
The Vermont Long-Term Care Ombudsman Project



A Project of Vermont Legal Aid

1. The role of the Vermont LTC Ombudsman Project:

- Promote the rights of people receiving long-term care services in Vermont
- Advocate for changes that lead to better care & better quality of life

2. The Vermont LTC Ombudsman Project works with people who receive long-term care services in:

- Nursing homes
- Residential care homes
- Assisted living residences
- Adult family care homes
- The community through Choices for Care (CFC)

3. What does the Vermont LTC Ombudsman Project do?

- Investigate problems and concerns about long-term care services
- Help people make their own decisions about their long-term care and services
- Help people on CFC access long-term services in the community
- **Visit LTC facilities regularly to talk with residents and monitor conditions**
- Educate facility staff and other providers about the rights and concerns of people receiving long-term care services
- Identify problem areas in the long-term care system and advocate for change
- Provide information to the public about long-term care services and options

4. The Vermont LTC Ombudsman Project is an independent voice.

- Each year the Commissioner of the Department of Aging and Independent Living (DAIL) must certify that the Vermont Long-Term Care Ombudsman Project carries out its duties free of any conflicts of interest
- The organizational structure of the Vermont Long-Term Care Ombudsman Project enhances its ability to operate free of any conflicts of interest. (The project is housed within Vermont Legal Aid and all ombudsmen are employees of Vermont Legal Aid)

5. Vermont LTC Ombudsman Project Staffing

State Long-Term Care Ombudsman:

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Local Ombudsman:

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6. Scope of COVID-19 in LTC facilities

Most recent U.S. information (April 23, 2020) that I have seen (Kaiser Family Foundation):

- More than 10,000 residents and staff in long-term care facilities across the U.S. have died from COVID-19 infections.
 - That number is an undercount since not all states are currently reporting this data.
- Among those states reporting data, the largest death tolls were in several Northeastern states, including New York (3,505 deaths), New Jersey (2,050), Massachusetts (1,205) and Pennsylvania (845).
- There have been nearly 51,000 infections with COVID-19 at more than 4,000 long-term care facilities in the 36 states reporting such data.
 - New Jersey reported the highest number of cases (11,608) and North Dakota the least (61).
- Residents of long-term care facilities are among the most vulnerable to infection and serious illness from COVID-19, given the population density in such facilities and residents' underlying health conditions.
- Long-term care facilities account for a notable share of all COVID-19 cases and deaths in many states.
 - In six states – Colorado, Delaware, Massachusetts, Oregon, Pennsylvania and Utah – such deaths account for over 50 percent of all COVID-19 deaths.
 - Overall, cases in long-term care facilities make up 11 percent of all coronavirus cases in the 29 states that report cases.
 - Deaths in long-term care facilities account for 27 percent of all deaths in the 23 states that report deaths.
- Until recently, there was no federal requirement for nursing homes to report coronavirus outbreaks and COVID deaths, leading to an information gap for families, residents, and policymakers.
 - On April 19, the Centers for Medicare and Medicaid Services released guidance that would require nursing homes to report cases of coronavirus directly to the Centers for Disease Control and Prevention (CDC). This data is not yet available.

Full article:

https://www.kff.org/medicaid/issue-brief/state-reporting-of-cases-and-deaths-due-to-covid-19-in-long-term-care-facilities/?utm_campaign=KFF-2020-Medicaid&utm_source=hs_email&utm_medium=email&utm_content=86890099&hse_nc=p2ANqtz-P9cIWlno5zXO-bm4IsQdIGPVO8_IhraGByPwuyoXO4h6d-JjnPmPDz6mG81odLrD5nqVSE-8aZE3jTXVRwOLrwJSLkg&hsmi=86890099

Vermont:

- As of **April 14, 2020**, 29 Vermont residents who tested positive for SARS-CoV-2, the etiologic agent for novel coronavirus 2019 (COVID-19) disease, had died. Of these 29 individuals, 13 resided in long-term care facilities (LTCFs) in Chittenden County and 16 lived outside of a care facility in different counties (7 in Chittenden County and others in Windham, Franklin, Addison, Lamoille, and Windsor Counties).
- **Of the 13 residents of LTCFs**, the median age was 80 years (range: 70-95 years). Six were men and seven were women. Information on race and ethnicity was available for 11 (85%), and all of these were white/non-Hispanic. None had recent travel outside of Vermont. All resided at LTCFs with at least one resident or staff member with COVID-19. Testing for SARS-CoV-2 was ordered for all of the LTCF residents (and was not based on symptomatology). All of the LTCF residents had multiple co-morbidities including: obesity or morbid obesity, pulmonary disease (including chronic obstructive pulmonary disease), cardiovascular disease (including atrial fibrillation, hypertension, hyperlipidemia), arthritis, systemic lupus erythematosus, diabetes mellitus type 2 (with or without complications), gastroesophageal reflux disease, diverticulosis, hypothyroidism, renal failure, dementia, progressive multifocal leukoencephalopathy, cirrhosis, and a history of smoking. Except for two patients who were hospitalized before death, all died at their residential facility.

FROM: [Clinical Overview of Deaths among Vermont Residents, Testing Positive for SARS-CoV-2 through April 14, 2020]

Consumer Voice: Recommendations for Protecting Residents and Staff of Long-Term Care Facilities (As of 4/28/20)

https://theconsumervoice.org/uploads/files/issues/Advocacy_Recommendations_final.pdf

7. Issues for LTC facilities/LTC residents

- **Visitation restrictions**
 - Must combat isolation (LTC facilities can do this by actively coordinating and facilitating telephone calls, video conferences, and other communications between residents and their family members and friends)
- **Coming & Going**
- **Evictions**
 - Avoid disruption by having facilities and states to work collaboratively with residents and their families when making transfers designed to “cohort” residents with others who also are COVID-positive, or COVID-negative.
- **Reporting / Disclosing Outbreaks**
 - Require immediately that nursing facilities disclose whether residents or staff have been infected by COVID-19.
- **Taking in COVID-19**
- **Staff Shortages**
 - Keep residents safe by setting meaningful standards for the necessary staff, training, and equipment to care for residents with COVID-19 and those without.
- **Non-COVID-19 related care**
- **Other?**

8. What has the VOP been doing in response to COVID-19:

- a. Adjusting, and do the best we can, under the current situation:
 - i. Talking with and visiting residents is what ombudsmen do, and not being able to visit facilities is a big adjustment.
 - ii. Ombudsmen are consistently seeking information about COVID-19;
 - iii. Biggest concern: whether residents and families are receiving information that would help them make sense of what is happening now.
- b. Maintaining contact and communication with facilities (how are they responding to COVID-19; asking about residents; providing information);
 - i. **THANK YOU.** The VOP wants to thank LTC providers for their hard work, dedication and sacrifice to all the Vermonters receiving long term care.
 - ii. **THE VOP IS STILL WORKING.** Please feel free to let people know that we can be contacted for assistance.
 - iii. **VOP CONTACT INFORMATION.** Our statewide phone is 1-800-889-2047.
 - iv. **ADDITIONAL INFORMATION.** For more information about the VOP, please see our webpage: <https://www.vtlegalaid.org/vermont-long-term-care-ombudsman-project>
 - v. **COVID-19.** All the projects of Vermont Legal Aid, including the VOP, have worked together to provide Vermonters with important information about COVID-19. We think the information (topic areas include: stimulus checks, paid leave, and unemployment insurance) may be useful to those providing and receiving long-term care services and supports. Please find the information, which is regularly updated, here: <https://vtlawhelp.org/coronavirus-updates>
 - vi. **STIMULUS CHECKS.** The federal coronavirus relief law (called the CARES Act) gives money to most adults in the United States. Adult residents of LTC facilities will be receiving \$1200 stimulus checks starting in mid-April (meaning some residents have already received stimulus checks). **Stimulus checks belong to the residents.**
- c. Monitoring and informing ourselves about guidance coming from DAIL, VDH and CMS about COVID-19 for LTC facilities (want to be provide informed and accurate information)
- d. Participating with information sharing with State LTC ombudsmen, ACL and Consumer Voice (national)
- e. Case work and calls

9. CARES Act

- a. Vermont LTC Ombudsman Project will receive an additional \$100,000 (grant with State of Vermont must be amended).
- b. The funds expended from the CARES Act are to respond to the Coronavirus Emergency
- c. Ombudsman programs will seek to expand their virtual presence to residents and their families and continue to promote the health, safety welfare and rights of residents in the context of COVID-19.
- d. Funds must be expended on allowable Older Americans Act activities as defined by the Older Americans Act and State and local policy.
 - i. Purchase of equipment and associated technologies that will allow for remote work and enhance Ombudsman presence in facilities while they cannot physically visit during to COVID crisis.
 - ii. Software to facilitate video conferencing and virtual meetings.
 - iii. Purchase of hardware and software to develop equipment lending libraries to facilitate resident complaint handling and development of virtual resident and family councils.
 - iv. Costs associated with community outreach.
 - v. Training costs related to COVID-19.
 - vi. Acquiring personal protection equipment and supplies for program use, as appropriate, once in-person visits.

10. COVID-19 Guidance: DAIL, VDH, and CDC & CMS

1. Central location for all DAIL guidance to LTC facilities in Vermont – includes VDH guidance & information:

<https://dail.vermont.gov/novel-coronavirus-information/information-long-term-care-providers>

❖ DAIL website: DAIL and VDH calls with LTC facilities on March 10, 2020, March 31, 2020 and April 7, 2020:

- <https://www.youtube.com/watch?v=g6shGTGqy64> (April 7) (video)
- https://www.youtube.com/watch?v=g_oHHwIYuGY (March 31) (video)
- https://dail.vermont.gov/sites/dail/files//documents/Long_Term_Care-Questions_and_Answers-03-10-2020.pdf (Written responses to LTC provider questions, no video)

❖ DAIL website: Selected guidance & information from the DAIL website for LTC facilities:

- https://dail.vermont.gov/sites/dail/files//documents/ER_Preparedness_LT_and_CB_final.pdf (Emergency Preparedness: Caring for persons living with dementia in a long-term or community-based care setting)
- https://dail.vermont.gov/sites/dail/files//documents/Enclosure_Approved_Waivers_Upon_Request.pdf (Approved waivers for LTC facilities from federal regulations)
- https://dail.vermont.gov/sites/dail/files//documents/COVID19_Self_Assessment_for_State_Licensed_Facilities.pdf (Self-Assessment: a framework for LTC homes/residences to assess their infection control “readiness”)
- https://dail.vermont.gov/sites/dail/files//documents/message_to_LTC_providers_re_PPE.pdf (VDH is currently working to deploy available PPE - to include N95 masks, surgical masks, surgical, gowns, Tyvek coveralls, face shields, goggles, nitrile gloves - based on requests received via the PPE Resource Request Form system)
- <https://dail.vermont.gov/sites/dail/files//documents/QSO-20-14-NH%20-%20REVISED%203-13-2020.pdf> (CMS guidance for infection control in NHs)
- <https://dail.vermont.gov/sites/dail/files//documents/Guidance%20on%20visits%20from%20HH%20and%20Hospice%20staff.pdf> (DAIL Guidance re: Home Health & Hospice Visits to LTC Facilities)
- https://dail.vermont.gov/sites/dail/files//documents/LTC_Memo_Readmission.pdf (Survey & Certification Letter re: Resident readmission following hospitalization)

- https://dail.vermont.gov/sites/dail/files//documents/Home_Health_Essential_Services.pdf (DAIL email to LTC providers re: essential home health services)
- https://dail.vermont.gov/sites/dail/files//documents/Personal_Protective_Equipment_Guidance-FINAL-04-15-2020.pdf (PPE guidance for various providers)(April 15, 2020)
- https://dail.vermont.gov/sites/dail/files//documents/2020_Transfer_Memorandum-FINAL-04-20-2020.pdf (Transfer of residents to offsite care locations for purposes of expanding capacity and cohorting COVID-19 positive residents)
- https://dail.vermont.gov/sites/dail/files//documents/Staffing_Memo_to_DAIL_Facilities_04-22-2020-FINAL.pdf (DAIL staffing memo – instructions for when LTC facilities have emergent or emergency staffing issues)
- https://dail.vermont.gov/sites/dail/files//documents/Guidance_To_N-95_Users.pdf (Guidance on N-95 Respirator Disinfection by Region)

❖ **DAIL website: Guidance for Home and Community Based Services**

- https://dail.vermont.gov/sites/dail/files//documents/Final_ASD_Guidance_Memo_on_Program_Changes-4-9-20.pdf (Guidance on COVID-19 Pandemic Temporary Service Changes For Attendant Services, Choices for Care, and Traumatic Brain Injury Programs) (April 9, 2020)
- https://dail.vermont.gov/sites/dail/files//documents/Final_ASD_Guidance_Memo_on_Independent_Employers_Paying_People_in_the_Home-4-9-2020.pdf (Guidance to Employers to Pay People Living in the Home During the COVID-19 Pandemic - Attendant Services, Choices for Care, and Traumatic Brain Injury Programs) (April 9, 2020)
- https://dail.vermont.gov/sites/dail/files//documents/FINAL_DAIL_Memo_re_Essential_Services_3.25.20.pdf (DAIL Memo on Essential Services) (MARCH 25, 2020)
- <https://dail.vermont.gov/sites/dail/files//documents/Final%20Memo%20to%20providers%20hb%20services%203.17.20.pdf> (DAIL memo re: COVID-19 Information & Programmatic Guidance for Home-Based Services) (MARCH 17, 2020)
- <https://dail.vermont.gov/sites/dail/files//documents/Final%20VDH%20Guidance%20on%20Home%20Based%20Service%20Delivery%203.17.20.pdf> (DAIL Guidance: Home-Based Service Delivery)
- https://dail.vermont.gov/sites/dail/files//documents/FINAL_ARIS_Background_Check_Memorandum-04-23-2020.pdf (Background Checks during State of Emergency)

2. Vermont Department of Health: Guidance & Information for LTC facilities

- <https://www.healthvermont.gov/response/coronavirus-covid-19/long-term-care-and-group-living-settings> (Guidance for LTC facilities and group living settings)
- <https://www.healthvermont.gov/sites/default/files/documents/pdf/HAN-LTCF-3-4-2020.pdf> (VDH advisory to LTC facilities)
- https://www.healthvermont.gov/sites/default/files/documents/pdf/HAN-COVID-19-PPEGuidelines.04.08.2020.final_.pdf (Guidelines from VDH to health care providers on requesting and using Personal Protective Equipment (PPE)) (APRIL 9, 2020)
- https://www.healthvermont.gov/sites/default/files/documents/pdf/HAN-COVID-19-ReturntoWorkGuidelinesHealthCareWorkers-04.03.20.Final_.pdf (VDH advisory: Criteria for Health Care Workers with Confirmed or Suspected COVID-19 to Return to Work) (Dated April 3, 2020)
- https://www.healthvermont.gov/sites/default/files/documents/pdf/HAN-COVID-19-HospitalDischarge.04.10.2020.final_.pdf (Hospital Discharge of COVID-19 Patients – includes to home and LTC facilities)

3. CDC: Guidance & Information for LTC facilities

- <https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html> (Guidance for LTC facilities and NHs)
- <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html> (CDC infection control recommendations)
- <https://www.cdc.gov/coronavirus/2019-ncov/hcp/using-ppe.html> (Using PPE)
- <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control.html> (Optimize PPE supply; Burn rate PPE)

4. CMS: Guidance & Information for LTC facilities

- <https://www.cms.gov/files/document/4220-covid-19-long-term-care-facility-guidance.pdf> (most recent CMS and CDC guidance for LTC facilities) (April 2, 2020)
- <https://www.cms.gov/files/document/qso-20-20-allpdf.pdf> (CMS Prioritization of Survey Activities)
- <https://www.cms.gov/files/document/qso-20-25-nh.pdf> (2019 Novel Coronavirus (COVID-19) Long-Term Care Facility Transfer Scenarios)
- <https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf> (COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers)
- <https://www.cms.gov/files/document/qso-20-26-nh.pdf> (Upcoming Requirements for Notification of Confirmed COVID-19 (or COVID19 Persons under Investigation) Among Residents and Staff in Nursing Homes)