



DISABILITY LAW
COLORADO™



2019 ANNUAL REPORT
Older Americans Act Programs
Colorado Long-Term Care Ombudsman Program
Legal Assistance Developer Program

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DISABILITY LAW COLORADO™

Promote Change | Protect Rights | Improve Lives

WHO IS DISABILITY LAW COLORADO?

Disability Law Colorado protects and promotes the rights of people with disabilities and older people in Colorado through direct legal representation, advocacy, education and legislative analysis. Similar P&A organizations exist in every state and territory as part of the National Disability Rights Network.

WHAT ARE COLORADO'S OLDER AMERICANS ACT PROGRAMS?

The Colorado Long-Term Care Ombudsman and Legal Assistance Developer programs were created by the federal Older Americans Act and are administered by Disability Law Colorado under a contract with the Colorado Department of Human Services, Division of Aging and Adult Services. They operate in conjunction with the 16 regional Area Agencies on Aging (AAA) to coordinate services statewide, protecting and promoting the rights of Colorado's older adults and improving their quality of life.



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WHAT DO OMBUDSMEN DO?

Ombudsmen are resident-directed advocates for people who reside in nursing homes and assisted living communities. Ombudsmen protect and promote rights, quality of care, and quality of life for older adults. Colorado's ombudsmen investigate and resolve complaints on behalf of residents. Ombudsmen provide information and education to residents, families, staff and community professionals on the rights of people living in long-term care settings and PACE (Program of All-Inclusive Care for the Elderly). The Colorado ombudsmen also work on advocating for systemic changes to improve quality of care and life for older adults throughout our state.



WHAT DO LEGAL ASSISTANCE PROVIDERS DO?

Legal assistance providers are attorneys who contract with each of Colorado's 16 Area Agencies on Aging (AAAs) to coordinate the delivery of free civil legal services for older adults (defined as 60 and older). These services are targeted toward older adults with



the greatest social and/or economic need. Based upon the needs of the community, each AAA establishes both the types of legal services to be offered to older adults in the region and what services should be

prioritized. Legal assistance providers help older adults with a variety of issues, from protecting them against financial exploitation to assisting with wills, guardianships and advance directives. They also represent people in danger of losing their home, or who are struggling to maintain needed public benefits such as Medicaid and Social Security.

PACE OMBUDSMAN PROGRAM CELEBRATES TWO YEARS OF SUCCESS

Introducing the New State PACE Ombudsman

In December 2019, Shelbie Engelking was selected as the State PACE Ombudsman. Shelbie previously worked with the Larimer County Office on Aging as a long-term care ombudsman. She has also worked for the Larimer County Single Entry Point as an intake case manager and has a background as a nursing home social services director. Shelbie will ensure that the voices of PACE participants are brought to the forefront and that systemic patterns of concern are addressed with the PACE organizations.



Program Update of All-Inclusive Care for the Elderly - PACE

PACE (Program of All-Inclusive Care for the Elderly) offers comprehensive medical care and social services to approximately 5,000 participants across Colorado to people who are 55 years of age and older and who meet the nursing home level of care. The program is designed to maintain people's independence in their home or community of choice. The State PACE Ombudsman Program provides free independent advocacy to help PACE participants and their families navigate the complex delivery system and understand their right to quality care.



Pictured (left to right) local Denver PACE Ombudsmen Cindy Webb and Kyra Lanphier

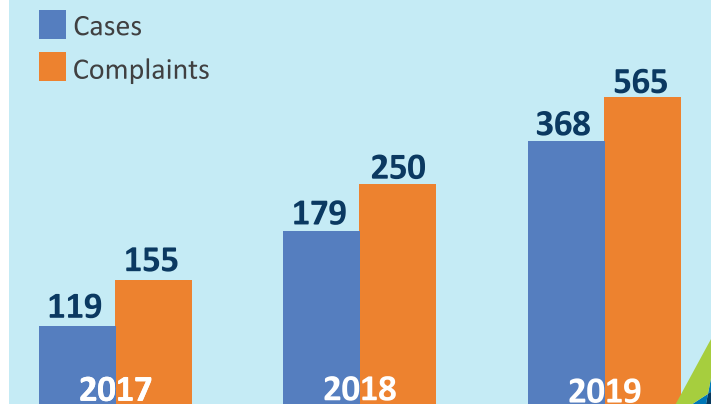


The State PACE Ombudsman Program was created by the legislature when the PACE provider Innovage converted its legal status from a nonprofit to a for-profit corporation in October 2015. Those conversion proceeds established the

NextFifty Foundation, which funded the startup of the ombudsman program. However, that funding ends June 2021, and sustainable funding needs to be established to meet the growing numbers of PACE participants across a very large geographic area. Additional local PACE ombudsmen are needed in rural areas to improve advocacy for the many vulnerable adults enrolled in PACE. Funding for the State PACE Ombudsman will be requested in 2021, along with funding for local PACE ombudsmen. This funding is imperative for the statewide PACE Ombudsman Program to continue.

Over the past two years, the PACE Ombudsman Program has collected and presented statewide complaint data across the four PACE organizations and 10 centers in Colorado. Data collected from participants informs future focus areas for the program. The top concerns expressed by PACE participants include care coordination issues, access to services, enrollment and disenrollment issues, appeals and grievance knowledge and issues with timeliness to service deliver requests.

Cases and Complaints



THE STATE LONG-TERM CARE OMBUDSMAN

Introducing the New State Long-Term Care Ombudsman

Leah McMahon is the new State Long-Term Care Ombudsman. Leah joined Disability Law Colorado in 2017 in the newly created position of the State PACE Ombudsman. Over the past three years she has overseen the growth and development of that critical program, and she looks forward to continuing to advocate on behalf of Colorado's residents of long-term care.



Colorado Long-Term Care Ombudsman Program Update

Colorado has **232** nursing homes with a total of **21,130** beds and **698** assisted living homes with a total of **24,145** beds. The Ombudsman Program has approximately 60 paid staff and volunteers combined advocating for residents throughout Colorado.

For Fiscal Year 2018/19, across Colorado, local ombudsmen:

> investigated **4,392** complaints with **3,306** partially or fully resolved;

> provided **5,341** consultations to staff or administrators of nursing and assisted living homes and **10,815** consultations to residents and family members or to the community on a wide range of long-term care issues and concerns;

> attended **1,428** resident council meetings; and conducted **226** community education sessions for people who work in long-term care settings.

TOP Five Complaints in nursing homes and assisted living residences:

1. **Dignity and Respect** staff attitudes [298]
2. **Discharge/Eviction** planning, notice, procedure, abandonment [269]
3. **Medications** administration, organization [217]
4. **Failure to Respond** requests for assistance [188]
5. **Care plan/resident assessment** inadequate, failure to follow plan or physician orders [164]

The top five complaint trends the Ombudsman Program has identified continue to bring the voice of the residents to the forefront. Each one of the top complaints listed impact quality of life. The work of ombudsmen is to advocate for what the resident wants and to ensure the residents are heard. We need to continue to look at improvements in these areas to offer the best quality of life for people.

Ombudsman Impact Numbers



232 Nursing Homes



21,130 Nursing Home Beds



698 Assisted Living Facilities



24,145 Total Beds



5,341 Complaint Investigations



10,815 Consultations

Legal Assistance Impact Numbers	REGION	NUMBER OF CLIENTS SERVED	HOURS OF SERVICE	PRO BONO UNIT	NUMBER UNABLE TO SERVE
	1	90	75	0	0
	2A	469	678	0	85
	2B	191	652	0	0
	3A	3,561	5,337	1,480	460
	3B	460	888	307	461
	4	513	632	488	110
	5	21	23	0	0
	6	273	443	285	0
	7	262	1,706	59	28
	8	25	46	30	0
	9	130	151	8	0
	10	248	494	0	2
	11	1,279	954	102	3
12	205	123	18	2	
13	85	348	56	0	
14	12	34	40	0	
TOTAL	7,824	12,748	2,873	1,151	

LEGAL ASSISTANCE DEVELOPER FOR ELDERS PROGRAM

Kelsey Lesco - Colorado's Legal Assistance Developer

As Legal Assistance Developer, Kelsey Lesco provides oversight, training and assistance to the legal assistance providers, as well as training and technical assistance to ombudsmen, other professionals, and the public. Kelsey also focuses extensively on advocating for state and federal policies and legislation that advance the dignity, and well-being of older adults.



Legal Assistance Developer Program Update

In 2019, the Legal Assistance Developer:

- **responded to 506 requests for technical assistance from legal providers, ombudsmen, AAAs, other professionals and the community;**
- **provided training to 430 participants on Guardianships, Advanced Directives, the Rights of Individuals under Guardianship, Sources of Law for Ombudsmen, and Supported Decision Making;**
- **tracked legislation impacting older adults and was an active presence at the Capital;**
- **served on the Office of Public Guardianship Commission, the Board of Colorado Senior Lobby, and the Jefferson County Senior Law Day planning committee;**
- **engaged in numerous outreach activities that informed hundreds of older Coloradans about their legal rights, and the legal assistance developer program.**

SB19-172 Protect from Unlawful Confinement and Abandonment: This bill made it a crime to abandon or confine an at-risk adult (a person over 70 or with an intellectual or development disability).

Abandonment or confinement of at-risk adults was a gap in Colorado Statute, and as a result, district attorneys were having difficulty prosecuting some cases. For example, an older adult with dementia was flown to Denver by his daughter who did not feel she could care for him and hoped that when he arrived someone would call his ex-wife to assume care. This gentleman was found in Denver International Airport disoriented and confused. In another case, a realtor showing a house found a woman with developmental disabilities barricaded in a closet with a facemask on, gagged, and weights on her arms and legs. Prosecutors in that case could not find an appropriate charge. Kelsey worked closely with the Denver District Attorney's Office and the Denver Regional Council of Governments to research and draft language for the bill, approached sponsors, held stakeholder meetings, and negotiated changes in the language of the legislation.



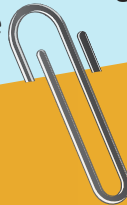
2019 Legal Assistance Developer Program for Elders Impact

In 2019, the Legal Assistance Developer Program served **7,824 older adults across the state, requiring 12,748 hours of legal services and 2,873 pro bono service hours.** The most urgent legal assistance needs for older adults in Colorado were for loss of housing, consumer fraud and debt, domestic relations, securing public benefits and estate planning. The legal service needs of older adults in Colorado continue to grow. Despite nearly 3,000 pro bono hours there were insufficient resources to serve all of those in need. In 2019, 690 eligible individuals could not be served. This is an increase of 101 from 2018. Nationally the older adult population has grown by over 60% since 2001, and Older Americans Act funding has only increased by 1% since 2001. Despite the legal providers donation of 8,673 pro bono hours over the past 4 years, demand for free and low cost legal services greatly outpaces supply. The Legal Assistance Developer Program provides critical legal advocacy to protect dignity and safety of older Coloradans. Older Coloradans need greater support for the legal assistance program.

STORIES OF IMPACT FROM THE FIELD

Legal Service Provider Impact from Colorado Legal Services

A case came into one of our eviction clinics at the Denver District Court. This case caught our attention because the alleged amount of rent past due was in the tens of thousands of dollars, significantly higher than what we normally see. The client told our attorney he had been on the Medicaid Elderly, Blind and Disabled Waiver, which had been terminated because when his recertification for Medicaid was due, he had been in poor health and did not complete the paperwork on time. Since Medicaid had been paying most of the cost of his assisted living facility and he did not have the income to pay for the facility without Medicaid, the amount due to the facility had skyrocketed over many months. The Colorado Legal Services housing attorney consulted with one of our attorneys in the Health and Elder Unit for assistance with the Medicaid termination. We discovered that the client had reapplied for Medicaid and it was approved retroactively to cover almost the entire period of time at issue in the eviction. The assisted living facility claimed it had not been able to get the appropriate documentation about the client's Medicaid from his home and community-based case manager. We obtained documentation from the county that the client's Medicaid was reinstated retroactively and provided it to the assisted living facility. Based on this information, the eviction proceeding was dismissed, and the facility and client worked out a repayment plan for the small balance still due.



A Thank You Note



The PACE Ombudsman Program provided education and advocacy regarding the enrollment process to my father in a time of crisis. As his only family member, I was assisting my father with his decision to enroll in PACE services due to complex medical needs, cognitive impairment and dad's interest in assisting living options. During this process my father's health continued to decline and he received an eviction notice. The PACE Ombudsman advocated for timely assessments and transition into assisted living. A few weeks after my dad moved to the assisted living community, I again contacted the PACE Ombudsman. My father likes to exercise but the assisted living did not always have someone who could walk with him. The PACE Ombudsman again helped advocate for an increase in services to the day center for exercise and social activities; my father was not aware of his right to be part of the care planning process and go to the day center more often. Since then my father has been happy with the socialization at the day center and thankful for the advocacy of the PACE Ombudsman. I would not have been able to accomplish these things for my father without the help of the PACE Ombudsman.

Note from a PACE participant's daughter

Long-Term Care Ombudsman Advocacy on the Front Line

As ombudsmen, we are charged to make unannounced visits to skilled nursing and assisted living homes. During these visits, we check for health and safety issues and meet with individual residents to talk about any concerns, problems or complaints. On a routine visit to an assisted living community located near a road with very heavy traffic, the local ombudsman found a resident who appeared lost and confused walking alone in the parking lot. This community has enclosed courtyards to allow residents access to the outdoors, but due to their cognitive impairment, residents should not be outside of the assisted living facility unaccompanied. A staff member explained that the door to the building was broken and was going to be repaired in several days. Advocating on behalf of all the residents, the ombudsman asked the owner to call and schedule an immediate repair, and then followed up with a visit to the community to verify its safety. The vigilance of this local ombudsman highlights the mission of our work, which includes amplifying the voice of all residents, including those who are not able to advocate for themselves, and ensuring that their right to quality of care is protected.



DISABILITY LAW COLORADO™

Protecting and promoting the rights of Colorado's older adults and improving their quality of life.

2020 RESOURCE DIRECTORY

Colorado Long-Term Care Ombudsmen
Legal Assistance Developers
Area Agency on Aging



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2020 Directory continued on the other side

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Ombudsman Program Manager

Leah McMahon
State Long-Term Care Ombudsman

Vinni Ferrara
Ombudsman Program Manager

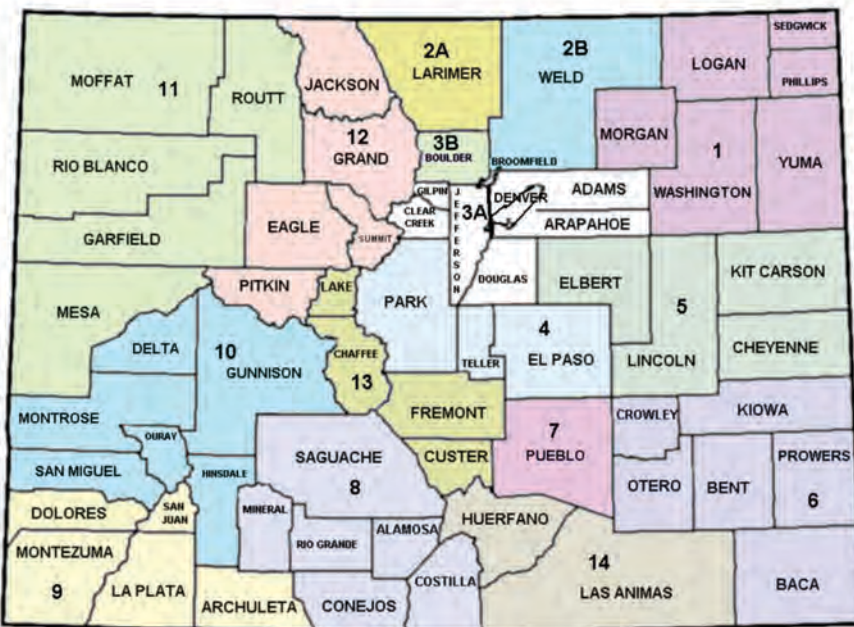
Shelbie Engelking
State PACE Ombudsman

www.DisabilityLawCO.org/Ombudsman
www.DisabilityLawCO.org/LegalAssistance

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STATE OF COLORADO

14 Regions of Area Agencies on Aging (AAA)



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Call 303.722.0300

State Long-Term Care Ombudsman at Disability Law Colorado
Call 303.722.0300

State PACE Ombudsman at Disability Law Colorado
All PACE Centers Outside of the Denver Metro Area
Call 303.722.0300

Local PACE Ombudsman Program at Denver Regional Council of Governments
For Denver, Lakewood, Thornton and Aurora
Call 303.455.1000

State Unit on Aging at the Colorado Department of Human Services
Call 303.866.2750

The Colorado Long-Term Care Ombudsman and Legal Assistance Developer programs were created by the federal Older Americans Act and are administered by Disability Law Colorado under a contract with the Colorado Department of Human Services, Division of Aging and Adult Services. **Learn more at www.disabilitylawco.org**