



We help older Ohioans resolve legal and long-term care problems and fight Medicare fraud

Pro Seniors and the Ombudsman Program and Process

Eric Carpenter, Program Director
Long-Term Care Ombudsman Program




1



Who We Are | Legal Services | Ombudsman | Senior Medicare Patrol | Resources | Contact | [Ohio Now](#)

www.ProSeniors.org



Advice, Representation, and Justice for Ohio Seniors

We help Ohio seniors resolve legal & long-term care problems & fight Medicare fraud.

[Our Services](#)

2

Pro Seniors, Inc. www.ProSeniors.org

Ohio's Senior Legal Helpline:
Staffed by experienced attorneys
Pre-set 30-minute appointments
By telephone
Free legal advice and counsel
Call **1-800-488-6070** or **513-345-4160**

Mid America Pension Project:
Pension attorneys to help with retirement and pension issues.
Call **1-866-783-5021**

3

Pro Seniors' Legal Helpline attorneys provide information and advice to help Ohio seniors:

- understand their rights & options
- weigh the risks & benefits, and
- develop a plan of action.



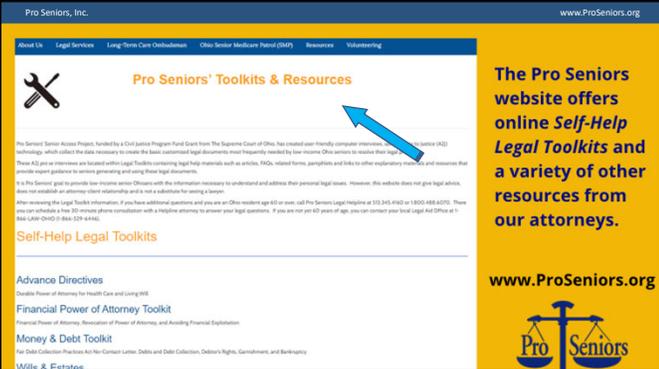
4

Pro Seniors, Inc. www.ProSeniors.org

Pro Seniors' Toolkits & Resources

The Pro Seniors website offers online **Self-Help Legal Toolkits** and a variety of other resources from our attorneys.

www.ProSeniors.org



5

Pro Seniors, Inc. www.ProSeniors.org

Ohio Senior Medicare Patrol (SMP)

Our volunteers **stop** Medicare fraud & scams by educating others to recognize the tell-tale signs. If your Medicare number has been compromised, or you suspect you have been scammed, we may be able to help!

Give us a call at **1-800-293-4767**.
www.proseniors.org/Ohio-SMP/



6



Fighting Medicare Fraud & Scams

PROTECT DETECT REPORT

Pro Seniors' Ohio **Senior Medicare Patrol** staff & volunteers equip Ohio Medicare beneficiaries to recognize and report suspected Medicare fraud. To volunteer, request a presentation, or if you suspect your Medicare number has been compromised or you have been scammed, call Ohio SMP at **513-458-5523 or 800-488-6070**.




7

Long-Term Care Ombudsman
Advocates for Excellence in Your Care

513-458-5518
www.proseniors.org/Ltcop/

Long-Term Care Ombudsmen advocate for dignity, rights and **excellence** in long-term services and supports, in whatever setting the person lives.

Pro Seniors' Ombudsman service area includes **Butler, Clermont, Clinton, Hamilton, and Warren** counties in **Southwest Ohio**. There are 11 other regional programs.

8

Long-Term Care Ombudsman Program

- Educate & empower residents and families about residents' rights
- Empower residents to speak up for excellence in their care
- Advocate for residents, for quality of care, quality of life issues
- Respect Self-Determination
- Provide unbiased assistance to select a long-term care provider
- Case Sequence
 - Intake; capacity/consent; investigation; resolution; follow up

9

Process Details - Two Approaches

Two Ways Ombudsman Can Advocate:

Educate & Empower

IF: An individual has a question about theirs or their loved one's long-term care, or how to navigate a situation in long term care.

THEN:

Ombudsman **provides education** and **empowers** the individual based on their description of the question or situation, with the agreement that if they need more info or direct help, they can call our helpline or email us.

10

Process details – Two Approaches

Investigate and Represent

IF: An individual is having a problem they need help with regarding their long-term care supports and services.

THEN: Ombudsman gathers information on the problem(s):

- Request verbal consent to reveal the ID *of the caller* to the client.
- Document the caller's problem(s) and goal statements
- Meet the client to assess their capacity to give informed consent

11

Process details – Capacity & Informed Consent

If client does not possess capacity to give informed consent* we will obtain contact information for

- a sponsor,
- Power of Attorney, or
- guardian to request consent

*Without revealing identity

12

Pro Seniors, Inc. www.ProSeniors.org

Process - Investigation

Once consent is obtained, the ombudsman investigates to determine the scope of the problem(s)

- Interview,
- Observation
- Record review

Upon determining the cause of the problem(s), the ombudsman will seek resolution with the Administration or pertinent party (Education, negotiation, referral)

- After resolution has been achieved ombudsman will follow up with client to ensure resolution remains

13

13

Pro Seniors, Inc. www.ProSeniors.org

Process – Resolution & Follow-Up

Upon determining the cause of the problem(s), the ombudsman will seek resolution with the Administration or pertinent party through

- Education,
- Negotiation,
- Referral)

After resolution has been achieved, ombudsman will follow up with client to ensure resolution remains effective.

14

14

Pro Seniors, Inc. www.ProSeniors.org

Process – CASE EXAMPLE 1

Problem: Client is not getting their showers as scheduled

Goal: Care conference and client receives showers as scheduled

Investigation reveals that client has shower days at a time that is near shift change, and there's a communication gap, or failure by one or both shifts

Resolution: Care conference where client can request a schedule change, and education (by administrator) to the aides regarding client's shower day and time and expectation that they adhere to the schedule. **Follow up:** Ombudsman checks back with client.

15

15

Pro Seniors, Inc. www.ProSeniors.org

Process – CASE EXAMPLE 2

Problem: Client is told by care staff that, despite their desire to move to the community, the client's blindness means that is not possible.

Goal: Clinical assessment of client to determine if supports and services can be provided in the community so client can live in least restrictive setting possible

Resolution care planning and bringing pertinent parties to the table to get assessment, and if possible, set up with services to assist with moving to the community

Follow up: Ombudsman checks in with client to confirm plan is followed.

real case – client was able to move home due to Ombudsman advocacy

16

16

Pro Seniors, Inc. www.ProSeniors.org

Process: CASE EXAMPLE 3

Problem #3:

Client is being involuntarily discharged for non-payment

Goal: File appeal, and facility or family files for Medicaid

Resolution will be dependent on facts. In this hypothetical, a hearing was requested based on one of the resident rights we'll cover.

Continues to be the most common complaint in Ohio

17

17

Pro Seniors, Inc. www.ProSeniors.org

Resident Rights

1. The right to a safe and clean living environment
2. The right to be free from abuse (physical, sexual, verbal and emotional), and to be treated at all times with courtesy, respect and full recognition of dignity and individuality
3. The right to adequate and appropriate medical treatment and nursing care
4. The right to have all reasonable requests and inquiries responded to promptly

18

18

Pro Seniors, Inc. www.ProSeniors.org

Resident Rights

5. The right to have clothes and bed sheets changed as the need arises to ensure **comfort or sanitation**
6. The right to be informed upon request, of the name and specialty of any physician or other person responsible for the coordination of care
7. The right to choose and be assigned the primary physician desired, within the capacity of the home to make such an assignment. Federal licensing requirements must be met if the chosen physician is offering services to a resident of a federally funded facility.

19

Pro Seniors, Inc. www.ProSeniors.org

Resident Rights

8. The right to participate in decisions that affect the resident's life including the right to communicate with the physician and employees of the home in planning care and treatment, and to obtain the current information pertaining to diagnosis, prognosis and treatment plan, in terms the resident can understand;
 - *This includes the right to access all information in the resident's medical record;
 - *Right to give or withhold informed consent to treatment after the consequences have been carefully explained;
 - *If attending physician deems it not medically advisable, the information will be made available to the sponsor or legal representative.

20

Pro Seniors, Inc. www.ProSeniors.org

Resident Rights

9. The right to withhold payment for physician visitation if the physician did not visit the resident
10. The confidential treatment of medical records and right to refuse release of them, except as required by law
11. The right to privacy during medical examination to treatment
12. The right to refuse to serve as medical research subject, without jeopardizing access to medical care
13. The right to be free from chemical or physical restraints or prolonged isolation, to minimum extent necessary to prevent injury to self or others.
14. The right to physician or pharmacy of resident's choice
15. The right to exercise all civil rights unless the resident has been adjudicated incompetent pursuant to chapter 2111 of ORC and has not been restored to legal capacity. This includes the right to cooperation by home's administration to make arrangements to vote
16. The right to access opportunities that enable the resident to achieve their fullest potential, including vocational, recreational, social, educational or habitation programs, at the resident's own expense
17. The right to consume alcoholic beverages within scope of home's policies, and unless not medically advisable as documented in resident's medical record, by the attending physician
18. The right to use tobacco at resident's own expense within scope of home's policies, unless not medically advisable as documented in resident's medical record, by the attending physician

21

Pro Seniors, Inc. www.ProSeniors.org

Resident Rights

19. Right to rise and retire at resident's reasonable request, provided the resident does not disturb others or meal pass, unless not medically advisable as documented in resident's medical record, by the attending physician
20. Right to observe religious obligations and participate in religious activities; to maintain individual and cultural identity; right to meet with and participate in activities of social and community groups at resident's or group's initiative
21. Right to private and unrestricted communications with family, social worker, and any other person as reasonably requested, unless not medically advisable as documented in resident's medical record. Communications with public officials (Ombudsmen, ODH surveyors, etc) and attorney's shall not be restricted
 - This includes – Receive and send sealed and unopened mail; Reasonable access to a telephone for private communications; and private visits at any reasonable hour
22. The right to assured privacy by the spouse, or if both are residents, the right to share a room within the capacity of the home, unless not medically advised as documented in the resident's medical record, by the attending physician
23. The right upon reasonable request to have room doors closed and have them not opened without knocking, save for emergencies or if not medically advisable as documented in resident's medical record, by the attending physician

22

Pro Seniors, Inc. www.ProSeniors.org

Resident Rights

24. The right to retain and use personal clothing and a reasonable amount of possessions in a reasonably secure manner, unless to do so would infringe on the rights of other residents or would not be medically advisable, as documented in the resident's medical record, by the attending physician
25. The right to be fully informed, prior to admission and during the residency, in writing, of the basic rate charged and of the services available, and any additional charges related to such services, including charges not covered by Medicare or Medicaid. Basic rate shall not be changed without 30 days notice is given to resident or their sponsor/legal representative if the resident is unable to understand
26. The right of resident and person paying for care, to examine a bill at least monthly, and in an Itemized fashion beyond the basic rate
27. Right to be free from financial exploitation
 - a. Right to manage own financial affairs, or if delegated to facility (rep payee), right to receive quarterly accounting statement upon written request. Accounting statement shall include:
 - i. Complete record of all funds, personal property or possessions of a resident from any source whatsoever, that have been deposited for safekeeping with the home for use by the resident
 - ii. A listing of all deposits and withdrawals transacted, with receipts that shall be available for inspection by resident or their sponsor
28. Right to unrestricted access to resident's property on deposit at reasonable hours, unless the requests constitute a nuisance

23

Pro Seniors, Inc. www.ProSeniors.org

Resident Rights

29. Right to reasonable notice before room or roommate is changed, including an explanation of the reason for either
30. The right to not be transferred or discharged from the home unless necessary, as documented in resident's medical record:
 - a. Welfare and needs cannot be met
 - b. Health has improved sufficiently so resident does not need services of the home any longer
 - c. Safety of individuals in home is endangered
 - d. Health of individuals in the home would otherwise be endangered
 - e. Non-payment (reasonable opportunity and education regarding Medicaid or medicare pay on resident's behalf)
 - i. Resident's Medicaid application or a substantially similar one was denied
 - ii. If resident appeals, the appeal was denied
 - f. Home's license has been revoked
31. Right not to be transferred or discharged from the home to a location that is incapable of meeting the resident's health and safety needs
32. Right not to be transferred or discharged without adequate preparation prior to the transfer or discharge, to ensure a safe and orderly discharge including proper arrangements for medication, equipment etc

24

Pro Seniors, Inc. www.ProSeniors.org

Resident Rights

33. 42 C.F.R. 483.15 and 483.21 and any other transfer rights provided under federal law

34. The right to voice grievances and recommend changes in policies and services to the home's staff, ODH, or to other persons not associated with the operation of the home, of the resident's choice, free from restraint interference coercion discrimination or reprisal. ***This includes the right to access the resident rights advocate, and be a member of, to be active in and to associate with persons who are active in organizations of relatives and friends of nursing home residents and other organizations engaged in assisting residents***

35. **Right to have any significant change in resident's condition reported to resident's sponsor. As soon as change is known, home shall make reasonable effort to notify the sponsor within 12 hours**

36. Right to choose hospice provider if requested

A sponsor may act on resident's behalf to assure home does not deny resident rights

*Attempted waiver of rights 1-36 is void (ex. admission agreement disclaiming resident right to have personal property reasonably protected)

25

25

Pro Seniors, Inc. www.ProSeniors.org

Thank You!

Ombudsman Helpline – 513-458-5518
Legal Helpline – 513-345-4160 (M-F, 9AM- 3PM)
www.ProSeniors.org





26

26