

# Digest of A Performance Audit of Long-Term Care Facility Oversight

This audit was requested by Representative Donald LeBaron. During the 1991 interim, Representative LeBaron chaired a subcommittee of the Health and Environment Interim Committee which studied the long-term care (LTC) system. He requested that we investigate a variety of issues dealing with the state's role in improving the quality of care provided in LTC facilities and the quality of life experienced by LTC facility residents.

Government has two independent mechanisms to protect LTC residents: a regulatory system and an advocacy system. Policymakers established these two systems because the market system has not adequately protected vulnerable LTC residents. The regulatory system includes two bureaus in the Health Department which require that all facilities meet minimum quality standards. The Bureau of Facility Review (BFR) administers the federal regulatory system in Utah while the Bureau of Health Facilities Licensure (BHFL) administers the state regulatory system. The advocacy system of the LTC ombudsman program in the Human Services Department supplements the regulatory programs by protecting the interests of LTC residents and helping them receive the best care possible.

Widespread concern about the quality of care in nursing homes has spurred national and state efforts to improve the quality of life experienced by vulnerable LTC residents. Congress enacted sweeping reforms in the federal regulation of nursing homes in legislation known as "OBRA '87." Regulators are slowly implementing fundamental reforms designed to focus their attention more directly on the quality of care received by LTC residents. Because OBRA '87 reforms require such sweeping changes in philosophy and approach it will take many years for the reforms to be fully implemented.

The Utah Legislature is also trying to improve the quality of care in LTC facilities. House Bill 401 was passed during the 1992 general session in order to increase the motivation and stability of the nurse aide work force by establishing a mechanism to increase their wages. In addition to that legislation, the attention to LTC issues brought by the interim committee has played a significant role in encouraging a number of recent changes that may boost the quality of life experienced by elderly residents.

The specific findings addressed in the report include:

**BFR Should Move Aggressively To Implement Nursing Home Reforms.** The nursing home reforms of OBRA '87 provide a comprehensive system to ensure quality of care and protection of resident rights in nursing homes. While some

opposition to OBRA '87 has come from states and the nursing home industry, advocates for nursing home residents have embraced the reforms. Although BFR could act more aggressively to implement some reforms, many delays in realizing the goals of OBRA '87 stem from federal delays. As allowed by federal regulators, BFR should deter violations through its enforcement actions, achieve greater unpredictability with its facility monitoring visits, and make the state's nurse aide registry more comprehensive.

**State Regulatory System Can Improve With Better Data Management.**

Because the state regulatory system is similar to the federal system, the principles of OBRA '87 apply to it as well. For example, the licensure system can also be strengthened by achieving a deterrent effect with enforcement actions and by focusing monitoring efforts on problem facilities. However, unlike their federal counterparts, state regulators have a significant weakness in their inability to readily access facilities compliance histories. Better data management will enable BHFL to use staff more efficiently, and increase the objectivity of its enforcement program.

**The Long-Term Care Ombudsman Program Should Broaden Its Advocacy**

**Focus.** The LTC ombudsman program can better fulfill its advocacy role by bringing a broader system orientation to the program. While the ombudsman program should continue reacting to problems raised by complainants, it should also strive to proactively prevent problems by adopting a broader system view. The program should establish a greater presence in facilities through regular visits, assume more of a "watchdog" role to make sure regulatory agencies fulfill their responsibilities, and use more volunteers. In addition to changing the program's focus, the state ombudsman needs to provide better policy direction and program oversight.

**Better Consumer Information May Provide Market Incentives To Improve**

**Facility Quality.** Increased public awareness about facilities' performance would empower consumers to make more informed choices and may encourage facilities to improve their quality of care. Regulatory agencies recognize that although their findings are public and should be useful to consumers, the data's format makes it too difficult for the public to access or understand. Therefore, efforts are being made to make the information available in a more easily understood format. The ombudsman program should play an important role in helping distribute and interpret consumer information.