

Office of Ombudsman for Long-Term Care: Rights, Councils and Grievances

World Elder Abuse Awareness Day Event:
Thursday, June 13, 2024

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Office of
Ombudsman for
Long-Term Care

Learning Objectives

- ✓ Understand the role of the Office of Ombudsman
- ✓ Understand how the survey process considers grievances and facility response
- ✓ Discuss requirements for individual and group grievances
- ✓ Discuss Council Requirements
- ✓ Best practices that promote partnerships
- ✓ Tools and Resources we have available

Mission & Vision statement

Mission:

- To empower, educate, and advocate alongside Minnesotans who are receiving long-term care services and supports to ensure their rights are upheld.

Vision:

- All Minnesotans seeking or receiving long-term care services and supports have a high quality of life and high quality of care with a person-centered focus.
- The OOLTC empowers and advocates alongside residents in individual cases to help them achieve their best life.
- The OOLTC is a leading voice influencing public policy to systemically improve long-term care in Minnesota.

Office of Ombudsman

- Service of the Minnesota Board on Aging.
- Services are free and confidential.
- Serve people age 18+ seeking or receiving Long-Term Care services and supports.
 - Nursing Facility and Boarding Care Facilities.
 - Assisted Living Facilities and HUD exempt facilities.
 - Home Care Agencies.
 - Board and Lodge with Special Services.
 - Medicare beneficiaries in the hospital with access or discharge concerns.
 - Any licensed or registered residential setting that provides or arranges for home care support.
- No income, citizenship, or referral requirements.

What is an om-buds-man?

OOLTC is an independent state agency that serves people needing or receiving long-term care through complaint investigation, advocacy and education.

Who can provide a referral?

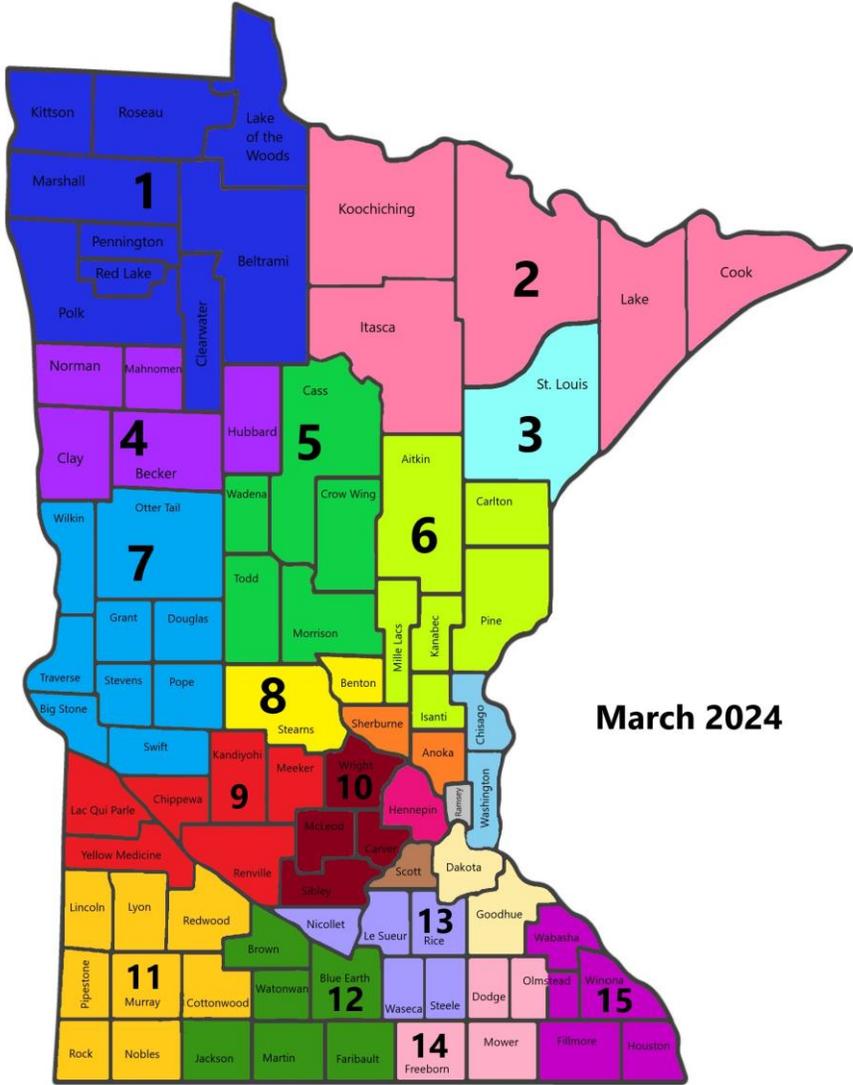
- Referrals for services can come from anywhere (family, providers, hospital, resident, friends, neighbors, etc.)
- We need consent from the resident for direct resident involvement and advocacy



WEBSITE:

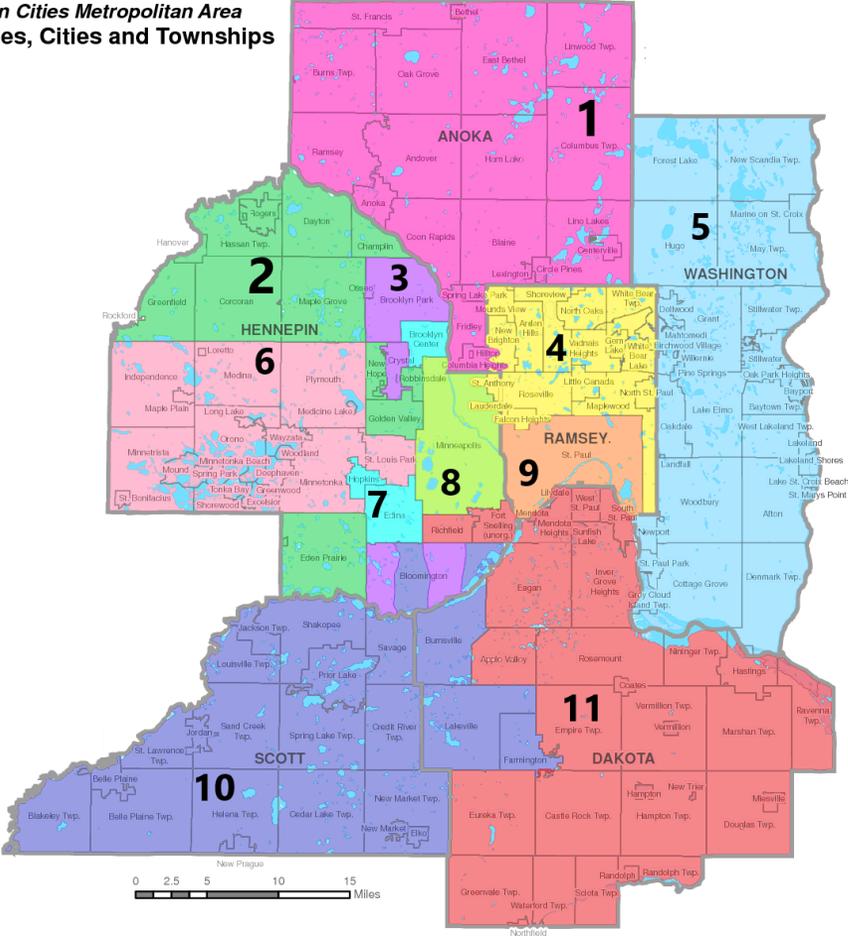
<https://mn.gov/ooltc/>

Statewide coverage



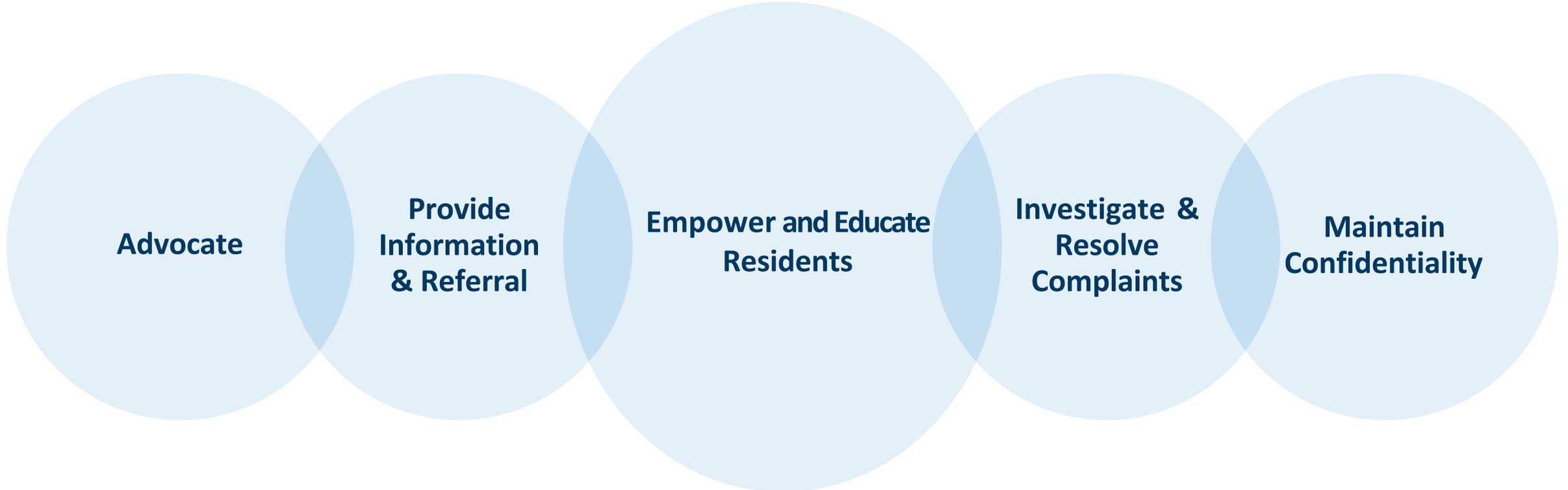
March 2024

Twin Cities Metropolitan Area
Counties, Cities and Townships



The Office of Ombudsman for Long-Term Care (OOLTC)

An Ombudsman is an advocate that **can help residents understand their rights** and make sure they know how to exercise them.



The following Ombudsman Representatives may visit your building:

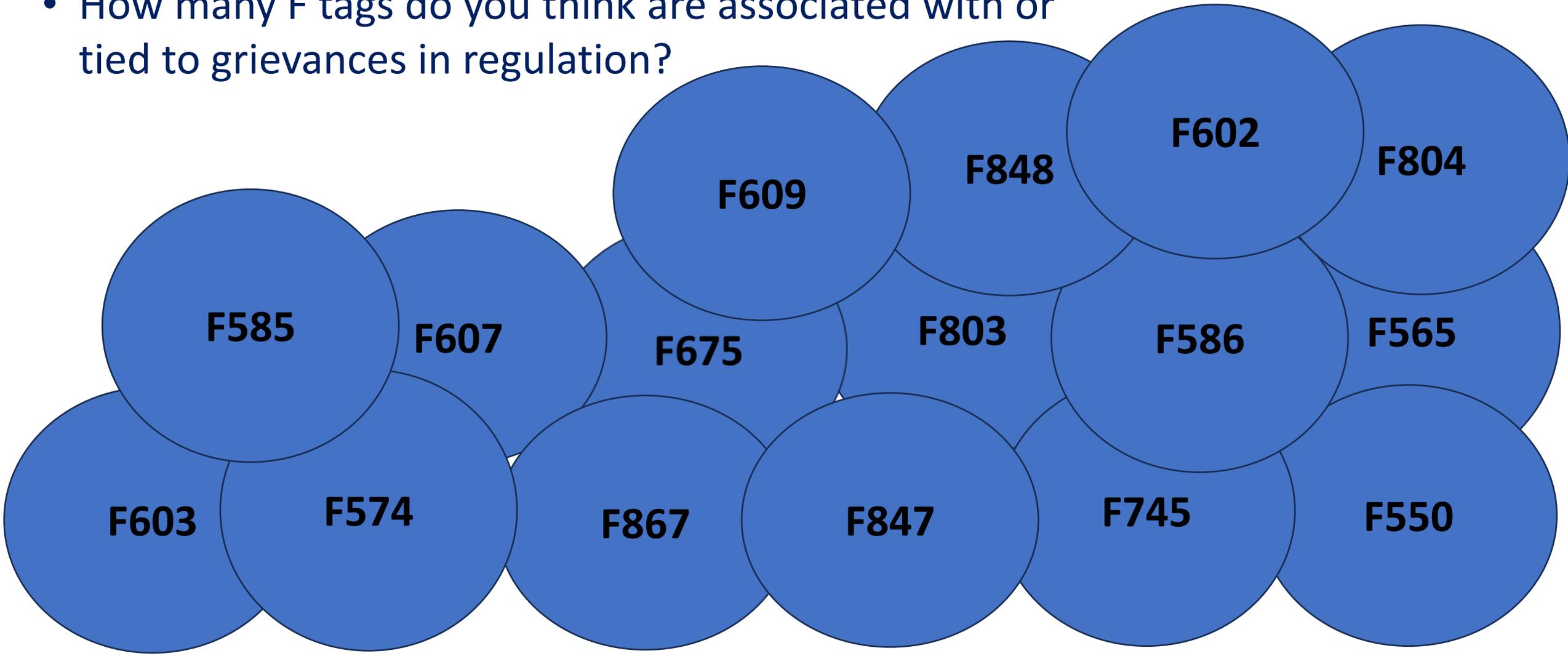
- Regional Ombudsman
- Certified Ombudsman Volunteer
- Resident and Family Council Specialist
- Self-Advocacy Specialist
- Others attending with a Regional Ombudsman (State Ombudsman, Deputy Ombudsman, Policy Staff, etc.)

Survey Consultation

- Federal Law requires the Minnesota Department of Health to reach out to the Ombudsman prior to survey.
- How have we been able to support residents to resolve grievances?
- Has the facility worked cooperatively and collaboratively with OOLTC?
Residents? Family members?
- Do they respond timely to grievances?
- Any outstanding items not resolved?
- Share ongoing concerns

Grievance Considerations

- How many F tags do you think are associated with or tied to grievances in regulation?



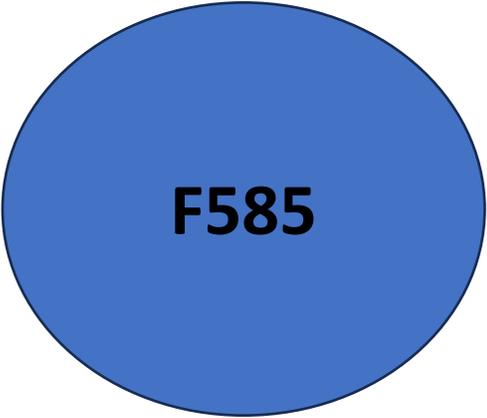
Key Definitions

- “Person Centered Care”: person-centered care means to focus on the resident as the locus of control and support the resident in making their own choices and having control over their daily lives. (Definitions - §483.5)
- “Quality of Life”: refers to an individual’s “sense of well-being, level of satisfaction with life and feeling of self-worth and self-esteem. For nursing home residents, this includes a basic sense of satisfaction with oneself, the environment, the care received, the accomplishments of desired goals, and control over one’s life.”

Key Definitions (continued)

- “Prompt efforts to resolve”: include facility acknowledgment of a complaint/grievance and actively working toward resolution of that complaint/grievance. §483.10(j)
- “Highest practicable physical, mental, and psychosocial well-being”: defined as the highest possible level of functioning and well-being, limited by the individual’s recognized pathology and normal aging process. Highest practicable is determined through the comprehensive resident assessment and by recognizing and competently and thoroughly addressing the physical, mental or psychosocial needs of the individual.

Individual Grievances



F585

- The resident has the right to voice grievances to the facility or other agency or entity that hears grievances without discrimination or reprisal and without fear of discrimination or reprisal.
- The resident has the right to and the facility must make prompt efforts by the facility to resolve grievances the resident may have.
- The facility must make information on how to file a grievance or complaint available to the resident.
- The facility must establish a grievance policy to ensure the prompt resolution of all grievances regarding the residents' rights.

Grievance Policy Must Include

- Notifying resident individually or through postings in prominent locations throughout the facility of the right to file grievances orally (meaning spoken) or in writing;
- the right to file grievances anonymously;
- the contact information of the grievance official with whom a grievance can be filed, that is, his or her name, business address (mailing and email) and business phone number

Grievance Policy Must Include (continued)

- a reasonable expected time frame for completing the review of the grievance;
- the right to obtain a written decision regarding his or her grievance;
- the contact information of independent entities with whom grievances may be filed, that is, the pertinent State agency, Quality Improvement Organization, State Survey Agency and State Long Term Care Ombudsman program or protection and advocacy system;

Tracking Grievances

- Identifying a Grievance Official who is responsible for overseeing the grievance process, receiving and tracking grievances through to their conclusions; leading any necessary investigations by the facility; maintaining the confidentiality of all information associated with grievances, for example, the identity of the resident for those grievances submitted anonymously, issuing written grievance decisions to the resident;
- Tracking dates, summary, steps taken to investigate, summary of findings conclusions and corrective action or resolution
- As necessary, taking immediate action to prevent further potential violations of any resident right while the alleged violation is being investigated;
- **Maintaining evidence demonstrating the result of all grievances for a period of no less than 3 years from the issuance of the grievance decision.**

Reportable Grievances

- Consistent with §483.12(c)(1), immediately reporting all alleged violations involving neglect, abuse, including injuries of unknown source, and/or misappropriation of resident property, by anyone furnishing services on behalf of the provider, to the administrator of the provider; and as required by State law;
- Coordinating with state and federal agencies as necessary in light of specific allegations;
- Taking appropriate corrective action in accordance with State law if the alleged violation of the residents' rights is confirmed by the facility or if an outside entity having jurisdiction, such as the State Survey Agency, Quality Improvement Organization, or local law enforcement agency confirms a violation for any of these residents' rights within its area of responsibility;

Potential survey questions F585

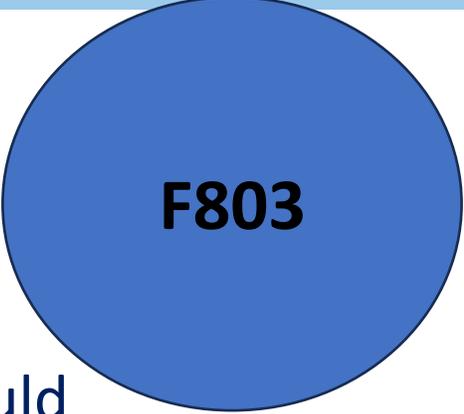
- How do facility staff deal with and make prompt efforts to resolve resident complaints and grievances?
- With permission from the resident council president or officer, review resident council minutes.
- Interview staff about how grievances are handled.
- How does facility staff protect residents from discrimination or reprisal when a grievance is voiced?

Potential survey questions F585 (continued)

- How does facility staff ensure the right of the residents to file a grievance anonymously is supported?
- Interview staff about communication with resident regarding progress toward resolution of complaint/grievance.
- Review facility grievance policy to see if compliant with necessary requirements.
- Determine how information on how to file a grievance is made available to the resident.
- Review grievance decisions to determine if required information was provided to residents and facility documentation was maintained for at least 3 years.

Menus and nutritional adequacy

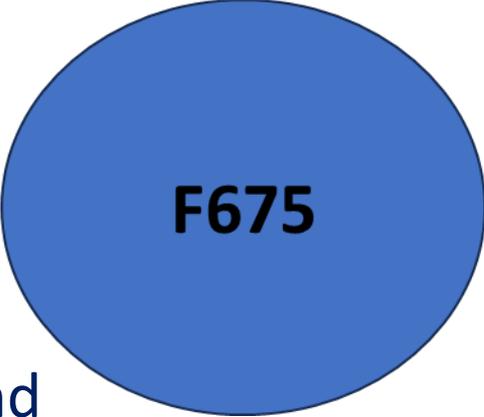
- §483.60(c)(1)-(7)
- Must reflect the religious, cultural and ethnic needs of the resident population, as well as input received from residents and resident groups
- It is not required that there be individualized menus for all residents; however, alternatives aligned with individual needs and preferences should be available if the primary menu or immediate selections for a particular meal are not to a resident's liking.
- Facilities must make reasonable and good faith efforts to develop a menu based on resident requests and resident groups' feedback.
- Complaints concerning food temperatures, palatability, or attractiveness trigger further inquiry; review of recipes; observations of food not being eaten; timing of passing of food trays; test tray to see how it compared against resident or observed concerns?
- Has this been addressed by resident or family council?



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Quality of Life

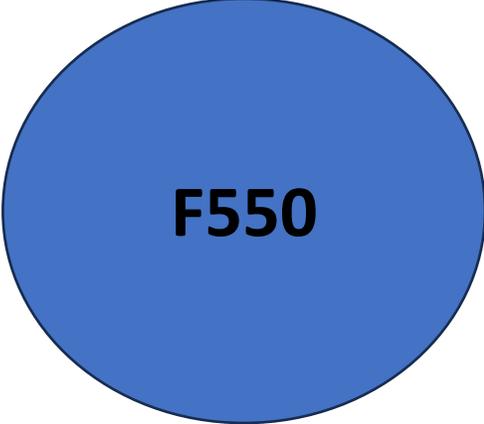
- § 483.24 Quality of life is a fundamental principle that applies to all care and services provided to facility residents. Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, consistent with the resident's comprehensive assessment and plan of care.
- Ensuring all staff, across all shifts and departments, understand the principles of quality of life, and honor and support these principles for each resident.
- Ensuring that the care and services provided are person-centered, and honor and support each resident's preferences, choices, values and beliefs.
- Reviewing and responding complaints or grievances regularly.
- Leadership should be aware of facility culture and evaluate verbal and nonverbal interactions between staff and residents, address concerns as they arise.



F675

Resident Rights and Dignity

- §483.10(a)-(b)(1)&(2) Resident Rights and Dignity
- Wearing own clothes; labeling clothing
- Avoiding disposable dishes/cutlery; resident “bibs”
- Avoiding standing over residents while assisting to eat
- Staff interaction with residents vs each other during care tasks
- Privacy
- Using accurate pronouns
- Promoting resident autonomy, choice and preference
- Timely call light response
- Understanding needs and preferences
- Did the facility fail to allow a resident to exercise his or her right to file a grievance, including the right to file an anonymous grievance, without interference, coercion, discrimination, or reprisal from the facility?



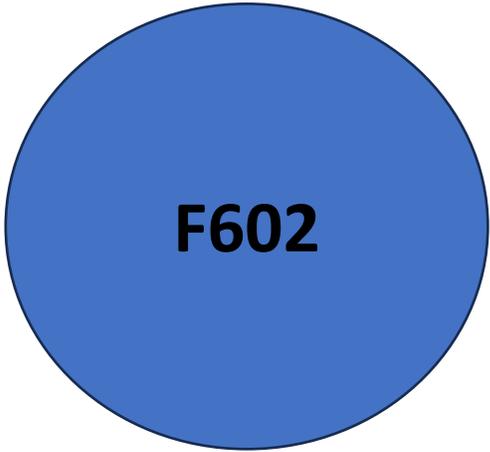
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F550 Noncompliance

Examples of noncompliance may include, but are not limited to:

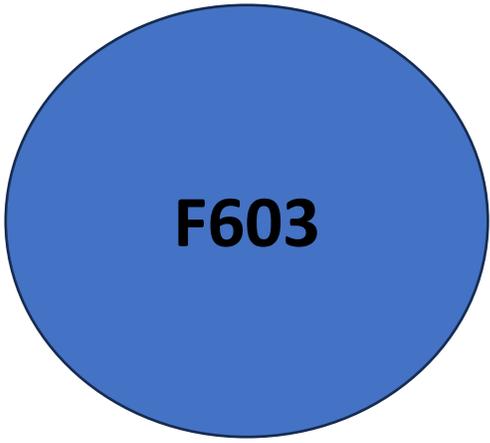
- A resident has not been treated equally as compared to others based on his or her diagnosis, severity of condition, or payment source.
- Prohibiting a resident from participating in group activities as a form of reprisal or discrimination. This includes prohibiting a resident from group activities without clinical justification or evaluation of the impact the resident's participation has on the group.
- A resident's rights, not addressed elsewhere (for example, religious expression, voting, or freedom of movement outside the facility in the absence of a legitimate clinical need) are impeded in some way by facility staff.
- Requiring residents to seek approval to post, communicate or distribute information about the facility (for example, social media, letters to the editor of a newspaper).
- Acting on behalf of the pertinent law enforcement or criminal justice supervisory authority by enforcing supervisory conditions or reporting violations of those conditions to officials for justice involved residents.

Freedom from Abuse, Neglect, Exploitation



F602

- §483.12- §483.12(a)(1) The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.
- Resident, staff or family interviews may prompt inquiry
- Individual care plan and abuse prevention plan review
- Review of policies related to involuntary seclusion
- Review of Quality Assurance process/plan
- Distinction between transmission-based precautions and involuntary seclusion



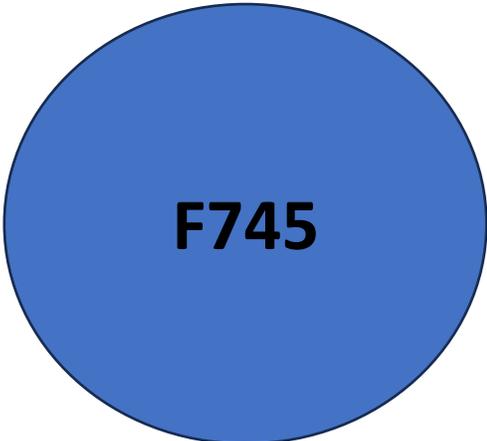
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Medically Related Social Services

- §483.40(d) The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident.

This includes:

- Advocating for residents and assisting them in the assertion of their rights within the facility
- Assisting residents in voicing and obtaining resolution to grievances about treatment, living conditions, visitation rights, and accommodation of needs.
- Obtaining personal items or clothing
- Referrals for needed services
- Assessing and meeting psychosocial needs
- Transition and discharge planning
- Assisting with care planning and advanced directives
- Much more outlined in regulation



F745

Prevention of Abuse and Neglect

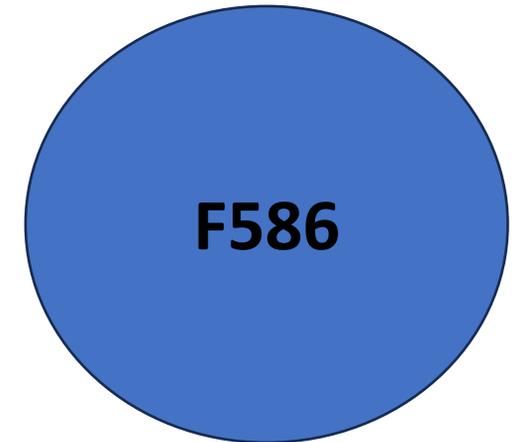
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- §483.12(b)- §483.12(b)(5)(iii) The facility must have and implement written policies and procedures to prevent and prohibit all types of abuse, neglect, misappropriation of resident property, and exploitation
- §483.12(c)(1) Reporting of Alleged Violations
- Review your written polices and procedures annually or as defined in your Quality Assurance and Program Improvement Plan (QAPI)
- Screening of new employees
- Staff training on abuse, neglect and misappropriation
- Facility reporting policies
- Policies and procedures for investigation of abuse, neglect, exploitation
- Ensure you are Providing residents and representatives, information on how and to whom they may report concerns, incidents and grievances without the fear of retribution; and providing feedback regarding the concerns that have been expressed.

F609

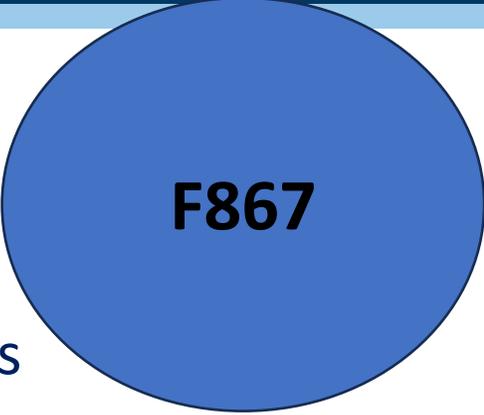
Contact with external entities

- §483.10(k)
- A facility must not prohibit or in any way discourage a resident from communicating with federal, state, or local officials, including, but not limited to, federal and state surveyors, other federal or state health department employees, including representatives of the Office of the State Long-Term Care Ombudsman and any representative of the agency responsible for the protection and advocacy system for individuals with mental disorder regarding any matter.
- Are you supporting these visits?
- Providing private space if the resident shares a room?
- Referring appropriately if a resident or family member raises a concern?



Quality Assurance and Performance Improvement Program

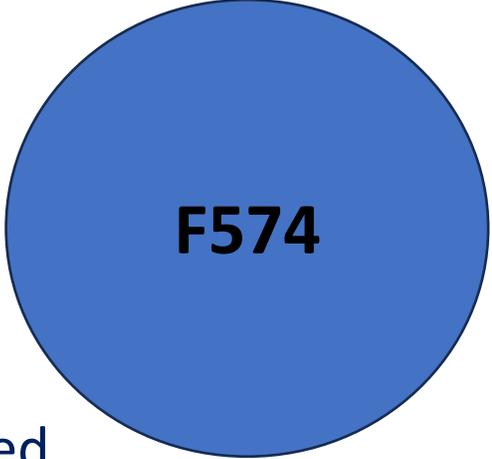
- §483.75(c) - §483.75(g)(2)(iii)
- Must have mechanisms for obtaining resident feedback from residents and councils.
- Feedback from residents is necessary to understand what quality concerns are important to them, their perspectives, values and priorities, as well as the impact of the facility's daily routines on their physical, mental, and psychosocial well-being.
- Consider using satisfaction surveys and questionnaires, routine meetings, e.g., care plan meetings, resident council, safety team, town hall; and suggestion or comment box.
- Effective feedback systems in a QAPI program also include methods for providing feedback to direct care staff, other staff, residents and representatives. This may involve including these individuals in problem solving, various meetings or providing updates and communicating facility system changes.
- Consider having a resident on your QAPI committee!



F867

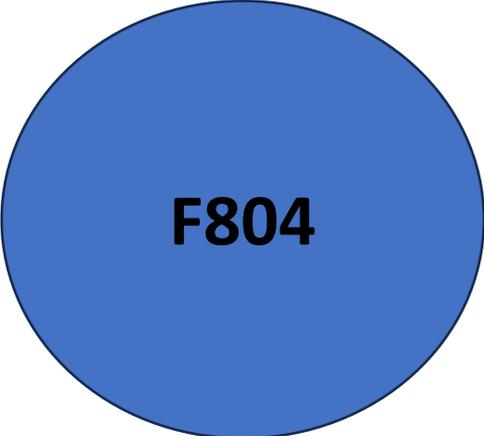
Right to receive notices

- §483.10(g)(4) The resident has the right to receive notices orally (meaning spoken) and in writing (including Braille) in a format and a language he or she understands.
- Includes protection of funds, Facility Medicaid/Medicare eligibility, contact information for filing grievances or complaints concerning any suspected violation of state or federal nursing facility regulations, including but not limited to resident abuse, neglect, exploitation, misappropriation of resident property in the facility, non-compliance with the advance directive requirements and requests for information regarding returning to the community.
- Did the facility provide information and contact information for filing grievances or complaints concerning any suspected violation of State or Federal nursing facility regulations?
- How was the information provided? Is it provided at admission? Is it posted? Is it reviewed annually with residents?



F574

Food and Drink



F804

- §483.60(d)-§483.60(d)(2)
- Each resident receives and the facility provides food prepared by methods that conserve nutritive value, flavor, and appearance;
- Food and drink that is palatable, attractive, and at a safe and appetizing temperature.
- Is the facility aware of the resident(s) complaint(s) about the food through resident council, the grievance/complaint process at the facility, or communication directly with staff?
- What did facility do to address the complaint(s)?
- Consideration of temperature, palatability
- Resident input on menus or special events involving food

Arbitration Agreements

F847

- §483.70(n) - §483.70(n)(6)
- Residents and representatives and staff may be asked whether any complaint(s) or grievance(s) with the facility and/or state survey agency about the arbitration agreement have been filed.
- Are there any active complaints or grievances regarding the selection of an arbitrator or venue? How are you addressing these concerns?
- Includes asking about arbitration at admission; cannot be a condition of admission.
- Are arbitration agreements are used to resolve disputes? If so, interviews of residents, resident representatives, resident council/family council, Long-Term Care Ombudsman, facility staff; and record review, which includes reviewing the agreement and other relevant documentation.

F848

Resident and Family Council Rights

- §483.10(f)(5) The resident has a right to organize and participate in resident groups in the facility.
- §483.10(f)(6) The resident has a right to participate in family groups.
- §483.10(f)(7) The resident has a right to have family member(s) or other resident representative(s) meet in the facility with the families or resident representative(s) of other residents in the facility.

Council History



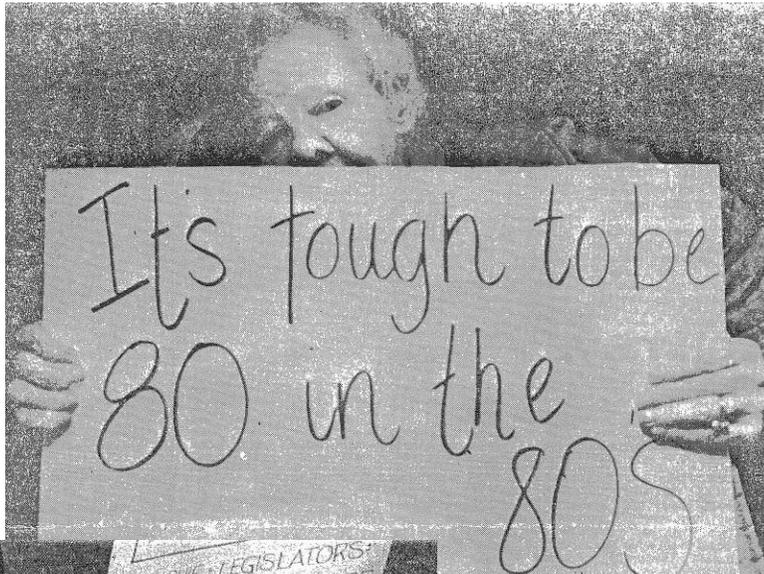
Does anyone know what state had the first Resident council?

Joan Knowlton (1982)



“Where I live, the meat is tough, and we get canned fruit even in the summer. The vegetables are cooked to pulp or so hard that you can't get a fork in. The dietary service is so very important to the quality of life and so poor in results that your appetite disappears from unfulfilled anticipation ”

Patients and Residents Bill of Rights Signed



Resident Council

A resident council is an organized group of residents who meet regularly to discuss and address concerns about their rights, quality of care and quality of life.

Every resident council is unique, and members decide how to organize their council.



Family Council

An organized group of family members supporting someone living in the long-term care community. They meet regularly to discuss their concerns for their loved ones and address concerns about resident rights, quality of care and quality of life.

Families have the right to organize a family council.



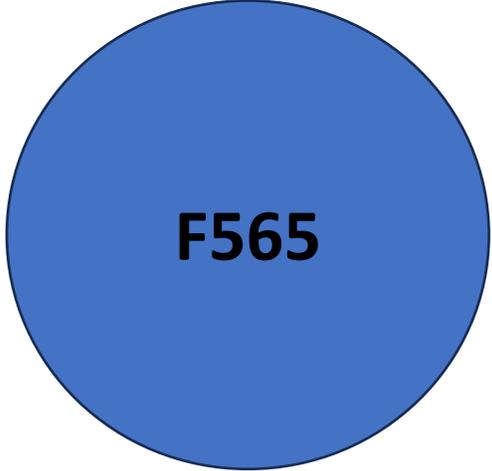
Council Organization

- Some councils may have officers and/or bylaws
- Some operate more casually
- There is no “wrong” or “right” way to facilitate a council but certainly tips and tricks that have been proven to be more successful
 - Using council “action” or “grievance forms”
 - Concrete process about facility response to grievances *include timelines for response

Subcommittees or groups

- Encouraging residents to focus on specified areas
- Forming a food committee
- Welcome committee
- Orientation
- Staff recognition
- Residents on hiring panels
- Residents on QAPI, facility assessment or other facility decision making groups
- Fundraising

Resident and Family Councils



F565

- Facility staff are required to consider resident and family group views and act upon grievances and recommendations.
- Facility staff must consider these recommendations and attempt to accommodate them, to the extent practicable.
- This may include developing or changing policies affecting resident care and life. Facility staff should discuss its decisions with the resident and/or family group and document in writing its response and rationale as required under 42 CFR §483.10(j)

Council Requirements

Space

- Space and privacy

Staff

- Staff person

Consider

- Consider views of council

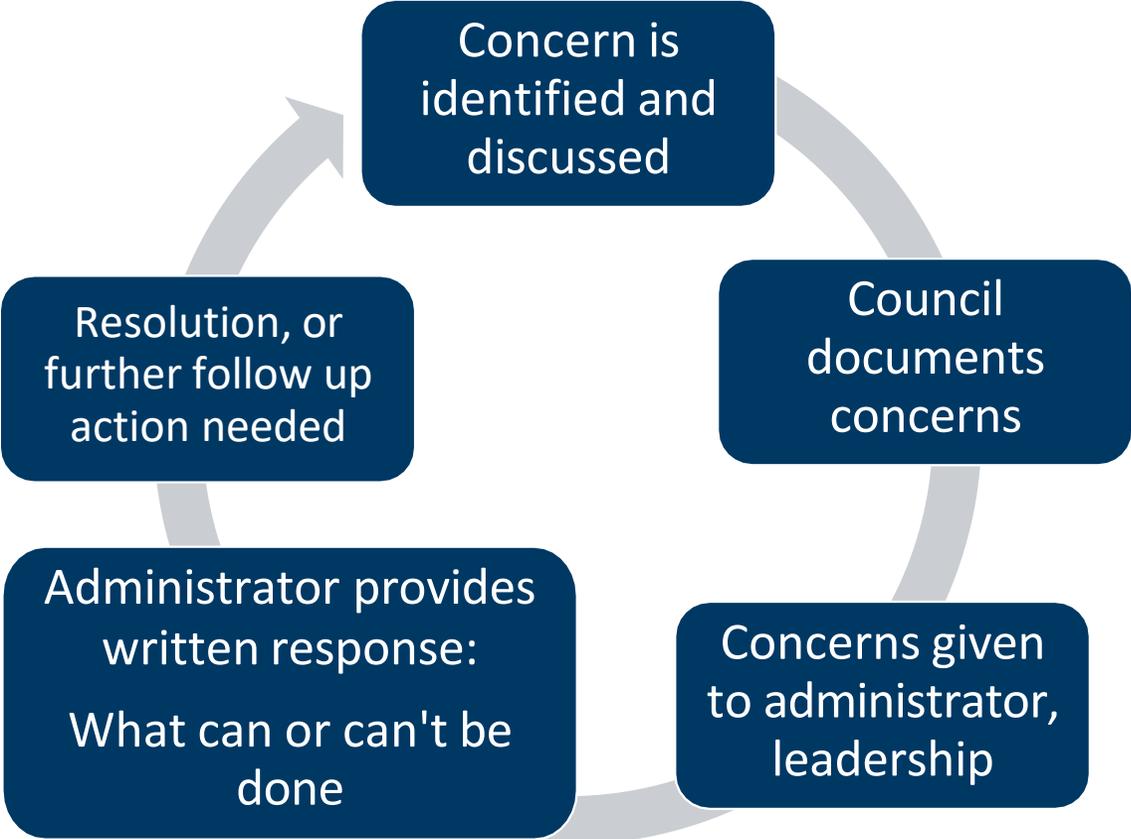
Awareness

- Take reasonable steps for residents and families to be aware of council meetings

Respond

- Respond promptly to concerns

Council Action Form: Feedback Loop



Council Action Form	
To: _____	<input checked="" type="checkbox"/> Resident Council
From: _____	<input type="checkbox"/> Family Council
Date: _____	
Concern(s)	Recommendations/Solutions
Please return to the resident council by: _____ (date).	
Staff name (staff responding): _____ Date: _____	
_____ _____ _____ _____ _____ _____	
Implementation date: _____	Staff signature: _____
*Reminder: Make a copy of this form before submitting to staff for reference.	

Example Council Grievances

Council raises concern about staff cell phone use on the floor

- Council submits concern
- Assess and evaluate concern
- Explore solutions with facility staff/leadership and council
- Staff cell phone use limited to breaks and/or nursing station only
- Evaluate satisfaction - ongoing

Council demands new call light system

- Council submits concern
- Assess and evaluate concern
- Explore solutions with facility staff/leadership and council
- System Repair, Bids for new system
- Adopt Solution / Compromise solution
- Ongoing evaluation of remedy

Survey Entry

During the entrance interview the survey team will determine:

- If there is a resident or family group;
- Who the resident or family representative is for each of these groups; and,
- Who the designated staff person is for assisting and working with each of these groups.

Survey Activity related to councils

- Interview of the resident council or resident group
- Request for past meeting minutes
- Ombudsman invited to council interview (with resident permission)
- Interview of family council representatives
- Follow up on any identified concerns

Possible Survey Questions

- Are groups able to meet without staff present unless desired?
- If a resident wants a family member present during a resident group meeting, how is this handled? Facility staff should not require said family member to leave the group meeting without the permission of the group.
- How are views, grievances or recommendations from these groups are considered, addressed and acted upon?
- How does facility staff provide responses, actions, and rationale to the groups?

Potential noncompliance

- Facility staff impede or prevent residents or family members ability to meet or organize a resident or family group;
- Resident and/or families were not always informed in advance of upcoming meetings
- Facility staff impede with meetings and/or operations of family or resident council by mandating that they have a staff person in the room during meetings or assigning a staff person to liaise with the council that is not agreeable to the council;
- Private meeting space for these groups is not provided;

Potential noncompliance (continued)

- The views, grievances or recommendations from these groups have not been considered or acted upon by facility staff;
- Facility staff does not provide these groups with responses, actions, and rationale taken regarding their concerns;
- Facility staff are not able to demonstrate their response and rationale to grievances;
- Facility staff prevent family members or representatives from meeting with those of another resident.

What if I don't have a council?

- The requirements do not require that residents organize a resident or family group but if they do, the requirements discussed do apply.
- MN law requires facilities must document attempts to establish the resident and family council at least once each calendar year.
- Survey agencies may want to know if attempts to organize were unsuccessful, why?
- The Office of Ombudsman can help you support residents to organize one!

Resources

- OOLTC has developed resources available online
- Tipsheets, bylaw examples, council forms, etc.
- Visit mn.gov/ooltc



Nursing Home Council Resources

- Resident Council Manual
- Nursing Home Resident Council tip Sheet
- Nursing Home Family Council Tip Sheet
- Family Council Manual

[Nursing Home Councils / Minnesota Office of Ombudsman for Long-Term Care \(OOLTC\) \(mn.gov\)](#)



Office of Ombudsman for Long-Term Care

Family Council Rights

Your Rights

Federal and state law gives many rights to nursing home residents. The law includes the following requirements for resident councils.

- When asked by the family council, the facility must help notify residents and family members about the council meetings.

Family Council Rights:

Office of Ombudsman for Long-Term Care

Family Council Manual



Office of Ombudsman for Long-Term Care

Resident Council Rights

Your Rights

Federal and state law gives many rights to nursing home residents. The law includes the following requirements for resident councils.

- When asked by the resident council, the facility must help notify residents and family members about the council meetings and take notes at the meetings.

Resident Council Manual for Nursing Home Residents

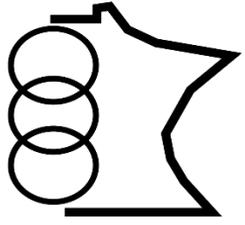
Office of Ombudsman for Long-Term Care

PO Box 64971, St. Paul, MN 55164-0971 | (651) 431-2555 or (800) 657-3591 | mn.gov/ooltc

Available Trainings

Staff can deliver trainings, and education presentations to residents, families, long-term care staff or organizations.

- Person-Centered Thinking training
- Role of an Ombudsman
- Resident rights
- Aging and sexuality
- Care planning
- One-page description
- Conflict resolution
- Council development
- Complaint & grievance process
- Tailored trainings can be developed to meet the need of residents in your community



**Office of
Ombudsman for
Long-Term Care**

A program of the
mn **MINNESOTA**
BOARD ON AGING

Presenters Contact Information

Jane M. Brink | Ombudsman Supervisor

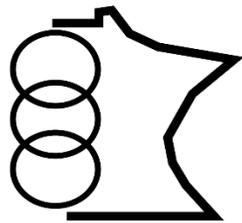
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Office of
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Long-Term Care

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Thank You!

Contact Us:

Phone: 1-651-431-2555 or 1-800-657-3591

Email: MBA.OOLTTC@state.mn.us

Visit our website: [MN Office of Ombudsman for Long-Term Care](https://mn.gov/ooltc/)

[\(https://mn.gov/ooltc/\)](https://mn.gov/ooltc/)