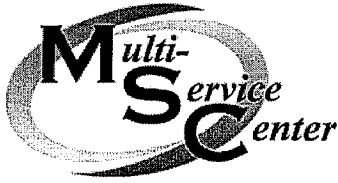


Washington State Long-Term Care Ombudsman Program



Operated by Multi-Service Center

Louise Ryan, Washington State Ombudsman
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"People Helping People"

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Kathy Leitch
Assistant Secretary
Aging and Disabilities Services Administration
PO Box 45600, Mailstop: 45600
Olympia, WA 98504-5600

February 17, 2010

Dear Ms. Leitch;

I appreciate being asked by Irene Owens of Residential Care Services (RCS) for suggestions to address concerns raised about Adult Family Homes in the Seattle Times series "Seniors for Sale." LTC Ombudsmen staff and volunteers across the state, who are in adult family homes on a regular basis, have been consulted. The suggestions below represent the general consensus of the LTC Ombudsman Program based on our experiences visiting adult family homes and on analysis of our data and the enforcement records received by RCS. I acknowledge that some of our suggestions, such as requiring that inspections and complaint investigations be posted at the AFH and making enforcement letters available on the website are ideas that RCS has already taken action. The following suggestions are grouped based on policy, regulatory or one that will require legislation. I recognize that this is a long list that will require time to implement. However, it is a direction that we need to consider to tighten up regulations and laws and thereby better protect residents.

Policy Changes:

- Notice to LTCOP of application for change in ownership and/or sale.
- RCS send to the LTCOP *all* inspections, complaint investigation reports and statements of deficiencies rather than our having to request specific reports and SOD's and physically go and retrieve it from the RCS office. The inability to get routine complaint and licensing data makes it difficult for ombudsmen to prioritize which home should receive routine visits and impacts our duty to monitor the homes and RCS. It is our understanding that these documents are available in electronic format and could be readily transmitted to us. To facilitate this, they could all be sent to our state office and we will distribute them to the regional ombudsman offices.
- Move the AFH 48 hour training and who approves trainers & trainings from HCS to RCS/Licensing with increased involvement of the licensors. RCS is the expert in the AFH rules, not HCS.

- Limit number of residents in specific AFHs based on acuity. For example, the Department should require the AFH to have a RN or LPN on-site a certain number hours a day or more before the AFH could have residents with particular diagnoses or combination of ADL needs. In the past, the Department examined creating “levels” of AFH licenses to try to better match residents’ needs with providers’ capabilities. This effort was abandoned but should be re-opened. RCW 70.128.060(6) actually requires the Department to do this: “(6) The department shall license an adult family home for the maximum level of care that the adult family home may provide. The department shall define, in rule, license levels based upon the education, training, and caregiving experience of the licensed provider or staff.”
- More required self-reporting and more in-person follow up by RCS – Development of an AFH “Purple Book” and training for AFH providers and direct care staff on use of “Purple Book” reporting and investigation protocols. This has been done for nursing homes and is quite successful. The “Purple Book” could be amended with little effort for AFHs and boarding homes. The guidelines should also be incorporated into the regulations by reference as it is for nursing homes in WAC 388-97-0640(5)(a).
- When neglect or abuse has occurred cite to the definitions in RCW74.34.020 Serious abuse and neglect is minimized when the citation only refers to “care and services.”
- Enforcement – increased use of enforcement tools – see attached enforcement examples.
- Operating a facility without a license – is a misdemeanor – I am not aware that these are forwarded to the prosecutor. The enforcement letter should advise the unlicensed provider that it is a misdemeanor and that the violation will be forwarded to the County Prosecutor.

Regulatory

- Requiring inspections be posted at the AFH - *Thank you for action on this*
- 60 day notice to residents when AFH is put up for sale – *Thank you for action on this*
- Application for change of ownership should be posed at the AFH
- Require in admission agreements, say under resident rights section, that the owner explicitly spell out that if the resident/representative has a concern about their care or treatment, they can contact the owner, DSHS, ombudsman. Define the DSHS hotline the ombudsman office and provide their phone numbers.
- Not issuing a 2nd license to an owner, or anyone associated with the AFH application, with previous serious citations. This is already prohibited by RCW 70.128.060(2) where the owner or affiliated persons have a history of significant noncompliance with federal, state or local laws relating to the care of children or vulnerable adults.
- Posting of activities – our general observation is that watching television is the primary activity in adult family homes – required posting will promote the idea to residents that they should expect meaningful activities.

Legislative

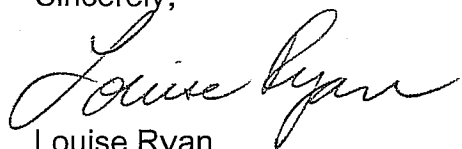
- Require more than 30 days notice (i.e. at least 60 days) for when an AFH chooses to close

- Establish a Professional Certification for AFH Providers. We have the beginnings of this with the Geriatric Certification program but it can be built upon. This could lead to a new category or license level of AFH with higher acuity residents that would trigger more frequent inspections; additional training of staff and more on-site supports for the provider and staff when caring for residents with challenging care or behavioral needs.
- Require the 48 hours class be completed in person and require competency testing.
- Require completion of basic training for caregivers before they can start providing hands-on care, or at a minimum, require completion of basic training within 14 days. Currently the untrained aide can provide care after receiving orientation if another person who has completed basic training is on site. They then have 120 days to complete the training. Residents are simply too fragile, and good care too difficult without proper training, for residents to have to wait 120 days. By then, many of the new aides will have quit, to be replaced by another untrained person. In the same way that we require residents to have been assessed prior to admission, except if there's a genuine emergency, we should also require that aides have completed *basic* training before providing direct care, unless there's a genuine emergency, and then require completion within a very short period.
- Reporting abuse. Have a zero tolerance policy. If abuse/neglect is not reported and abuse/neglect is substantiated, then make this a ground for revocation.
- Require that a portion of the resident's first month's deposit be held in an earnest account for 30 days to assure refund if placement is not appropriate.
- Reexamine the space requirements for rooms and common areas.
- When an adult family home changes ownership require that the new licensee have an earnest money account so that if resident decides new ownership not a good fit the resident can leave with a guarantee of any refund that may be due without having to give 30 days notice.
- Enforcement – the financial penalties need to be increased beyond \$100.00 per day.
- Limiting the number of AFH's that an individual or corporation can license or be affiliated with on an application, unless a proven track record of good compliance, and then allow staggered increases in the number of AFHs.

Although this is not an exhaustive list it does indicate that there is much work to be done to improve the Adult Family Home system. I plan to attend the Adult Family Homes Stakeholder Group Meeting however, it is my understanding that this is limited in scope to rule-making around implementation of I-1029, longer notice of change of ownership and posting of inspections and complaints. I encourage you to establish a workgroup that is on-going; perhaps using the Disability Rights "Abuse Response Workgroup" can be the vehicle for some initial planning.

Thank you for your responsiveness to our concerns; I know that you and your staff are facing many challenges. The Long-Term Care Ombudsman Program is committed to working in partnership for the benefit of residents of adult family homes.

Sincerely,

A handwritten signature in cursive script, appearing to read "Louise Ryan".

Louise Ryan
Washington State Long-Term Care Ombudsman

- c. Governor Chris Gregoire
- Susan Dreyfus, DSHS Secretary
- House Health Care and Wellness Committee
- Senate Health and Long-Term Care Committee