

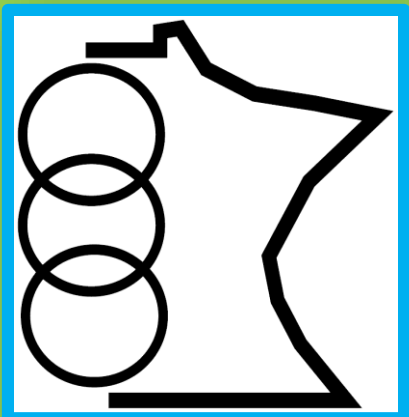
Ombudsman 101: Resident Rights and the Role of the Long-Term Care Ombudsman

by: Aisha Elmquist, Policy Specialist

September 26, 2019

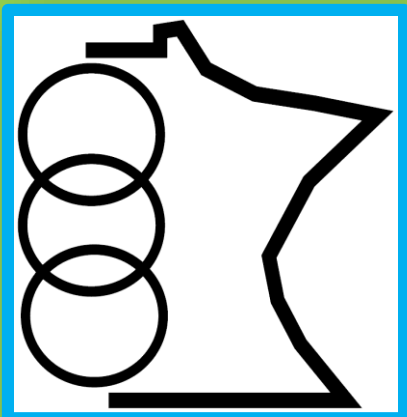
A program of the Minnesota Board on Aging





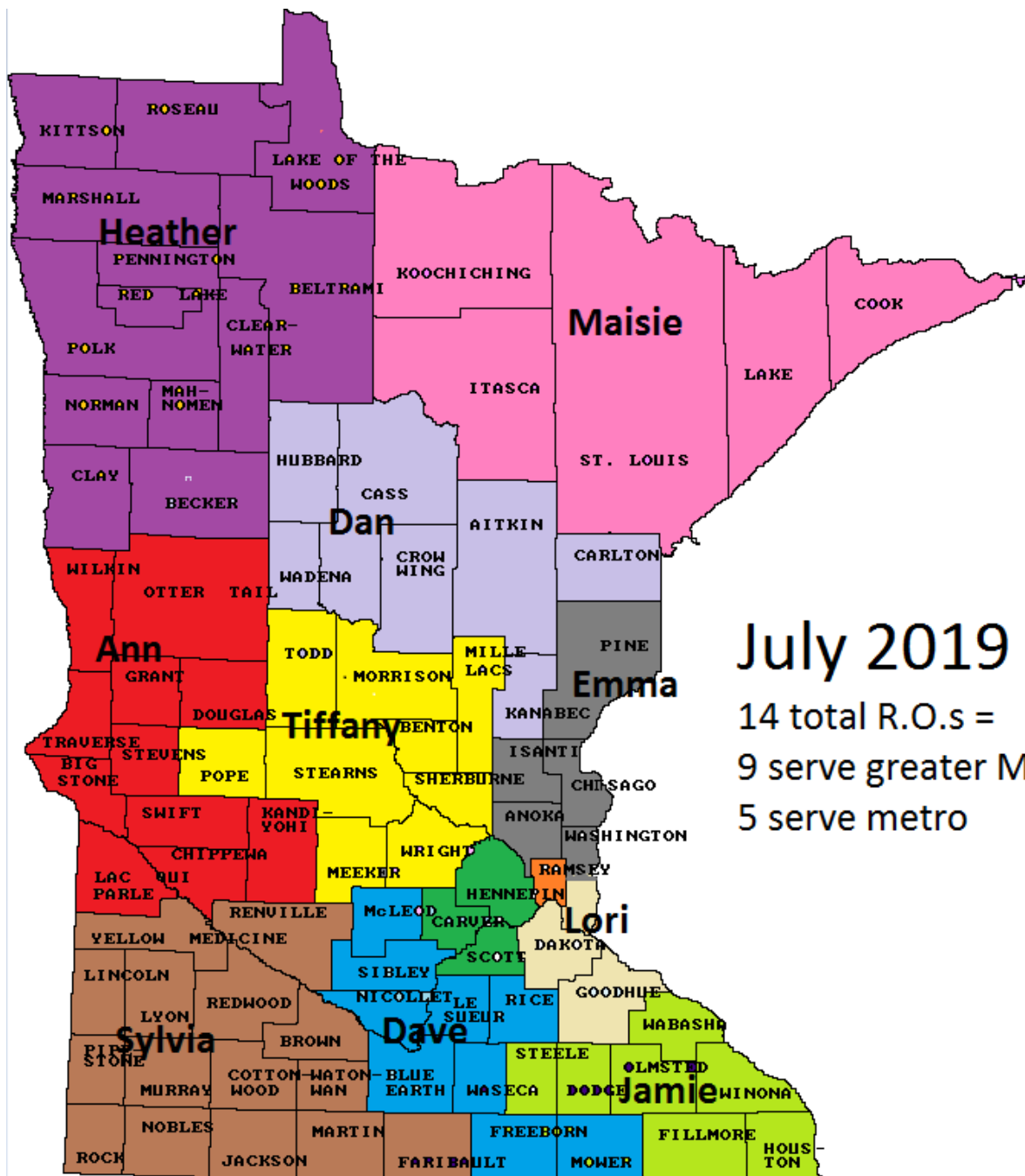
Mission

OOLTC works to enhance the quality of life and quality of services for long-term care consumers through advocacy, education and empowerment.



Funding & Structure

- A program of the Older Americans Act
 - 1978 amendment enshrined ombudsman program into statute
- Administered through the Minnesota Board on Aging since 1980
- Central office in St. Paul
- Regional Ombudsman offices throughout Minnesota
- 70 trained volunteers statewide

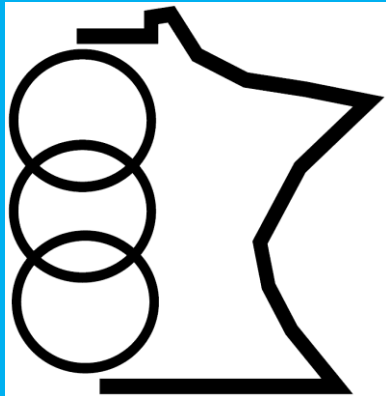


July 2019

14 total R.O.s =

9 serve greater MN

5 serve metro



Role: Client Advocacy

Who Do We Serve?

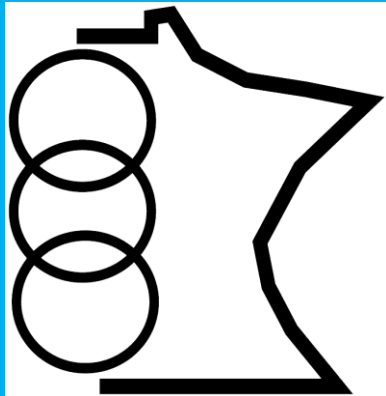
- Nursing home residents
 - Home care clients
- Housing with services tenants
- Assisted living and customized living consumers
 - Hospice clients
 - Adult foster home residents
- Boarding care home consumers
- Medicare beneficiaries with hospital access or discharge concerns



I TRIED
TO SERVE
MY COMMUNITY
MY COUNTRY
MY SCHOOLS
MY FAMILY
MY CHURCH
MY GOD

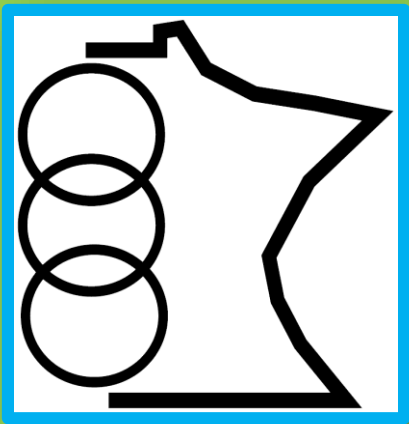
NOW I NEED HELP

WHO WILL HELP ME?
I AM 97 YRS OLD



Role: Client Advocacy

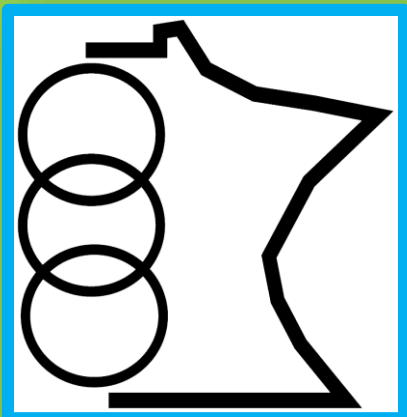
- Identify, investigate, and resolve resident complaints
 - Advocate for systemic change
- Provide information and assistance to residents and their families
 - Inform public agencies about the problems of clients
- Evaluate and report on regulations, laws, policies (systemic advocacy)



Prevention

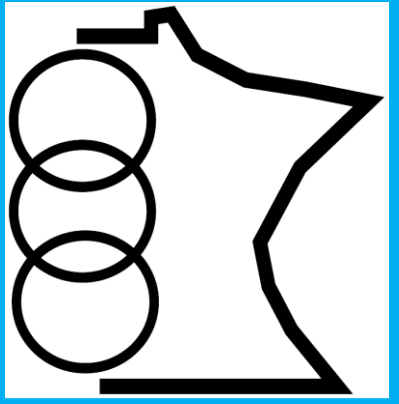
Prevention work includes:

- unannounced visits to facilities
- provide nursing home residents with regular access to OOLTC
- support the work of resident councils and family councils
- systemic advocacy with person-centered focus and credible information



Who Contacts Us?

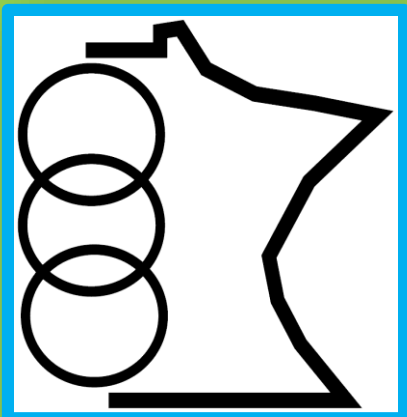
Anyone can call our office regarding concerns they have about a recipient of long-term care in a facility or community setting.



Complaint Processing

Person-centered problem solving

- Offer privacy/meet with resident
- Advise of rights
- Investigate
- Work with the resident to develop an action plan
- Determine whether the complaint was resolved
- Document consent



We Work to Resolve Concerns

Long-Term Care Issues:

Quality of Care/Services

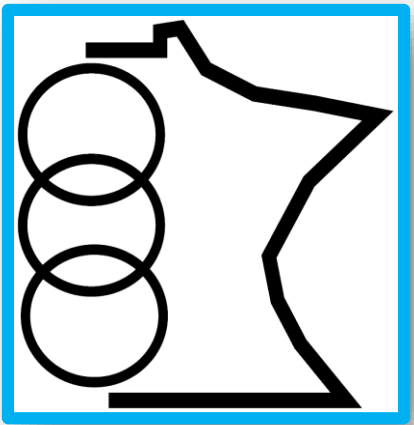
Quality of Life

Rights Violations

Access to Services

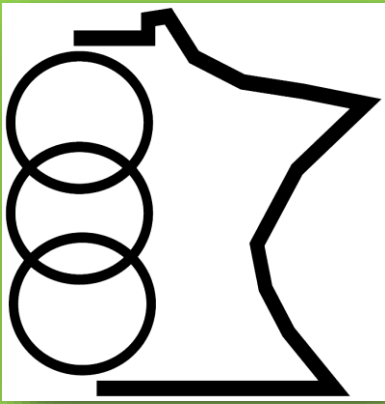
Service Termination

Discharge or Eviction
and more

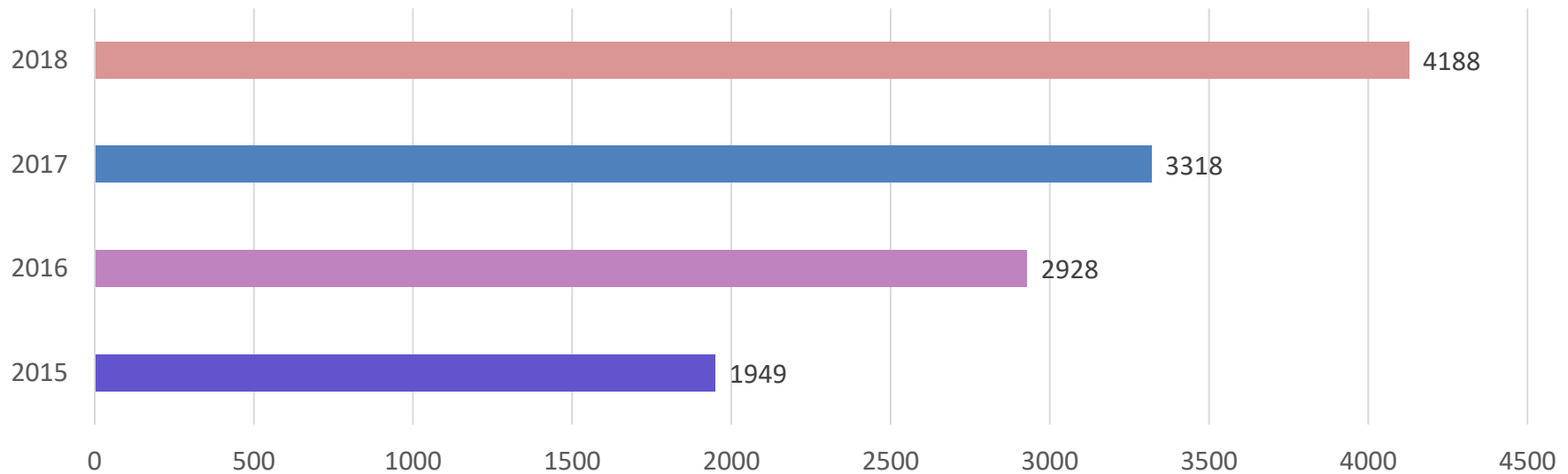


How We Work

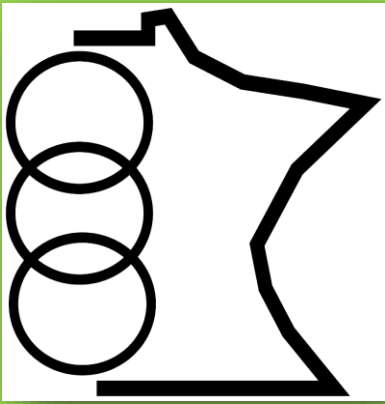




Sharp Increase in Complaints

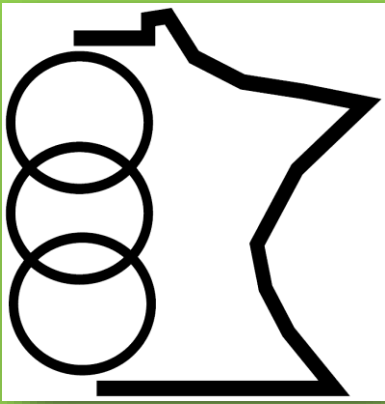


- Complaints rose in every category between 2017 and 2018
- 150% increase in complaints about abuse, neglect, or financial exploitation between 2015 and 2018



Beyond Casework: Education and Consultations

- In addition to work on complaints,
 - 4,500 activities like consultations with providers, trainings to facility staff, and community education (*in most recent reporting year*)
- This included:
 - approx. 1,000 consultations with providers outside of casework
 - approx. 2,000 consultations to individuals (such as residents and families) outside of casework



Common Complaints

Autonomy Choice Privacy

Dignity

Exercise of
choice
preferences

Response to
complaints

Discharge and Eviction

Left at hospital
(no due
process)

Provider
inability to
mental/behavi
or health needs

Payment issues

Care

Not following
care plan, doctors
orders, or lack of
assessment

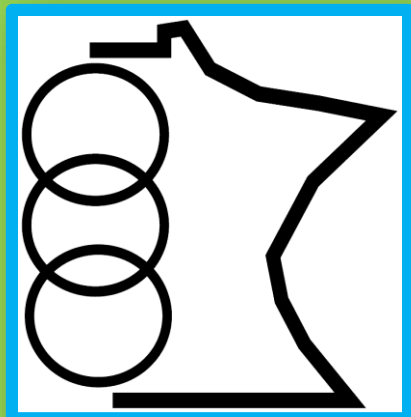
Medication
administration

Slow response
times to
requests for
help

THE OMBUDSMAN ENGAGES IN

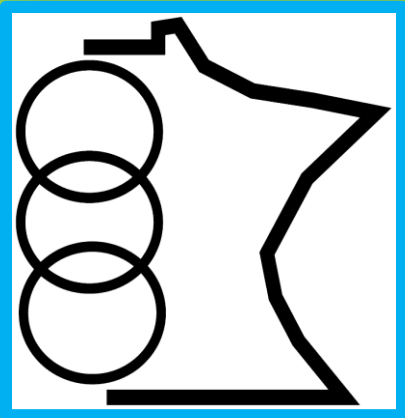


AND ADVOCATES FOR PERSON-CENTERED CARE AND SERVICES



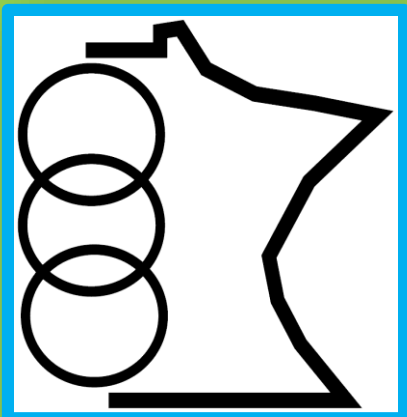
Self-Empowerment and Person-Centered Principles

Ombudsmen use person-centered thinking and principles to work with residents, family members, and staff to empower the resident and engage them to lead and direct their individual plan of care.



Person-Centered Culture is the Federal Regulation

- *“Focus on the resident as the locus of control and support the resident in making their own choices and having control over their daily lives.”*
- Appendix PP, State Operations Manual (“SOM”), Definitions

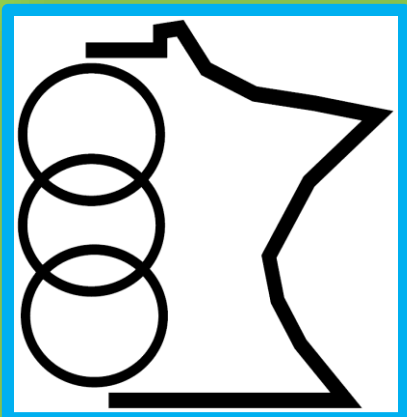


Person-Centered Care Nursing Facility Regulations

- Homelike Environment
- Communication
- Know Residents
 - Preferences and Choices
 - Values and Beliefs

Person-Directed vs. Provider-Directed

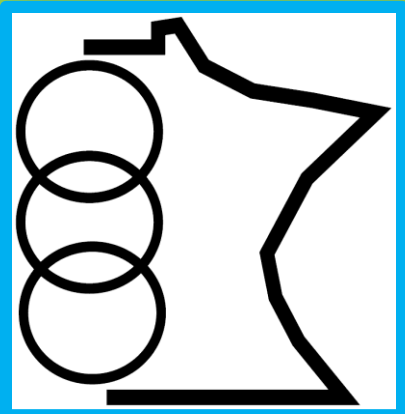
- People served make decisions/choices about daily routine
- If person is unable to articulate needs/preferences, staff honor known preferences and lifelong habits
- Staff assignments reflect people preference
- Management and/or staff make most decision with little regard of the impact on people served
- People served accommodate management/staff preferences
- People served are expected to follow existing routines



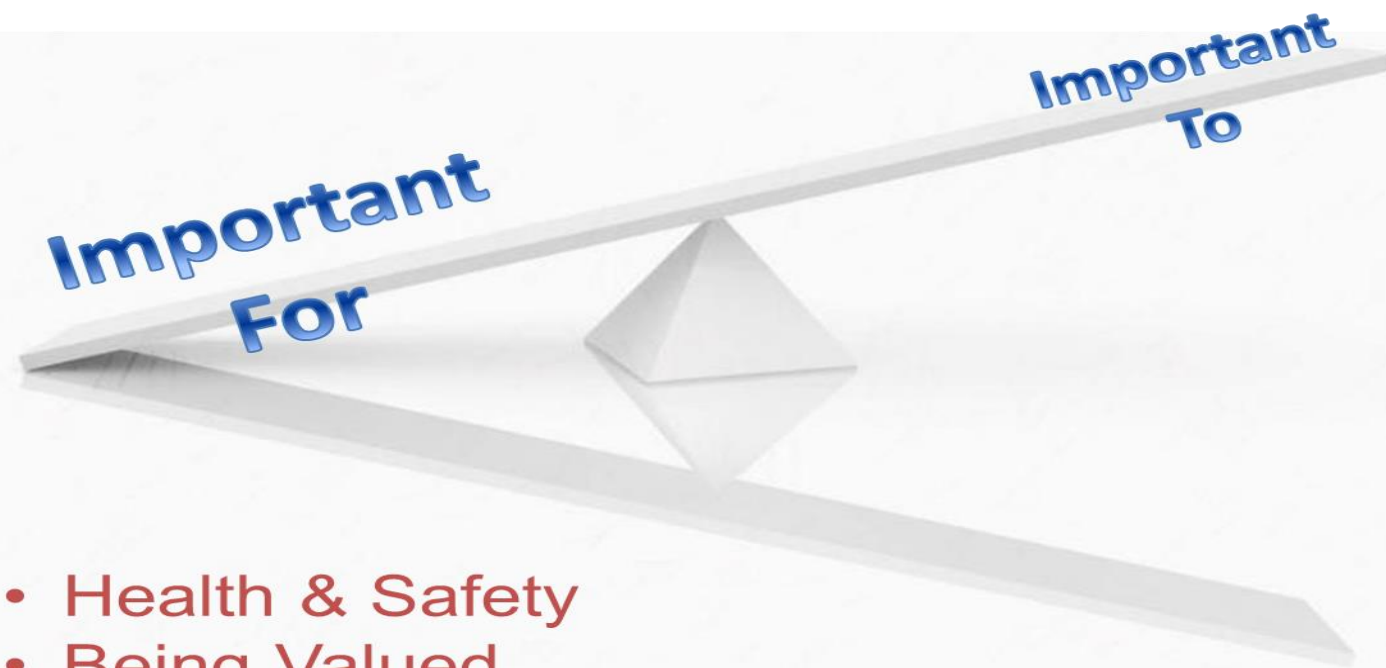
Person-Centered Planning

- The person at the focus of planning, and those whom the person chooses, are primary authorities on the person's life direction and plan.
- Planning through the person-centered process must address all assessed needs of the person.

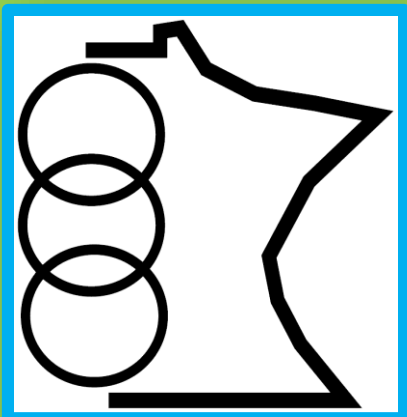




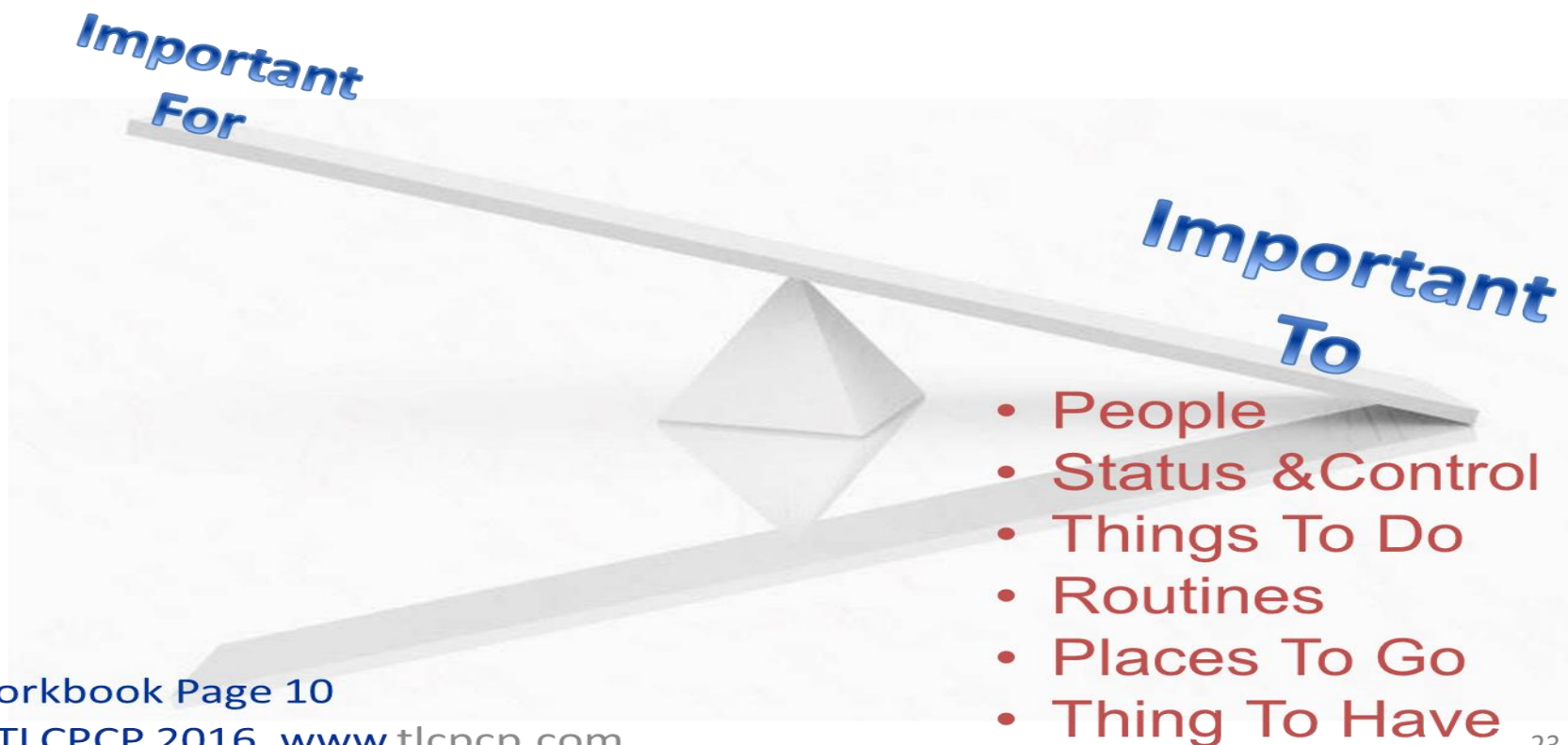
Health & Safety: A Dictate Lifestyle

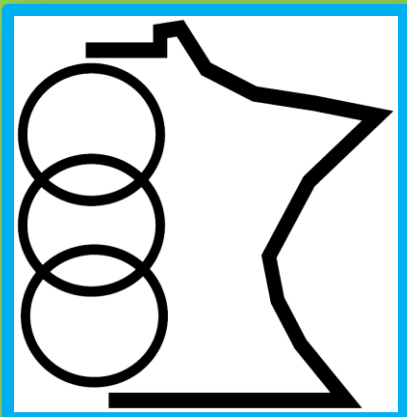


- Health & Safety
- Being Valued



All Choice No Responsibility: A Risky Lifestyle





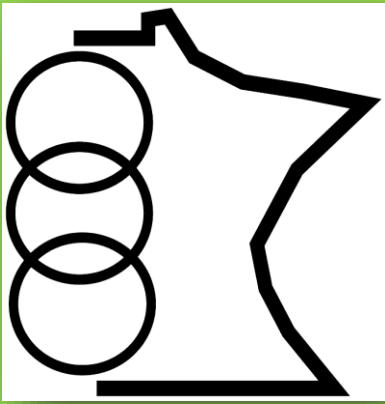
Finding the Balance

**Important
For**

- Health & Safety
- Being Valued

**Important
To**

- People
- Status & Control
- Things To Do/
Places To Go
- Routines
- Pace of Life
- Things To Have

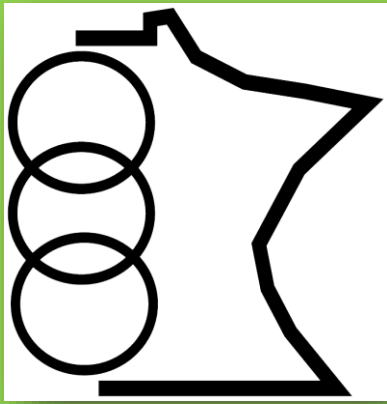


Select laws relevant to the work of OOLTC

- Federal Nursing Home Reform Law and Minnesota Statutes, Chapter 144A
- Housing with Services Law - Minn. Stat., Chapter 144D
 - Minnesota assisted living laws or dementia disclosure laws, if applicable
- Home care licensure laws and rules - Minn. Stat., Chapter 144A
- Vulnerable Adult Act - Minn. Stat. § 626.557
- Nurse Practice Act - Minn. Stat., Chapter 148
- Medical Assistance/Elderly Waiver program participant requirements
- Medical privacy laws such as state law and HIPAA

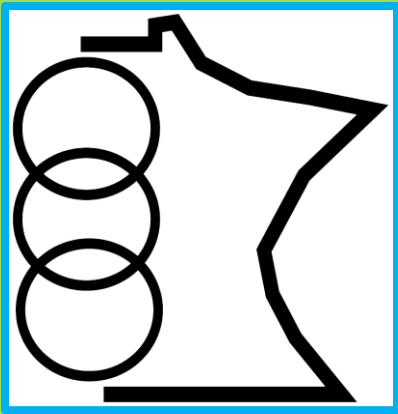


- Fair Housing Act - 42 U.S.C. § 3601 *et seq.*
- Americans with Disabilities Act - 42 U.S.C. § 12101 *et seq.*
- Section 504, Rehabilitation Act of 1973 - 29 U.S.C. § 701 *et seq.*
- Minnesota Human Rights Act – Minn. Stat., Chapter 363A
- Landlord-Tenant Law - Minnesota Statutes, Chapter 504B
- Consumer protection laws
- Negligence law
- Contract law



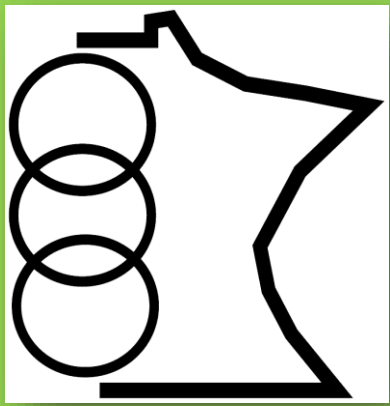
Changes coming

- Elder Care and Vulnerable Adult Protection Act of 2019
 - Most protections in this law come into effect on August 1, 2021



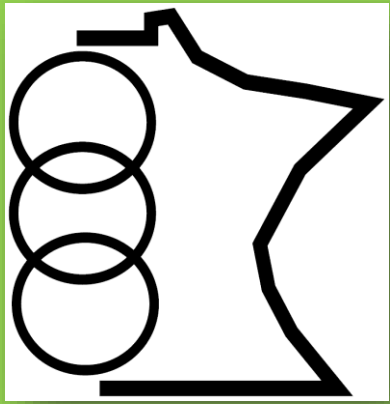
Systemic Reform

- Collaboration with Minnesota Department of Health, Minnesota Department of Human Services, provider organizations, Legal Aid, other advocacy groups
- Focus on using client experience and casework to inform our systemic advocacy efforts
- Reports and studies



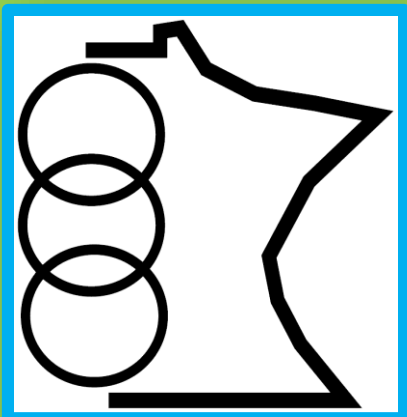
Policy Issues: Nursing Homes

- Refusal to readmit after hospitalization
- Other involuntary discharge issues
- Workforce shortage
- Unnecessary guardianships
- Abuse and neglect – including financial exploitation
- Reduction in use of anti-psychotic medication
- Retaliation and fear to report



Policy Issues: Housing with Services and Assisted Living Services

- Fees
- Dementia care
- Serving people with mental health challenges
- Eviction
- Affordable housing
- Staff training, staffing levels
- Consumer protections



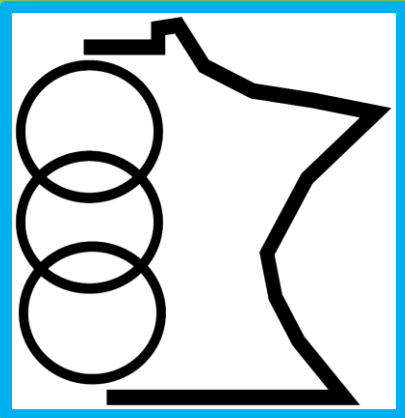
Other Aspects of Program

Self-Advocacy Project for Nursing Home Residents

Civil Money Penalty Funds: Sexual Abuse in Nursing Homes,
professionally-produced training video

Resident/Family Councils

Volunteer Program

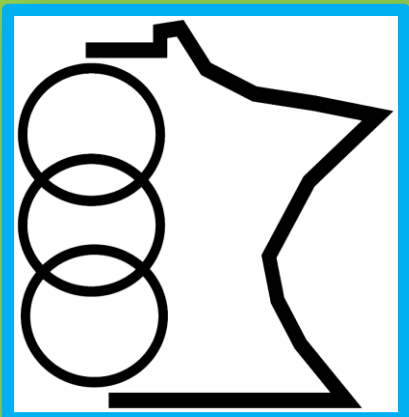


Contacting OOLTC

Main intake 651-431-2555

1-800-657-3591

TTY, please call 711



Thank You!