the facility. The results of this collaboration were felt when the decision was made to pause the involuntary discharges of residents due to concerns about the potential impacts on those transferred.

Ombudsman representatives also worked with Laguna Honda staff when complaints were received from residents, such as a resident wanting to appeal a transfer, or if resident rights were being ignored, such as the right to a medical assessment, care plan, and options before transfers. For the residents who had been transferred, LTC Ombudsman representatives conducted well-being checks to determine how they were adjusting to their new residences.

Some of the biggest questions the LTC Ombudsman program had with the Laguna Honda closure were: Where would these mostly Medi-Cal reimbursed residents, some with substance use disorders and behavioral health challenges, go? Would receiving facilities with higher staff turnover and doctors who only visit monthly represent an improvement? How would visitors travel longer distances to be with their loved ones? How could they avoid transfer trauma among those whose lives were being upended? These were just some of the health- and safety-related considerations the San Francisco Ombudsman team wrestled with during their nearly daily visits to the Laguna Honda campus.

Incremental, facility-level improvements demonstrated by Laguna Honda, coupled with relentless advocacy from many diverse stakeholders, have produced results. The closure deadline was extended into September, and then November 2022, giving both residents and the local and state Ombudsman programs hope that additional involuntary transfers may be avoided. At the time of this report, the Ombudsman strike team has been deactivated, although the San Francisco Ombudsman team continues to maintain a regular presence at Laguna Honda to ensure the rights of residents are upheld during the improvement process and beyond.

## Long-Term Care Ombudsman Coordinator Recognized for March 2022 Women's History Month in Kings County



**B**obbie Wartson, coordinator for the [Kings/Tulare counties Long-Term Care Ombudsman Program](#), was recognized at the March 1, 2022, Board of Supervisors meeting for Women's History Month. Women's History Month is an annual celebration to recognize the contributions women have made to the United States and to honor those who blazed trails for women's empowerment and equality.

The theme for 2022 was "providing healing, promoting hope," and Bobbie's public and professional lives reflect both. In recognition of all that she does for the community, Bobbie was nominated by Kings County District 5 Supervisor Richard Fagundes to receive this special recognition.

Bobbie leads the Long-Term Care Ombudsman Program with the Kings County Commission on Aging, which advocates for residents in long-term care facilities. In the county, there are 20 skilled nursing facilities and 56 residential care facilities for the elderly that together house more than 3,000 residents.

Complementary to her work as an Ombudsman, Bobbie is involved in several community councils and boards that support older adults and adults with disabilities in Kings County. She is currently chair of the Health Committee for the California Senior Legislature (CSL) Kings/Tulare County chapter. She also serves on the advisory councils of the Kings/Tulare County AAA Advisory Board, the Triple-A Council of California, the In-Home Supportive Services Advisory Board, and PG&E's People with Disabilities and Aging Advisory Council. Bobbie is also an active member of the Hanford Sunset Rotary Club.

The National Women's History Alliance chose the 2022 theme as a tribute "to the ceaseless work of caregivers and frontline workers during this ongoing pandemic and also a recognition of the thousands of ways that women of all cultures have provided both healing and hope throughout history."

"This year we recognize women who are currently affecting the future through their commitment to public service and government leadership," said the Board of Supervisors in a statement.



## California Long-Term Care Ombudsman Program

The Office of the State Long-Term Care Ombudsman operates a statewide 24-hour toll-free CRISISline to receive complaints and relay requests for local Long-Term Care Ombudsman services. These services are free and confidential, and interpreter services are available.

In California, every skilled nursing facility and residential care facility for the elderly, including board and care homes and assisted living facilities, is required to display one or more current posters with the CRISISline phone number. Each poster also includes the name, address, and phone number of the nearest Long-Term Care Ombudsman program. Posters are provided at no cost to long-term care facilities.



**24-Hour CRISISline**  
**(800) 231-4024**

*For hard of hearing callers:*  
**(800) 735-2929**  
**(800) 735-2922**



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