

TABLE OF CONTENTS

Accomplishments for FY07.....	2
Highlights	4
Mission and History.....	5
Program Operations	6
- Most Frequent Complaints	
- Top Ten Complaint Categories (Chart)	
- Example of an Abuse Case	
- Example of a Neglect Case	
- Example of a Financial Exploitation Case	
Volunteer Ombudsman Corps	10
Ethics and End-of-Life Care	11
Public Awareness and Outreach	12
20 th Anniversary of 1987 Nursing Home Reform Act	14
Consumer Information	18
Staff.....	19
Conclusion	20
Attachment/NORS Report	21

Accomplishments of New Jersey's Office of the Ombudsman for the Institutionalized Elderly during Federal Fiscal Year 2007

FY07 A YEAR OF CHAMPIONING FOR QUALITY OF LIFE:

We serve over 120,000 persons ...

The Ombudsman Program works to improve the quality of life of elderly residents by acting as their independent advocate. The Ombudsman staff and volunteers investigate and resolve complaints on behalf of residents in 1078 facilities, comprising:

- 369 Nursing Homes licensed under N.J.A.C. 8:39
- 213 Assisted Living and Comprehensive Personal Care Homes licensed under N.J.A.C. 8:36
- 198 Class C and D Boarding Homes licensed under N.J.A.C. 5:27
- 133 Adult Day Care Programs licensed under N.J.A.C. 8:43F
- 84 Free-standing Residential Health Care Facilities, licensed under N.J.A.C. 8:43
- 28 Residential Health Care Facilities in Long Term Care licensed under N.J.A.C. 8:43
- 13 Public and Private Mental Hospitals licensed under 8:43G
- 11 Alternate Family Care entities licensed under N.J.A.C. 8:43B
- 11 Rehabilitation Hospitals licensed under N.J.A.C. 8:43H
- 11 Special Hospitals licensed under N.J.A.C. 8:43G
- 7 Developmental Centers operated by the Department of Human Services

We aggressively pursue perpetrators of wrongful acts against the elderly...

The Office worked closely with social services, regulatory, advocacy, policy-making, law enforcement, and other organizations –all with the goal of improving the lives of New Jersey residents needing long term care. In 2007, we made the following referrals with a high degree of successful resolution to problems:

Referrals

○ Board of Nursing	60
○ Nurse Aide Registry	152
○ Medical Examiners	2
○ DHSS/Long term Care Program	114
○ Human Services/Mental Health	1
○ Emergency Medical Services	2
○ Department of Community Affairs	5
○ Department of Transportation	1
○ Developmental Disabilities	6
○ Social Security	17
○ Revenue/Notary Public Unit	1
○ Board of Social Work Examiners	1
○ Attorney General Board of Accountancy	2
○ Attorney General Medicaid Fraud Unit	42

○ <i>County Prosecutor</i>	<i>44</i>
○ <i>Office of Attorney Ethics</i>	<i>1</i>
○ <i>Surrogate's Court</i>	<i>2</i>

We work zealously to effect favorable changes in policy & law

Legislation and advocacy:

- *Participated in National and State-wide conferences on aging and long term care.*
- *Participated on the Governor's Advisory Committee on Volunteerism.*
- *Participated on the Nursing Home Quality Advisory Council.*
- *Participated on the Assisted Living Licensing Work Group.*
- *Participated on the Consumer Advisory Council.*
- *Participated on the Assisted Living Uniform Disclosure Form.*
- *Participated on the Emergency Screening and Long Term Care Work Group.*
- *Participated on Ocean County Prosecutor's Elder Scams Task Force.*

HIGHLIGHTS OF FY07

- New Ombudsman – Debra H. Branch, Esquire
- New Director of Elder Advocacy – Gwen Orlowski, Esquire
- Investigated certified nurse aide who abused residents in at least three facilities over a two-year period leading to her arrest and more than 35 criminal charges.
- Investigated and referred more than 50 cases of financial exploitation to Prosecutors and DAG's Medicaid Fraud Unit for further investigation and prosecution.
- Developed and delivered Durable Power of Attorney training to almost a dozen facilities, community organizations and attorney bar associations.
- Advocated for legislative change to Medicaid 10% Rule for Assisted Living facilities.
- Advocated for Assisted Living Uniform Disclosure Form for consumers.
- Advocated for improved quality of care in nursing homes by serving on NJ Lane committee.
- Advocated for facilities to assist residents in completing and filing tax forms so residents could claim IRS Economic Stimulus Payment of at least \$300.
- Advocated for Department of Transportation to enhance safety of pedestrian crossing for Dover Wood Residential Healthcare Center residents. To prevent further traffic deaths, DOT installed a new Do Not Cross Here sign, a new Use Cross Walk sign and a Handicap Push button to delay the traffic signal.
- Regional Ethic Committees conducted more than 10 end-of-life consultations to facilities and hospitals.
- 14 full time (down from 16) and 2 part time field investigators conducted 3,298 investigations and resolved 6,791 individual complaints.
- Audrey Anderson, General Counsel, and James Plastine, Nurse Consultant, participated in more than 295 consultations with judges, attorneys, doctors, facilities, other governmental agencies and/or regional committees.
- Joann Cancel, Volunteer Ombudsman coordinator delivered 54 hours of in-service trainings while coordinating the work of 159 volunteer advocates who provided 11,830 hours of service.

MISSION and HISTORY

PHILOSOPHY: All residents of Long Term Care facilities are entitled to be treated with dignity, respect, and recognition of their individual needs and differences.

MISSION: Our mission is to secure and protect the rights, and to promote the dignity of persons 60 years of age and older, residing in Long Term Care facilities.

VISION: Long Term Care residents, age 60 and above, will receive good quality of care, and experience a high quality of life. In determining what elements are essential to quality of care and quality of life, the Office shall consider the unique medical, social and economic needs and problems of the elderly as patients, residents and clients of facilities and as citizens and community members.

HISTORY: In 1977, the New Jersey Legislature created the Office of the Ombudsman for the Institutionalized Elderly to investigate and respond to complaints of abuse, neglect, and exploitation of individuals sixty years of age and older, residing in licensed facilities (both public and private) within the State. *N.J.S.A. 52:27G - 1 to 16.*

In 1978, Congress reauthorized The Federal Older Americans Act of 1965, designating Long Term Care Ombudsman services as part of Title VII of that Act. Congress mandated that each state have an Ombudsman to receive, investigate, and act on complaints by older individuals who are residents of Long Term Care facilities. As a result, all 50 States, the District of Columbia, Puerto Rico, and Guam now have Long Term Care Ombudsman programs, although many are differently structured from New Jersey's. The advocacy and services for the older person offered by this Office, along with others encompassed by the Older Americans Act, are empowering the elderly and their caregivers to have a greater voice in decisions regarding their quality of life.

While the Office was initially located in-but-not-of the Department of Community Affairs, in 1996 it was relocated to the Department of Health and Senior Services. In 2006, the Legislature restored the Public Advocate as a principal department in the executive branch, and placed the Office of the Ombudsman into the Division of Elder Advocacy of the Department of the Public Advocate.

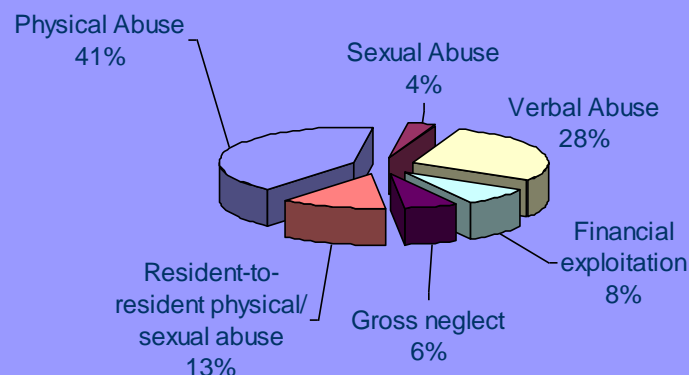
PROGRAM OPERATIONS

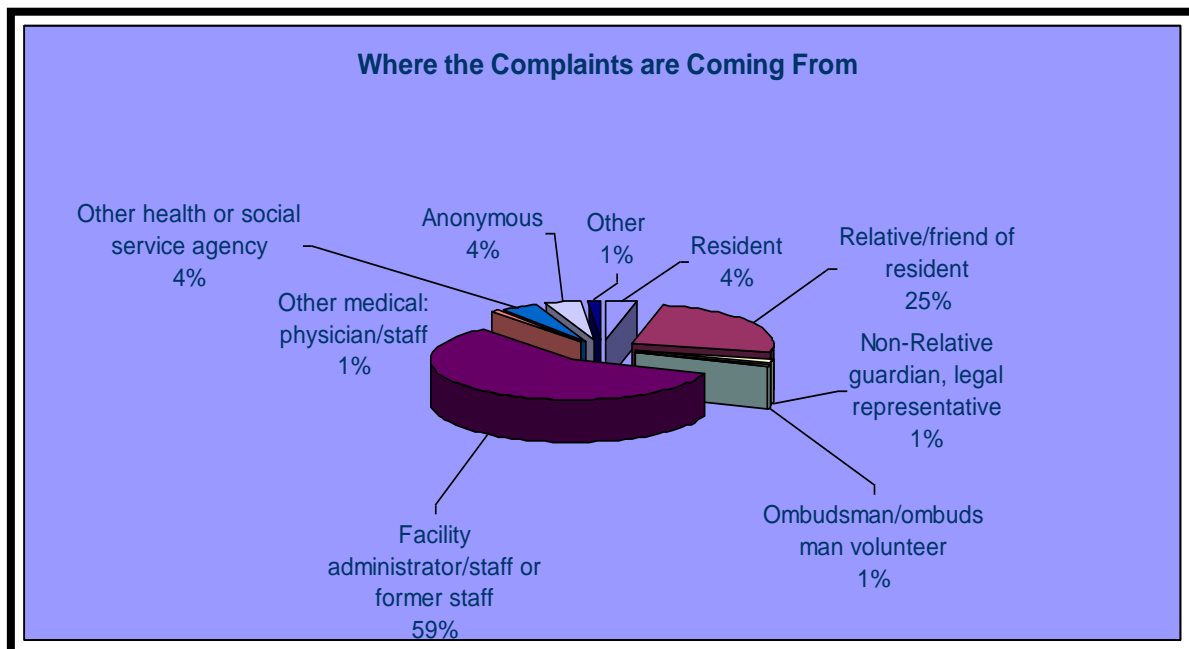
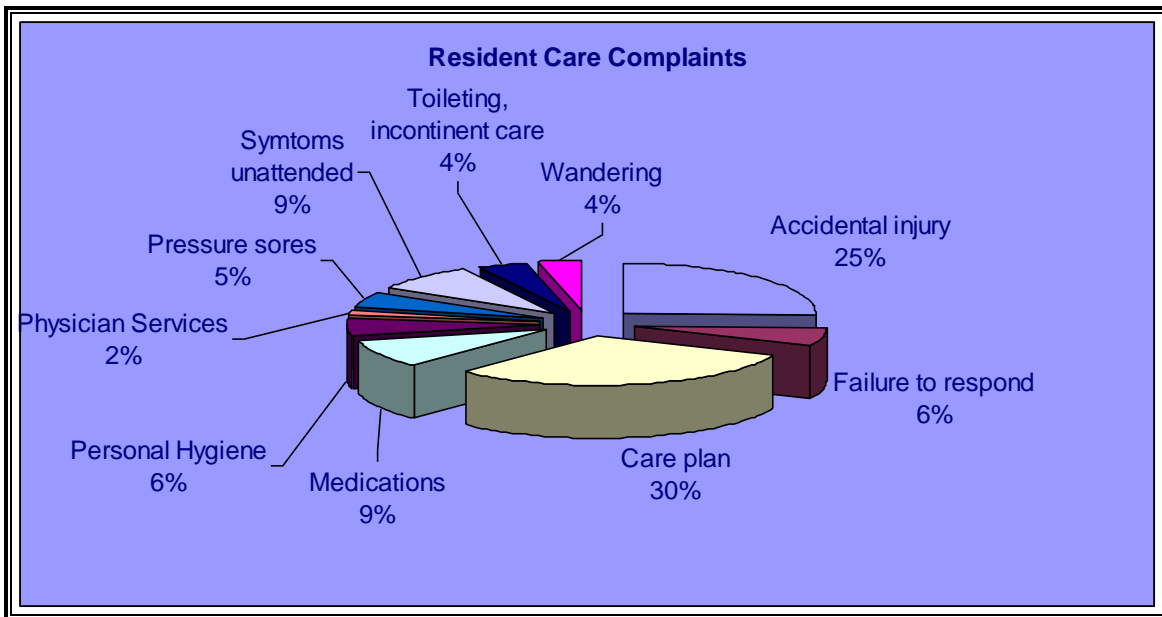
Most Frequent Complaints

Complaint investigations are the primary responsibility of the Ombudsman program, both under the mandate of the Federal Older Americans Act (42 U.S.C. 3058g) and State law (*N.J.S.A.* 52:27G-7.2 and 8). Ombudsman staff makes every effort to resolve complaints at the bedside, and work closely with residents and facility staff to offer recommendations for improved care. In FY 2007, we opened 3,298 cases, and closed 3,207 cases, representing 6,791 complaints. The Federal Administration on Aging requires us to track complaints in 132 complaint categories, organized in 17 sections. A detailed breakdown of complaints is contained in our annual NORS report to the Administration on Aging, a copy of which is attached at the end of this report. Of these 132 complaint categories, the 10 most frequently encountered were:

- Care plan/assessment inadequate, lack of patient/family involvement, failure to follow plan or physician orders – 699
- Accidental or injury of unknown origin, falls, improper handling – 584
- Inadequate record keeping – 484
- Abuse, physical – 428
- Financial exploitation by family or other not affiliated with the facility – 366
- Abuse, verbal – 295
- Medications: administration, organization – 208
- Symptoms unattended, no notice to others of changes in condition – 201
- Dignity, respect, staff attitudes – 190
- Discharge, eviction: planning, notice, procedure – 179
- Family conflict, interference – 154
- Legal – guardianship, conservatorship, power of attorney, wills – 149

Breakdown of Abuse, Neglect, and Exploitation Complaints





Example of an Abuse Case

Resident is a 71-year-old female, with diagnoses of hypovolemia, CVA (stroke), dementia, and osteoporosis. She is completely dependent upon staff for care. On one evening, an aide hooked the resident's call bell onto the privacy curtain, out of her reach. The resident was unable to call for help with toileting, and urinated on the bed pad. The resident removed the wet pad from under her, and dropped it on the floor. When the aide came in the room and saw the wet pad on the floor, she became agitated. She picked up the pad and threw it in the resident's face, stating loudly, "I have to walk on this floor!"

The aide was terminated from employment at the facility, and ultimately placed on the State's Nurse Aide Abuse Registry. She can no longer work as a nurse aide in New Jersey.

Example of a Neglect Case

Resident is an 83-year-old female, with diagnoses of depression, hypertension, cardiomyopathy, congestive heart failure, a fractured hip and shoulder. She was care-planned as a fall risk. Her care plan also called for a right arm sling and an abductor pillow at all times, side rails and side rail protectors on the bed. She resided at the facility for 14 days.

On the evening of her admission, the resident was placed in a room at the end of the hall. She did not use the call bell system, but called out when she needed assistance. Her location was not conducive to a prompt response. The resident was not cleaned or changed for the first two days she was in the facility. On the day of her death, she was found by an aide to have fallen between the bed and the wall. When found, she was in a kneeling position, and not breathing. CPR was instituted, 911 was called, and she was transferred to the hospital, where she was pronounced.

Our findings were referred to the Department of Health and Senior Services, Division of Health Facilities Evaluation and Licensing. The licensing agency cited the facility with multiple serious deficiencies.

Example of a Financial Exploitation Case

While investigating an individual complaint at a residential health care facility, our Field Investigator learned that the administrator has made an arrangement with a professional accountant to prepare the simple 1040A tax forms for its 71 residents so that they can receive the \$300 IRS stimulus payment. While this sounds like a wonderful service to provide for these residents with limited income, it was provided at a very high cost. The deal was that each resident had to pay \$100 for the accountant to fill out seven questions on a 2 page IRS form. In fact, most of the data was provided by the admission office so there was very little work or expertise needed to complete the form for each person. To make matters worse, the accountant required each person to sign a retainer allowing him to directly access the Personal Needs Account ("PNA") once the check was received and deposited. Our investigation substantiated that the facility created a situation that allowed its 31 elderly residents to be financially exploited

by this accountant. The accountant took advantage of a vulnerable population for personal financial gain charging an unconscionable 33% fee for services.

Our findings were referred to the New Jersey Department of Community Affairs (DCA) and the Ocean County Board of Social Services (OCBOSS). DCA and OCBOSS conducted a joint investigation based upon our initial investigation. A result of this joint investigation is that each of the 31 elderly residents was reimbursed \$100 by the facility and that an additional 36 residents under the age of sixty were likewise reimbursed \$100 for a grand total of \$6,700. Three additional residents under age 60 who were discharged pending the investigation to outside rehabilitation facilities were also reimbursed \$100 for a grand total of 70 residents and \$7,000. No criminal charges were filed against anyone since the facility made full restitution; all 70 residents received the entire amount of the economic stimulus payment of \$300.00.

Volunteer Ombudsman Corps

The Office's Volunteer Advocacy Program, first piloted in 1993, continues to thrive. We have trained more than 905 volunteers, of whom 166 are currently active, and placed in 159 facilities throughout the State. After completing 32 hours of training in communication, observation, and trouble-shooting skills, the advocates visit nursing facilities near their homes a minimum of 4 hours each week, and address resident concerns on such issues as living conditions, daily activities, and quality of care. It is the philosophy of the Office that concerns of this nature are best resolved at the bedside, before they develop into complaints. In that regard, the corps of volunteers has become a valuable asset of the Office.

New Jersey has a very dedicated and caring corps of volunteers. Advocates complement the investigative function of the Ombudsman's office by attempting to resolve quality of care and quality of life issues as close to the bedside as possible, referring complaints of abuse, neglect and exploitation for investigation. Far too often, our volunteers are the only visitors a resident may have. Our advocates are in facilities, working pro-actively to make sure that minor concerns don't grow into major quality of care complaints.

Each Volunteer Advocate must have excellent communication skills to establish and nurture relationships with residents of Long Term care facilities. In addition, volunteers must be effective advocates, and knowledgeable in residents' rights and best practices in Long Term care.

The volunteer advocate program is administered regionally in the northern counties by Bergen Family Services, Inc., a non-profit service agency, with experience in nursing home advocacy and community-based volunteer programs. We are working closely with the Retired and Senior Volunteer Program (R.S.V.P.), AARP and Rutgers School of Law Camden Elder Law Clinic to recruit more volunteer advocates.

Recognition of our volunteer program has been wide-spread and positive. Our Statewide Volunteer Coordinator, Joann Cancel, has been tapped to chair the Governor's 2008 annual conference on volunteerism. There were approximately 700+ attendees at the conference and the Honorable Wilson Goode, former Mayor of the city of Philadelphia, served as a guest speaker.

The Volunteer Advocacy Program was nominated for an award at the Governor's Annual Volunteer Awards ceremony. In addition, two volunteers were nominated for long term service in this program: Linda Mainker of Region I, has been with the program for 10+ years and Doug Powell has been with the program for 12 years. Both volunteers dedicate at least 4 hours per week to 2 different facilities.

Ethics and End-of-Life Care

As a result of the New Jersey Supreme Court's 1985 decision *In the Matter of Claire C. Conroy* (98 N.J. 321, 1985), the Office of the Ombudsman has become the overseer of ethical decision making in New Jersey's Long Term care facilities.

Regional Long Term Care Ethics Committee Development and Training

In December, 1998, the Office of the Ombudsman for the Institutionalized Elderly, in cooperation with the Cooper Hospital University Medical Center, received a 3-year grant from the Robert Wood Johnson Foundation, to sponsor and encourage the development of a statewide network of Regional Long Term Care Ethics Committees. Our initial goal was twelve (12) such committees; we have met and exceeded this goal. By the end of the grant period, fourteen (14) such committees had been created, and these regional committees are functioning as the only Statewide network of regional long term care ethics committees anywhere in the country. Nursing homes and other providers of long term care are encouraged to tap this resource when confronted with issues of bio-medical ethics, or merely the day-to-day ethical issues that arise everywhere.

Consistency of approach and methodology was a concern in creating this network. As part of the Robert Wood Johnson Foundation grant, we developed a 5-session educational program and curriculum. The introductory intensive session (1½ days) presents ethical theory and case methodology customized for Long Term care. Follow-up sessions 1 and 2 address ethical issues relating to the law, decision-making capacity, and pain management. Follow-up sessions 3 and 4 address advance care planning, the role of culture and spirituality, and educating and utilizing ethics committees. During the grant period, this curriculum was offered eleven (11) times, in various locations throughout the State. More than 700 health care professionals, representing more than 200 Long Term care facilities in the State, participated.

This program has received such widespread support and enthusiasm in the community, that, notwithstanding the conclusion of the 3-year Robert Wood Johnson Foundation grant, the Office has committed to the continuation of these training sessions as long as there are individuals desiring the training. Pursuant to this commitment, in December 2003, this Office teamed with the Office of Public Guardian (OPG) and the Bureau of Guardianship Services in the Division of Developmental Disabilities (BGS), to offer a 12th intensive training session. In all, more than 125 individuals, including staff of the OPG and the BGS, participated.

In 2005, we decided to take the training to the regions. Each Regional Long Term Care Ethics Committee (LTEC) was given the opportunity to sponsor a training in its region. By July 2007, we had conducted 15 such trainings, and more than 200 individuals participated. In all, more than 1,000 individuals have now been trained in the SEED methodology.

Despite loss of the coordinator of the program in November 2007, the office continues to manage the 14 regional ethic committees and will seek to replace this position in 2009.

Public Awareness and Outreach

The institutionalized elderly we serve are not always in the best position to advocate for themselves. They need to know that there is someone whom they can contact, confidentially,

who will respond to their concerns. More importantly, family members who visit their loved ones in facilities, must know how to contact us.

The most ubiquitous form of public awareness is our poster, which by law must be conspicuously posted in public areas of all facilities under our jurisdiction. Our posters proclaim, in English and Spanish, “Freedom from abuse, neglect and exploitation is not a privilege ... It’s a Right!” and provides our toll-free contact number. In addition, upon admission, every resident must be presented with a form that describes our office, the reason for its existence, and the fact that it investigates complaints of abuse, neglect, and exploitation.

We take seriously the Older Americans Act mandate to educate the community about good care and dignified treatment of elderly residents. Trained staff and volunteers speak frequently to families, resident/family councils, and providers about resident rights and quality of care.

Putting our values to work ...

- Participated on Ocean County Prosecutor’s Elder Scams Task Force.
- Presented at GANJI Conference on financial abuse of the elderly.
- Mass mailing to long term care facilities about the facts of the IRS Economic Stimulus Payments.
- Participated in three radio interview shows to educate the public on the “IRS Economic Stimulus Payments.”
- Featured in several news articles regarding Assisted Living and involuntary discharges after spending down private funds.
- Presented “Misuse of the Durable Power of Attorney” seminar to three community groups, two lawyer bar associations, three regional ethics committees, one adult day care center and three facilities (staff).
- Presented in Camden County Bar Association – Contested Guardianship CLE
- Presented at Elder Law Retreat – financial scams.
- Participated in Camden High School career day.
- Participated in Elder abuse by caregivers research by Japanese University.
- Attended NJ Institute for Successful Aging HealthCare Fair.
- Participated in Estate and Financial Planning Council of Southern New Jersey panel discussion.
- Presented at New Jersey Hospital Association (NJHA) Certified Nurses Aide Award Program.
- Presented at NJ Association of Homes and Services for the Aging (NJASA) – Mandatory reporting requirements.
- Participated in HCANJ 20 Hour Symposium spring conference – Power of Attorneys and Guardianships.
- Participated in Monmouth County Financial Exploitation seminar.
- Attended 21st Annual Senior Symposium on Black Aging.
- Presented at Society of Licensed Nursing Home Administrators of NJ CEU seminar.
- Guest Speaker at Nursing Home Quality Initiative Recognition Awards Ceremony.

OBRA '87 20th Anniversary The Nursing Home Reform Law

The year 2007 marked the 20th year of the passing into law of the Omnibus Budget Reconciliation Act of 1987 (also known as the Nursing Home Reform Act), landmark legislation for federal standards for nursing home care. The Nursing Home Reform Act changed federal law by instituting higher standards for patient care. The law increased staffing requirements and established a number of resident rights, including the right to be free from abuse, mistreatment, and neglect. It also established an enforcement system and merged Medicare and Medicaid standards and certification requirements.

Purpose of the Nursing Home Reform Law

The basic objective of the 1987 Nursing Home Reform Act is to ensure that residents of nursing homes receive quality care that will result in their achieving or maintaining their "highest practicable" physical, mental, and psychosocial well-being. To secure quality care in nursing homes, the Nursing Home Reform Act requires the provision of certain services to each resident and establishes a Residents' Bill of Rights.

Nursing homes receive Medicaid and Medicare payments for long term care of residents only if they are certified by the state to be in substantial compliance with the requirements of the Nursing Home Reform Act.

Required Resident Services

The Nursing Home Reform Act specifies what services nursing homes must give residents and establishes standards for these services. Some of the required services include: periodic assessments for each resident; a comprehensive care plan for each resident; nursing services; social services; rehabilitation services; pharmaceutical services; dietary services; and, if the facility has more than 120 beds, the services of a full-time social worker.

The Residents' Bill of Rights

The Nursing Home Reform Act established the following rights for nursing home residents:

- The right to freedom from abuse, mistreatment, and neglect;
- The right to freedom from physical restraints;
- The right to privacy;
- The right to accommodation of medical, physical, psychological, and social needs;
- The right to participate in resident and family groups;
- The right to be treated with dignity;
- The right to exercise self-determination;
- The right to communicate freely;
- The right to participate in the review of one's care plan, and to be fully informed in advance about any changes in care, treatment, or change of status in the facility; and
- The right to voice grievances without discrimination or reprisal.

Survey and Certification

To monitor whether nursing homes meet the Nursing Home Reform Act requirements, the law also established a certification process that requires states to conduct unannounced surveys, including resident interviews, at irregular intervals at least once every 15 months. The surveys generally focus on residents' rights, quality of care, quality of life, and the services provided to residents. Surveyors also conduct more targeted surveys, or complaint investigations, in response to complaints against nursing homes.

If the survey reveals that a nursing home is out of compliance, the Nursing Home Reform Act enforcement process begins. The severity of the remedy depends on whether the deficiency puts a resident in immediate jeopardy, and whether the deficiency is an isolated incident, part of a pattern, or widespread throughout the facility. For some violations, nursing homes have an opportunity to correct the deficiency before remedies may be imposed. Any or all of the following sanctions can be imposed to enforce compliance with the Nursing Home Reform Act:

- Directed in-service training of staff;
- Directed plan of correction;
- State monitoring;
- Civil monetary penalties;
- Denial of payment for all new Medicare or Medicaid admissions;
- Denial of payment for all Medicaid or Medicare patients;
- Temporary management; and
- Termination of the provider agreement.

The state of nursing home quality 20 years later

Since Congress passed a law designed to improve the quality of nursing homes 2 decades ago, nursing homes have improved, but there are still a lot of problems. This is the conclusion of a new report by the Kaiser Family Foundation that examines the progress nursing homes have made over the past 20 years since the Nursing Home Reform Act of 1987 became law.

According to the report, one of the biggest improvements since the passage of the Nursing Home Reform Act is the reduction in the use of physical restraints, which can decrease a resident's muscle tone and cause other health problems. In 2006, fewer than 6 percent of long-stay nursing home residents had been restrained during the last 7 days. In addition staffing levels and training have improved slightly.

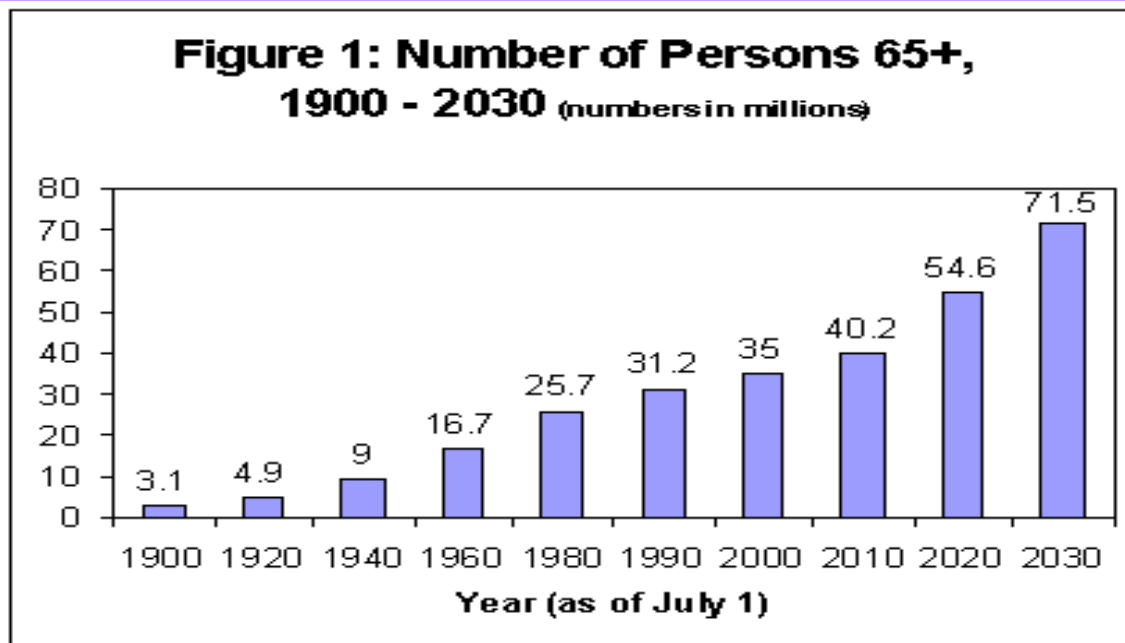
Although there have been improvements, the report notes there are still serious problems. The number of facilities cited for violations is still high. In 2006, nearly one-fifth of all certified facilities were cited for deficiencies that caused harm or immediate jeopardy to residents. Staffing levels have improved somewhat, but studies indicate that nursing homes are still significantly understaffed. In addition, while there were improvements in the system immediately after the law's passage, improvements seem to have plateaued.

The report examines some possible future strategies for improving care, including reforming Medicaid and Medicare reimbursement, changing organizational culture, and providing more information to consumers.

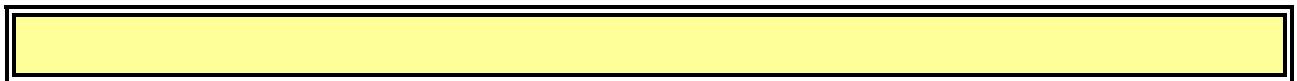
The full report can be downloaded from <http://www.kff.org/medicare/7717.cfm>

Why is this important?----Because we are living longer and it is very likely that the need for quality long term care facilities will increase.

The Aging of America



THE NUMBERS



Someone turns 50 years of age every 6 seconds.

55 million people in the U.S. are over 55 years of age and 34 million are over 65 years old - and that figure will double by 2030.

Median age in the U.S. today is 43. By the year 2014, the youngest baby boomers will be 50 years of age and the oldest will be 68.

People over 50 account for 43 percent of all U.S. households.

The over-85 age group is the fastest-growing segment of the population.

By 2020, the senior population will number approximately 115 million.

Consumer Information

The Office continues to be a major source of information for the public regarding Advanced Healthcare Directives, Durable Power of Attorney, Nursing Home Patients' Bill of Rights and Involuntary Discharges.

For other helpful information, see our web site:

<http://www.state.nj.us/publicadvocate/seniors/elder/>