

 <p>COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF AGING Harrisburg, PA 17101</p>	PENNSYLVANIA DEPARTMENT OF AGING	
	1. File Number: ATAB # 07-10-01	2. Disposition: Read in conjunction with APD #98-10-01 and APD #02-10-01
	3. Issuance Date:	4. Effective Date: Immediately
	5. Program Area: Ombudsman	
6. Origin: Bureau for Advocacy, Protection and Education Office of the State Long Term Care Ombudsman	7. Contact: Long Term Care Ombudsman Office (717) 783-7247	

AGING TECHNICAL ASSISTANCE BULLETIN

SUBJECT: OMBUDSMAN’S ROLE AND PROCEDURES FOR VISITATION TO UNLICENSED LONG TERM CARE FACILITIES

TO: EXECUTIVE STAFF
 AREA AGENCIES ON AGING
 OMBUDSMAN SUBCONTRACTORS
 PA ASSOCIATION OF AREA AGENCIES ON AGING
 PA COUNCIL ON AGING

FROM: _____
 William Johnston-Walsh
 Deputy Secretary
 Pennsylvania Department of Aging

PURPOSE: To provide assistance to agency Program Directors and local Ombudsmen to establish procedures for ombudsman visitation to unlicensed long term care (LTC) facilities.

BACKGROUND:
 The Pennsylvania State Long Term Care Ombudsman Office released APD #98-10-01 and APD #02-10-01 outlining requirements for local ombudsman programs. Local ombudsmen requested additional information on the procedures for conducting an ombudsman visit to an unlicensed facility.

TECHNICAL ASSISTANCE:

The content of this ATAB provides clarification and recommendations to Area Agencies on Aging (AAA) to enable local ombudsmen to safely conduct facility visits to unlicensed LTC facilities.

DEFINITION:

For the purposes of this ATAB, an unlicensed LTC facility is defined as any entity that is reported to be providing nursing facility services to two or more residents or personal care services to four or more residents and does not possess a valid license from the appropriate licensing office. Examples of unlicensed LTC facilities, and circumstances which might come to the attention of the local ombudsman, are as follow:

1. A personal care home (PCH), formerly licensed by the Department of Welfare (DPW), that has had its license revoked with a resident relocation ordered and conducted.
 2. A PCH that has applied for licensure by DPW, has had the application denied, and is suspected to have admitted residents.
 3. An entity that as the result of stating its intent to provide LTC to three or fewer residents who need personal care services does not need to be licensed. A report is received that its numbers exceed four persons in need of personal care services who are unrelated to the provider.
 4. A formerly licensed nursing facility that has voluntarily or involuntarily terminated its licensure under the Department of Health (DOH) but has continued to provide LTC services to two or more nursing facility residents or personal care services to four or more residents.
- *Other examples of unlicensed LTC facilities may be encountered.

PROCEDURES FOR OMBUDSMAN VISITATION TO AN UNLICENSED LTC FACILITY:

Upon receipt of a report that an unlicensed LTC facility (sometimes referred to as a “suspect” facility) is operating with residents, the local ombudsman program should take the following action steps:

- Document the date and referring agent of the report and assign an ombudsman to conduct a facility visit. If the report is not forthcoming from the appropriate licensing office, ask the reporter if that information has been reported; if not, provide the reporter with the contact name and telephone number.
- Contact the appropriate licensing office via telephone call or e-mail to ascertain if that office has the same or a similar report. If so, determine what its action has been to date. If not, provide the information and determine what action will be taken to address the issue. Document all information in OmbudsManager.

- If the ombudsman has received any information from the licensing office that requests non-action; e.g., a safety concern for the ombudsman or the fact that the problem has already been addressed and resolved, document that information in OmbudsManager. No further action is warranted.
- If ombudsman action is still warranted after contact with the licensing agency, the ombudsman should physically travel to the “suspect” facility. Attempt to visit the consumers in the “suspect” facility should occur within the standard 5-day protocol outlined in APD #98-10-01. Local ombudsmen may, as always, confer with the State Ombudsman’s Office for additional technical assistance if needed to determine if the “still warranted” criteria exists for a specific case.

If access is granted:

- The ombudsman is to make contact with all residents; discuss their residence in an “unlicensed” facility; and the impact of that fact (e.g., not eligible for SSI supplement/no resident rights). They should apprise them of relocation options, including other licensed LTC facilities, and assist them with relocation plans, based on the resident’s desire. (As with any other consumer served under the ombudsman’s program, the resident’s desire directs the ombudsman). If the resident(s) refuses relocation assistance, and that refusal would create imminent risk, or seems unable to provide direction, a report of need to protective services may be warranted. Multiple visits and follow-up contacts may be necessary to complete all resident-directed activities. Document all actions taken in OmbudsManager, as provided below.

If access is denied:

- The ombudsman is directed to leave the facility, apprise the licensing office, and follow the directions in APD #98-10-01, Section B,4: “when consent for access to an older individual is denied and access is not provided for in federal or state regulations and circumstances present an imminent risk to an older individual, a referral may be made to the local provider of protective services for older adults for investigation.” Documentation of the access denial, referral to the licensing office, and referral to protective services should be documented in OmbudsManager, as provided below.

DOCUMENTATION:

All ombudsman activities related to an unlicensed LTC facility should be documented in OmbudsManager under the Program Activities section, “Unlicensed Facility Activity/Facility Non-Applicable” section. Specific information regarding each action step can be documented in the “notes” section with travel time and work time noted.

SUMMARY: Under the Older Americans Act, and as expanded under Pennsylvania law, the Ombudsman program was established to “investigate and resolve complaints related to the health, safety, and rights of older individuals who are consumers of long term care services...” Older individuals who may be residing in an unlicensed LTC facility are vulnerable and at risk of poor treatment. Lead action for the outcome to the “suspect” facility is the responsibility of the licensing agency where applicable; however, without an ombudsman’s investigation, the outcome of older individuals residing in a LTC facility can be questionable. The Ombudsman program is the most appropriate safety net to ensure that the system works to protect these most vulnerable citizens.