NEW YORK CITY COMPTROLLER
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Protecting Our Most Vulnerable:

The Case for Strengthening New York's Long Term Care Ombudsman Program

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Executive Summary

The COVID-19 pandemic has severely impacted communal living institutions that house vulnerable populations. As of the end of May, COVID-19 deaths in nursing homes constituted nearly 20% of all New York State COVID-19 deaths, while 42% of all COVID-19 deaths nationally have occurred in nursing homes and assisted living facilities.[1] New York City nursing homes account for over half of COVID-19 related deaths in State nursing homes.[2] Measures taken to protect residents of long-term care facilities—such as prohibiting visitors—further isolate the older adults and those with disabilities who are most in need of contact with the outside world, as well as the oversight that such contact brings. Family members are frustrated by the lack of contact and information when they need it the most, and facilities are overburdened with the devastation the crisis has brought.

During the ongoing COVID-19 crisis, the Long Term Care Ombudsman Program (LTCOP)—a national, cost-effective federal volunteer program—has continued to provide needed assistance to residents of long term care facilities, serving as a set of eyes and ears to oversee these institutions. During this emergency, the LTCOP has been a critical resource for residents and their families. Trained volunteers who visited and assisted residents of long-term care facilities before the crisis continue to do important work by facilitating communication with families and ensuring proper treatment of their loved ones, to the extent that has been possible under COVID-19 restrictions.

This analysis by New York City Comptroller Scott M. Stringer highlights the important role of the City's LTCOP and demonstrates the need to augment the program. Funded under the Older Americans Act (OAA), the LTCOP is intended to support and protect residents in long-term care facilities who are unable to advocate for themselves by establishing networks of ombudsmen—mostly volunteers, typically managed and trained by a smaller staff of paid, full-time ombudsmen. Under the LTCOP, ombudsmen investigate and resolve complaints made by and on behalf of residents and promote the development of resident and family councils. They are also charged with informing government agencies, providers, and the public about issues and concerns impacting residents of long-term care facilities and monitoring the development and implementation of federal, state, and local long-term care laws and policies.[3]

Despite the vital, cost-effective nature of the LTCOP, this analysis found that:

- In New York City there is only one ombudsman for every 8,650 nursing home residents, far below the recommendation by Institute of Medicine (IOM, now known as the National Academy of Medicine) of one full-time ombudsman for every 2,000 long-term care residents.
- There are only 6 full-time paid ombudsmen assigned to visit the City's over 50,000 long-term care residents in 244 long-term care facilities.
- There is no assigned ombudsman, whether full-time or volunteer, for over 20,000 residents in 80 long-term care facilities in the City.

- The City has one-third of New York State's long-term care residents, yet the LTCOP managed by the Center for the Independence of the Disabled New York (CIDNY) receives less than one-seventh of the State's funding and no funding from the City.
- The last annual report detailing the work of Office of the State Long Term Care Ombudsman was released in 2017, and the last State or City public hearings held on the program were also in 2017, limiting insight into the most recent data from the program.

The COVID-19 crisis highlights the need for the City and State to sufficiently support the City's LTCOP. The Comptroller's analysis, which was primarily conducted prior to the outbreak of the virus, included public reports authored by the United States Administration on Aging and the New York State Department of Health (NYSDOH) and interviews. The findings suggest that in addition to the disproportionate impact of the virus, residents of nursing homes are plagued by improper administration of drugs, pressure ulcers (bed sores), inappropriate discharge to homeless shelters, and mistreatment by other residents.

The tragedy caused by COIVD-19 demonstrates the need for ongoing, independent review and oversight of long term care facilities that the LTCOP can help furnish. To ensure that the local LTCOP can provide the oversight needed to protect the City's older adults and those with disabilities, and that its work receives adequate resources and attention from all levels of government, the Comptroller recommends that:

1. The State increase funding for the City's LTCOP to at least $2.5 million annually so that funding for the City and the rest of New York State is proportional to respective caseloads;
2. The City contribute funds to its LTCOP to assist its long-term care residents;
3. Total funding be increased so that:
    - There is at least one full-time staff ombudsman for every 2,000 long-term care residents, which would equate to 25 full-time staff ombudsmen for New York City;
    - There are a sufficient number of volunteers for weekly visits to every city facility, and
    - Every city long-term care facility has at least one ombudsman;
4. The Office of the State Long Term Care Ombudsman release annual reports detailing the number, nature, and resolution of complaints raised through the ombudsman program as a whole and by region, for 2018, 2019, and all years going forward;
5. The State Senate and Assembly hold annual hearings to review the program and the complaints that are unearthed by ombudsman during their work, and the New York City Council consider doing the same for the New York City region of the program; and
6. Long-term care facilities provide ombudsmen with access by phone and/or internet to residents able to employ such methods to the greatest extent feasible.

The Ombudsman Program

The 1978 Amendments to the federal Older Americans Act of 1965 mandate that every state establish a Nursing Home Ombudsman Program to advocate for patients residing in nursing homes.[4] In 1981, the program was renamed the Long Term Care Ombudsman Program and expanded to cover long-term care facilities such as adult and assisted living homes.[5]

Under the LTCOP, ombudsmen investigate and resolve complaints made by and on behalf of residents and promote the development of resident and family councils. Ombudsmen are also charged with informing government agencies, providers, and the public about issues and concerns impacting residents of long-term care facilities and monitoring the development and implementation of federal, state, and local long-term care laws and policies.

With subsequent amendments, the OAA further empowered and protected ombudsmen. As a result, today ombudsmen have:

- Mandated access to long-term care facilities (although this access is presently restricted with only medically necessary visits currently permitted in nursing homes in an effort to stop the spread of COVID-19);[6]
- Access to residents' medical records upon completion of a record access training program and designation as a Record Access Ombudsman, with use of the records to assist residents;
- Protection for the confidentiality of residents' records, complainants' identities, and ombudsmen files;
- Immunity for the good faith performance of their official duties; and
- Protection from willful interference with their official duties or retaliation against an ombudsman, resident, or other individual for assisting any ombudsman in the performance of their duties.[7]

New York State, which according to 2017 statistics ranks fourth among all states in the number of people institutionalized in long-term care facilities,[8] has participated in the LTCOP since 1977. The State's LTCOP is administratively housed within its Office for the Aging and is managed through a network of 15 regional program coordinators. As of 2017, the State employed about 40 full-time LTCOP staff members who oversaw 570 volunteer ombudsmen.[9] The City's LTCOP (Region 3) is managed by the Center for the Independence of the Disabled New York (CIDNY).

Training and Role of Volunteer Ombudsmen

New York State requires volunteer ombudsmen to complete a certification process that includes 36 hours of classroom training intended to ensure that volunteers have the skills and judgment required, and that they understand both the risk to the residents and what the powers and responsibilities of the role entails. In New York City, new volunteers also shadow an experienced ombudsman (volunteer or full-time) for several weeks prior to their initial assignments. After their initial training, volunteers are required to attend six continuing education classes annually.[10]

Ombudsmen spend an average of four to six hours per week visiting their assigned facilities, talking with residents, and observing their care and surroundings. Each week, an ombudsman may also do any of the following:

- Investigate cases of possible neglect and abuse observed by the ombudsman, or identified by residents or their families and friends.
- Report to the New York State Department of Health cases of possible neglect or abuse for further analysis.
- Review notices of discharge and assist in discharge hearings.
- Identify poor quality of care and communicate to the staff, family and other relevant parties.
- Respond to inquiries from residents and family members.
- Ensure that resident councils are created and run for the benefit of giving residents a voice in their own care.
- Attend care plan and family council meetings.
- Advocate for better conditions for residents.

Ombudsmen Are Necessary Eyes and Ears For Long Term Care Facilities

The COVID-19 crisis has exacerbated issues faced by long-term care facilities, which are often understaffed, frequently pay low salaries to aides resulting in high staff turnover, and rely on temporary aides from staffing agencies.[11] With the recent prohibition on visitors, residents can feel isolated by the lack of continuity of care and human contact, and family members are frustrated with a lack of information about loved ones.[12]

Even before this crisis, understaffing and inadequate care in long-term care facilities resulted in harm to residents.[13] A 2018 United States Government Accountability Office report identified 23,000 cases of emotional, physical, or sexual abuse in Medicaid assisted living facilities in just 22 states in 2014.[14] Even short-term residents are at risk of harm in nursing homes that lack sufficient oversight.[15]

Ombudsmen notice changes in residents' conditions overlooked by overworked staff, identify abusive or neglectful behavior, and advocate for residents. They review discharge notices, including examining involuntary discharges to ensure that due process and legitimate reasons for discharge have been provided to residents. Ombudsmen also help residents cope with everything from day-to-day quality of life issues to critical problems affecting health and safety.

How Ombudsmen Helped Before COVID-19

Ombudsmen assisted nursing home residents in many ways before the current crisis, addressing such problems as pressure sores, improper medication, inappropriate discharges, and inadequate treatment or improving the resident's general living experience. For example:

- A Manhattan nursing home claimed that a resident was admitted with Stage 4 bedsores.[16] An ombudsman was able to confirm that the bedsores had not existed when the resident was admitted and instead resulted from neglect, establishing that the facility needed to dramatically improve its care.
- A resident in a Manhattan long-term care facility told an ombudsman that he was not getting his pain medication. The ombudsman worked with the resident to keep a daily log that documented multiple missed doses. The ombudsman spoke to the facility's assistant nursing supervisor, who, using the log, was able to verify the complaint and identify the shift and the nurse responsible. As a result, the nurse was reprimanded and removed from caring for the resident.
- In 2016, at least 140 City nursing home residents were discharged to homeless shelters.[17] In a 10-month period during 2017, the LTCOP at CIDNY worked with 15 nursing home residents faced with impending discharges to shelters and was able to prevent discharges to a shelter for 13 of these residents.
- A man paralyzed in both his arms and legs residing in a Queens nursing home reported that he was not stretched every day. An ombudsman discovered that stretching was not

in the resident's rehabilitation plan, spoke to a therapist, and was able to have stretching added to the plan.

- A Queens ombudsman noticed a visually impaired resident sitting idly in his room. The ombudsman learned that the resident's request for headphones to listen to a radio had been refused. The ombudsman spoke to the facility's recreation director, who explained that wired headphones posed a safety risk but agreed to provide the resident with wireless headphones.

NYSDOH certification inspections of long-term care facilities range in frequency from between 9 and 15 months or 12 to 18 months depending on the type of facility.[18] However, a periodic inspection only represents the facility's status at a particular point in time and does not include the ongoing observations and relationships an ombudsman can provide. For example, although there were over 8,000 cases of bedsores reported in the State nursing homes in 2016, the NYSDOH cited nursing homes for inadequate pressure ulcer care only 95 times.[19] This discrepancy underscores the need for detailed, public reporting by the Office of the State Long Term Care Ombudsman on the complaints ombudsmen identify, and increased governmental scrutiny on how ombudsmen complaints are resolved and the systemic issues they uncover.

How Ombudsmen Have Helped During the COVID-19 Crisis

During the present COVID-19 crisis, routine State oversight has been limited, as non-essential inspections have been deferred.[20] With non-essential inspectors, ombudsman, and family members barred from visiting facilities in most cases, critical oversight has been absent at the time when it is needed the most. City ombudsmen have continued to assist residents and their families as best as they are able without access to facilities, and their work has made a tremendous difference. For example:

- A Manhattan ombudsman facilitated a final visit for a resident's adult child before the resident passed away. The facility would have not allowed the visit without the ombudsman's advocacy.
- A resident returned to his Bronx facility after a transfer to a hospital conducted without his adult child's knowledge. The ombudsman arranged a call with the charge nurse who answered questions and provided an update to the family member who was not getting any assistance from the facility. The facility now updates the family member every other day on the resident's care and progress.
- Unreturned calls from a resident's adult child to a Manhattan facility to obtain information about whether there were COVID-19 cases on the mother's floor and whether the mother had been exposed caused the family to worry. The ombudsman ensured a call from the physician, who answered the family member's questions, arranged for a care plan meeting, and provided an exhaustive list of areas to cover. The facility now directly communicates with the family member.
- A resident with dementia whose cognitive functioning declines with lack of contact suffered without in-person visits from his wife. The resident's wife had not seen him for an extended period of time and wanted to take him home to have the quality time together they

previously enjoyed. The advocacy of the Brooklyn ombudsman and supervisor enabled weekly in-person visits through a glass door, and the facility is working with the wife to explore the option of taking her husband home until the pandemic is over.

During this crisis, CIDNY's LTCOP has not only benefitted the families with whom it has individual relationships, but its ability to effect changes in the lives of patients at a time of enormous anxiety and risk has assisted all residents. CIDNY's work resulted in an operator of numerous nursing homes transitioning from communicating via a form letter to family members to weekly emails and ultimately to virtual town halls during which family members can ask questions and participate.

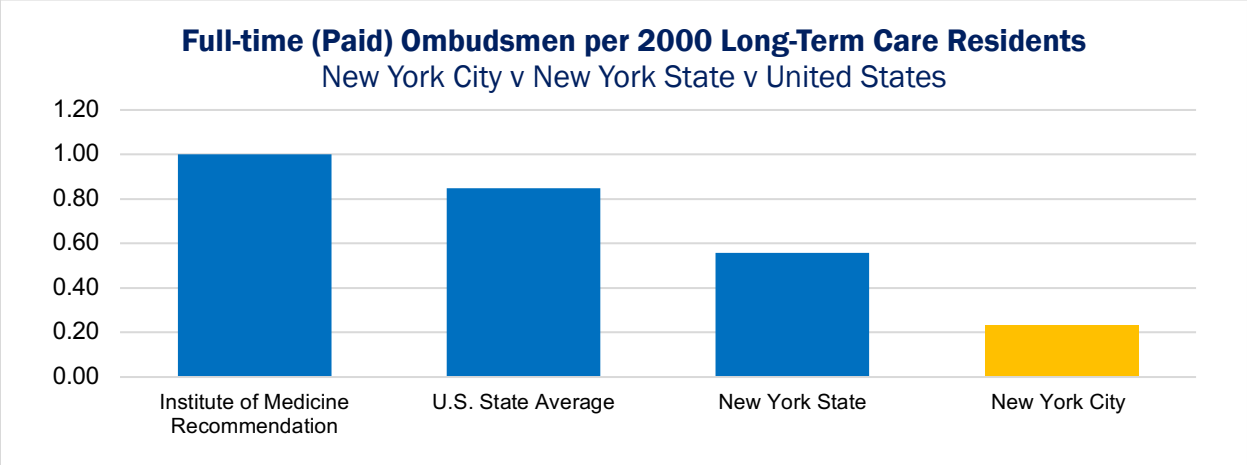
Ombudsmen in New York City

CIDNY serves over one-third of the State's long-term care residents, yet it employs only one-seventh of the full-time LTCOP employees in New York State (6 of 43). CIDNY employees serve as mentors and trainers, respond to inquiries, answer calls, triage assignments, and provide community outreach and education.[21] They are also responsible for completing data entry and documents after each facility visit, and identifying, recruiting, and training new volunteers—an ongoing process.

As of early 2019, 62 volunteer ombudsmen covered the City's long-term care facilities: 51 covered nursing homes, and 11 covered assisted living facilities. From October 2017 through September 2018, volunteers conducted over 1,900 visits to long-term care facilities; provided 6,800 individual consultations to address residents' complaints; informed residents about their rights, mediated involuntary discharges, conducted intakes and triaged requests for assistance; assisted in facility closures; conducted certification and monthly trainings; participated in nearly 250 family and resident council meetings and administrative discharge hearings; performed data entry for each visit; and responded to other issues and concerns.[22]

New York City falls so far below the IOM's recommendations and the national average of full-time ombudsmen per resident bed that, if ranked as a state, it would be last. The IOM recommends that one full-time ombudsman be assigned for every 2,000 beds.[23] Nationally, there is one for every 2,355 beds.[24] However, coverage in New York State and City is far worse. As of 2018, there was only one full-time ombudsman for about every 3,600 beds in the State's long-term care facilities,[25] and one for every 8,650 beds in City long-term care facilities.[26] In Queens, for example, over 17,000 residents in 84 facilities are supported by a single full-time ombudsman aided by nine volunteers. In 2018, New York State was ranked 40th nationally in full-time ombudsmen per bed.[27]

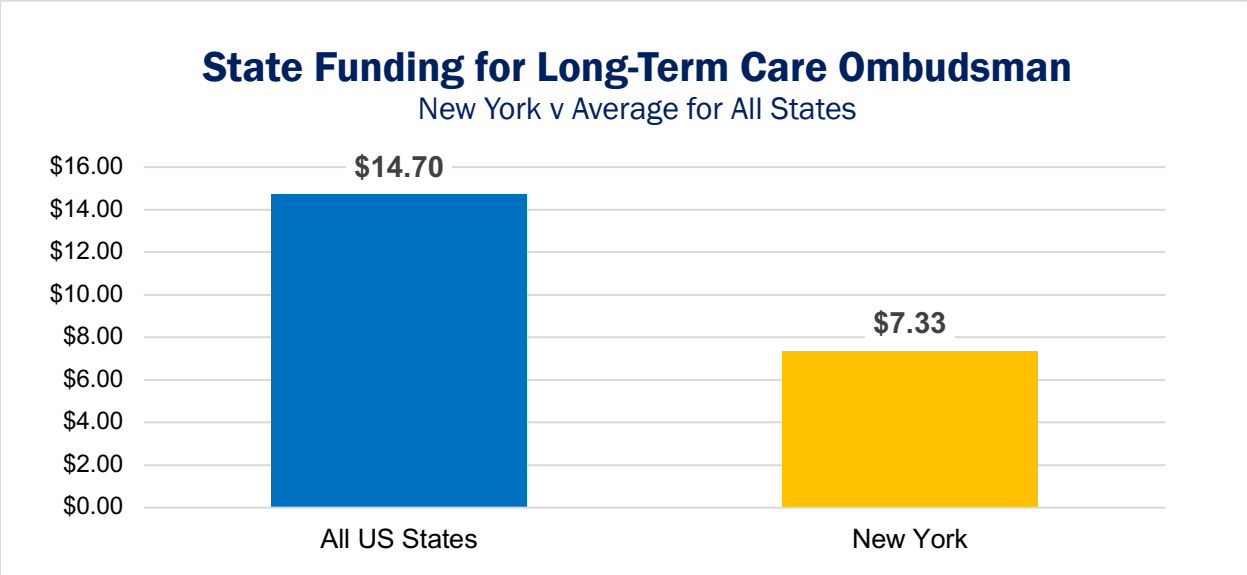
Chart 1



Note: The numbers for New York State include New York City.

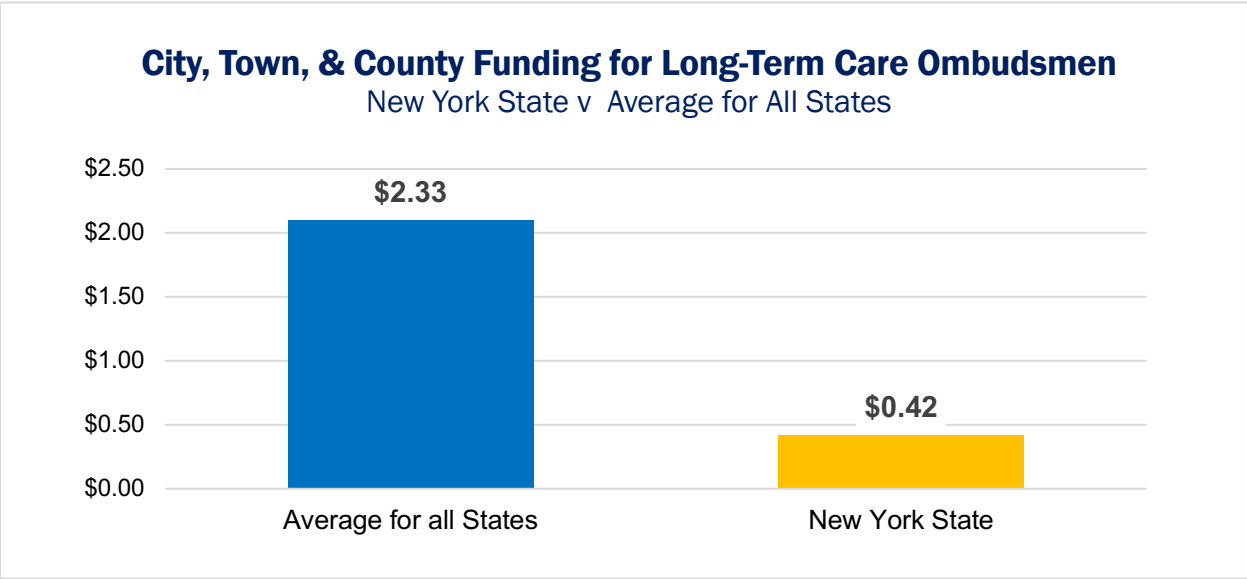
In 2017, New York State spent less than $7.34 per resident bed on its LTCOP, while the remaining 49 states, on average, spent more than twice that amount: $14.70.[28] The State spends less than $600,000 annually on the City's LTCOP.[29]

Chart 2



In 2017, New York State localities added $0.42 per resident bed to State funding. By contrast, in the rest of the 50 states, in 2017, localities added about $2.33 per resident to State funding for their LTCOPs, nearly six times more than in New York State.[30] New York City does not contribute any funds to its LTCOP.

Chart 3



Effect of the Shortage of Ombudsmen

Due to the underfunding and shortage of ombudsmen in New York City, over 20,000 residents in 80 nursing homes do not have an assigned ombudsman, whether full-time or volunteer, as of 2017.[31] In addition to better serving residents and families during the current COVID-19 crisis, appropriate funding and staffing of ombudsmen could address:

- The over 45 percent of the intake calls CIDNY received during 2016 and 2017 that came from long-term care facilities where no volunteer ombudsman was available, making a timely and appropriate response and resolution difficult.[32]
- Displacement of hundreds of residents when three nursing homes closed in an 18 month period from mid-2016 to late-2017 without proper transition plans and without notifying or coordinating with CIDNY.[33] The nursing homes were closed in order to convert facilities to commercial or residential developments. Rivington House facility was the most prominently publicized of these abrupt closures.[34]
- CIDNY's insufficient capacity to review the over 1,500 monthly notices of discharge it receives, many of which happen without appropriate planning.
- Recruitment of and training for potential City volunteer ombudsmen. As of March 2019, CIDNY had over 65 potential volunteers interested in becoming ombudsmen, yet months-long delays before the required training is available discourages volunteers from continuing with the program.

Conclusion and Recommendations

Ombudsmen are critical to ensuring the physical and emotional health and safety of over 50,000 City residents in long-term care facilities, a vulnerable population disproportionally and tragically impacted by COVID-19. Yet despite the invaluable oversight function ombudsmen perform, New York City's Long-term Care Ombudsman Program can maintain only one quarter of the full-time staff per resident bed ratio that LTCOPs average elsewhere in the United States, and only half the ratio elsewhere in New York State.

Accordingly, the current crisis teaches us that there must be sufficient funding and staff for the City's LTCOP to recruit, mentor, train, and supervise volunteers to cover all City long-term care facilities, advocate for the needs of all of the City's long-term care residents, serve as the eyes and ears of these facilities, and share their findings with all levels of government for necessary follow-up.

To that end, the Comptroller's Office recommends that:

1. **The State increase funding for the City's LTCOP to at least $2.5 million annually so that funding for the City and the rest of New York State is proportional to respective caseloads.**

   New York City's LTCOP does not have sufficient funding to assist nearly half of its long-term care residents.

2. **The City contribute funds to its LTCOP to assist its long-term care residents.**

   Many other cities and municipalities supplement State funding for their LTCOPs. The City should make also commit, to the extent possible, to increase the capacity, reach and effectiveness of the program.

3. **Total funding be increased so that:**

   - There is at least one full-time staff ombudsman for every 2,000 long-term care residents, which would mean 25 full-time staff ombudsmen for the City;
   - There are a sufficient number of volunteers for weekly visits to every City facility, and
   - Every City long-term care facility should have at least one ombudsman.

   The additional funds allocated to the City's LTCOP program should be of an amount sufficient to enable CIDNY to hire the staff needed to: publicize the LTCOP to attract potential volunteers, recruit potential volunteers, provide training to potential volunteers at least six times a year, answer and dispatch incoming calls in a timely fashion, and manage up-to-date data entry and case documentation.

4. **The Office of the State Long-Term Care Ombudsman release annual reports detailing the number, nature, and resolution of complaints raised through the ombudsman program, as a whole and by region, for 2018, 2019, and all years going forward.**

The only LTCOP annual report on the website of New York State's Office for the Aging is from 2017. All other completed reports should be immediately publicized, and future reports should include:

- More detailed breakdowns on the number, nature and resolution of cases by region and as a whole;
- Number of ombudsman visits each facility receives, and
- A spotlight on reoccurring issues that could not be successfully resolved so lawmakers and governments officials can address possible further oversight and needed regulation.

5. **The State Senate and Assembly hold annual hearings to review the State program, and the New York City Council consider doing the same for the New York City region of the program.**

   The work of the LTCOP provides valuable insight into the support, services and care that vulnerable residents of long-term care facilities require. Legislators should create forums to give the LTCOP's findings the attention they deserve.

6. **Long-term care facilities provide ombudsmen with access by phone and/or internet to residents able to employ such methods to the greatest extent feasible.**

   While many long-term care facilities already allow such access, all facilities should be creatively pursuing methods to keep ombudsman in touch with residents who are able to participate in such methods of communication.

Endnotes

[1] The New York State Department of Health reports statistics on its COVID-19 health tracker, located at: https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Fatalities?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n. Deaths in nursing homes and adult care facilities are reported here: https://www.health.ny.gov/statistics/diseases/covid-19/fatalities_nursing_home_acf.pdf (The numbers are the "result of a comprehensive accounting of current and retrospective data, provided by facilities … [that] captures COVID-19 confirmed and COVID-19 presumed deaths within nursing homes and adult care facilities" but "does not reflect COVID-19 confirmed or COVID-19 presumed positive deaths that occurred outside of the facility."); Girvan, Gregg, *Nursing Homes & Assisted Living Facilities Account for 42% of COVID-19 Deaths*, May 7, 2020 (numbers updated May 22, 2020), Foundation for Research on Equal Opportunity, available at https://freopp.org/the-covid-19-nursing-home-crisis-by-the-numbers-3a47433c3f70.

[2] *Id.*

[3] Claudette Royal, Office of the State Long Term Ombudsman, New York State Office of Aging, 2017, Annual Report at 6 (2017 State Annual Report), available at https://aging.ny.gov/system/files/documents/2019/11/2017-ltcop-annual-report.pdf.

[4] 42 U.S.C. §3058g.

[5] 42 U.S.C. §3002.

[6] March 12, 2020 Novel Coronavirus Briefing of Governor Andrew Cuomo, available at https://www.governor.ny.gov/news/during-novel-coronavirus-briefing-governor-cuomo-announces-new-mass-gatherings-regulations.

[7] 42 U.S.C. §3058g(b).

[8] The National Long Term Care Ombudsman Resource Center, 2017 NORS Tables, *Table A-1: Selected Information by State for FY 2017,* available at http://ltcombudsman.org/omb_support/nors/nors-data.

[9] 2017 State Annual Report at 6.

[10] 45 CFR 1327.13; 9 NYCRR 6660.2; Office of the New York State Long Term Care Ombudsman, *New York State Long Term Care Certified Ombudsman Agreement* (March 17, 2017).

[11] For example, annual turnover in nursing homes is 70% as of 2002. Wiener, Squillace, Anderson, and Khatutsky, *Why Do They Stay? Job Tenure Among Certified Nursing Assistants in Nursing Homes,* The Gerontologist *(2009, 49(2):198-210; doi:10.1093/geront/gnp027)*, available at https://aspe.hhs.gov/basic-report/why-do-they-stay-job-tenure-among-certified-nursing-assistants-nursing-homes. Lower staff-to-resident ratios have accelerated as not-for-profits are sold to for-profit corporations. Paul III, DP., Godby T., Saldanha S., Valle J. & Coustasse, A. (2016, April), *Quality of care and profitability in not-for-profit versus for profit nursing homes*; included in J. Sanchez (Ed.), Proceedings of the Business and Health Administration Association Annual Conference, Chicago, IL., 94. In addition, "NFP nursing homes in New York State had less frequent hospitalizations, higher staffing levels, lower patient acuity, fewer deficiencies (shortages per 100 beds) and more discharges to the patient's home than did FP nursing homes." *Id.* at 92 (summarizing the conclusions of Magan, Geralyn (2012), *5 Ways Not-for-Profit Nursing Homes are Different*, LeadingAge).

[12] *See, e.g., 29 Dead at One Nursing Home From the Virus. Or More. No One Will Say,* New York Time, April 16, 2020, available at https://www.nytimes.com/2020/04/16/nyregion/new-york-nj-nursing-homes-coronavirus-deaths.html?referringSource=articleShare. While family and friends can provide important support and speak on behalf of residents, many residents in most nursing homes have no regular visitors. Studies of nursing home care sign-in sheets outside New York State indicate that, in some facilities, as many as 60 percent of a facility's population have no regular visitors. *Nursing Home Quality*: *Hearing*

Before the New York State Assembly Committees on Health and Aging (*Nursing Home Quality),* 2017 Leg., November 20, 2017, (NY 2017) at 12 (statement of Richard Mollot). For residents without visitors, ombudsmen may be the only buffer from neglect or abusive behavior.

[13] According to a June 2019 report by the Inspector General of the United States Department of Health and Human Services (HHS), when residents of skilled nursing homes were treated at five hospitals, an estimated one-in-five Medicare claims resulted from potential abuse or neglect. Joanne M. Chiedi, Department of Health Human Services, *Incidents of Potential Abuse and Neglect at Skilled Nursing Facilities were not Always Reported and Investigated* A-01-16-00509*,7,* June 2019. In a study published in the Annals of Internal Medicine, during a one-month period, over 20 percent of residents in 10 New York nursing homes (5 urban and 5 suburban) reported mistreatment by other residents. Annals of Internal Medicine, *The prevalence of Resident-to-Resident Elder Mistreatment in Nursing Homes,* August, 16, 2016, abstract available at https://pennstate.pure.elsevier.com/en/publications/the-prevalence-of-resident-to-resident-elder-mistreatment-in-nurs. The study was conducted during various one-month intervals between 2009 and 2013.

[14] Government Accountability Office, Medicaid Assisted Living Services: Improved Federal Oversight of Beneficiary Health and Welfare is Needed (Jan. 2018) at 23, available at https://www.gao.gov/products/gao-18-179.

[15] According to a 2014 HHS study, one-third of patients whose care at a nursing home was less than 35 days experienced either an adverse event or a temporary harm event, with 59 percent being either "clearly or likely preventable." *Nursing Home Quality* at 19 (Statement of Mollot citing a study by the Inspector General, Dept. of HHS, *Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries* (February 2014), first page (no printed page number).

[16] Pressure ulcers, also known as bedsores, are a common symptom of inadequate nursing care. Over 8 percent of New York State's nursing home residents, more than 8,000 residents, have pressure ulcers. In the City, the average bed sore rate is even higher: 10 percent. Center for Medicare and Medicaid Services data file QualityMsrMDS_Download.csv available at https://data.medicare.gov/data/nursing-home-compare.

[17] *Nursing Home Quality* at 51 (statement of Ross).

[18] The New York State Department of Health conducts certification inspections of nursing homes every 9 to 15 months. *See* New York State Department of Health, NYS Health Profiles available at https://www.health.ny.gov/facilities/nursing/about_nursing_home_reports.htm. The Department inspects adult care facilities less frequently, about every 12 to 18 months. *See* New York State Department of Health, NYS Health Profiles, Inspections for individual facilities, available at https://profiles.health.ny.gov/acf/view/1254918#inspections.

[19] Nursing Home Quality at 12 (statement of Richard Mollot).

[20] Center for Medicare and Medicaid, March 4, 2020 memo "*Suspension of Survey Activities*," Ref: QSO-20-12-All, https://www.cms.gov/files/document/qso-20-12-all.pdf; *Nursing Home Watchdogs Scarce At NYC Facilities As Hundreds Die Within*, The City, April 23, 2020, available at https://thecity.nyc/2020/04/watchdogs-scarce-at-covid-ravaged-nyc-nursing-homes.html.

[21] Fact sheet prepared by CIDNY for the NYC Comptroller's Office.

[22] Fact sheet prepared by CIDNY for the NYC Comptroller's Office.

[23] June Gibbs Brown, Department of Health and Human Services, Office of Inspector General, OEI-02-98-00351 (March 1999), at 11, available at https://www.oig.hhs.gov/oei/reports/oei-02-98-00351.pdf (referencing *Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act* (Institute of Medicine, 1995) available at https://www.nap.edu/catalog/9059/real-people-real-problems-an-evaluation-of-the-long-term).

[24] The National Long Term Care Ombudsman Resource Center, 2017 NORS Tables, *Table A-1: Selected Information by State for FY 2017,* available at http://ltcombudsman.org/omb_support/nors/nors-data.

[25] According to the 2017 NORS *Table A-1 by State for FY 2017,* there were 162,021 LTC beds in New York. Therefore, the number of beds per FTE is 3,600 (162,021/45 = 3600).
[26] In New York City there were 40,744 nursing home beds and 11,166 adult care facility beds in 2016. *See* New York State Department of Health, Health Data NY: Nursing Home Profile available at https://health.data.ny.gov/Health/Nursing-Home-Profile/dypu-nabu and https://health.data.ny.gov/Health/Adult-Care-Facility-Directory/wssx-idhx. Therefore the number of beds per FTE is 8,650 (51910/6 = 8650).
[27] The statistic includes the District of Columbia and Puerto Rico. The National Long Term Care Ombudsman Resource Center, 2017 NORS Tables, *Table A-1: Selected Information by State for FY 2017,* http://ltcombudsman.org/omb_support/nors/nors-data.
[32] The National Long Term Care Ombudsman Resource Center, 2017 NORS Tables, *Table A-9: LTC Ombudsman Program Funding Totals and Percents by Region for FY 2017,* http://ltcombudsman.org/omb_support/nors/nors-data. The total state spending for all states, including New York, was $45,664,788 for 3,106,642 beds (45,664,788 / 3,106,642 = $14.70 per resident bed).
[29] Office of the State Comptroller, Open Book New York, Contract No. C15018GG, https://wwe2.osc.state.ny.us/transparency/contracts/contractresults.cfm?ID=27227.
[30] 2017 NORS Tables. The total LTCOP local spending for all states including New York was $7,247,830 on 3,106,642 beds ($7,247,830/3,106,642= $2.33 per resident bed). In New York State local spending by cities, counties, and towns was $68,553 for 162,021 resident beds ($68,553/162,021=$0.42 per resident bed).
[31] *Nursing Home Quality* at 207 (statement of Heidi Siegfried).
[32] *Id.* at 207.
[33] *Id*. at 209.
[34] Scott M. Stringer, New York City Comptroller, *Report of the New York City Comptroller on the Sale of Two Deed Restrictions Governing Property Located At 45 Rivington Street* (August 1, 2016) available at https://comptroller.nyc.gov/reports/report-of-the-new-york-city-comptroller-on-the-sale-of-two-deed-restrictions-governing-property-located-at-45-rivington-street/.

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