

DISABILITY LAW COLORADO'S OLDER AMERICANS ACT PROGRAMS:

# THE COLORADO LONG-TERM CARE OMBUDSMAN PROGRAM & LEGAL ASSISTANCE DEVELOPER PROGRAM



## 2016 ANNUAL REPORT



**DISABILITY LAW  
COLORADO™**

Protecting the rights of Coloradans of all ages since 1976

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## WHAT DO THE OMBUDSMEN DO?

Ombudsman (om-budz-man) is a Swedish word meaning “one who speaks on behalf of another.” Ombudsmen protect the rights of people living in nursing homes and assisted living residences.

Colorado has 51 full- and part-time (approximately 39 full-time equivalent) staff ombudsmen across Colorado. They are joined by 22 volunteer ombudsmen who gave 2,918 hours in 2016. These 73 ombudsmen are fully certified. To attain certification, they must complete an orientation within their local region designed to help build familiarity with the facilities, residents and staff, the regulations and the regulatory system. They must also complete 15 hours of continuing education each year.

While most residents receive good care in long-term care facilities, there are still far too many instances of poor care or inadequate support of the full experience of a good quality of life for residents. Licensed facilities are required to allow ombudsmen to enter the facility and visit with residents, without interference from facility staff.

The role of the ombudsman is to act as an advocate for the resident and to assist the resident in resolving issues related to care, health, safety, or the resident’s rights. Ombudsmen strive to resolve complaints to the satisfaction of the resident. Those complaints range from simple quality of care issues, such as a resident’s preferred time for breakfast, to very serious, sometimes life-threatening, concerns involving abuse and neglect. Other services include attending family and resident council meetings at a licensed facility, providing community education, and providing training to facility staff and other professional agencies that work with at-risk adults and residents of long-term care facilities.

**The Colorado Long-Term Care Ombudsman Program and the Legal Assistance Developer Program** work together to protect and promote the rights of Colorado’s older adults and to improve their quality of life.

Both programs are administered by Disability Law Colorado under a contract with the Colorado Department of Human Services, Division of Aging and Adult Services. The two programs operate in conjunction with the 16 regional Area Agencies on Aging (AAA) to coordinate services statewide.

## WHAT DO THE LEGAL ASSISTANCE PROVIDERS DO?

Each of the regional Area Agencies on Aging (AAAs) hires a legal assistance provider who coordinates the delivery of free civil legal services for older persons in that region (defined as “60 and older”

in the Older Americans Act). Colorado has a total of 18 paid attorneys and numerous pro bono attorneys who together provided legal assistance to 8,094 older persons in Colorado in 2016.

Based upon the needs of the local community, the AAA establishes both the scope of services and the prioritization of legal services offered to the older residents in their region. Legal assistance comes in many forms, including:

- preparing durable medical and/or financial powers of attorney (“POA”), deeds and simple wills
- representing senior homeowners who are facing foreclosure or the loss of housing
- responding to creditor-initiated collection actions for past-due medical bills and asserting the elder’s right to exemptions
- educating seniors about the dangers of home repair scams, grandparent scams and other devious efforts to take advantage of a trusting senior
- securing needed public benefits such as Old Age Pension, Medicaid and Supplemental Nutritional Assistance (“SNAP”) better known as food stamps
- preserving eligibility for Medicaid benefits to pay for long-term care when a question is raised about an asset that is not “available” or known to the senior
- securing correct spousal benefits for a spouse who remains at home
- advocating on behalf of a senior who has been physically abused

**“A DECENT PROVISION FOR THE POOR IS THE TRUE TEST OF CIVILIZATION.”**

**SAMUEL JOHNSON**



## THE COLORADO LONG-TERM CARE OMBUDSMAN PROGRAM IN 2016

As State Long-Term Care Ombudsman, Anne Meier supports and guides the state-wide program. This is done through direct consultation with residents, their families, their care providers and facility staff, and policy makers. She is also mandated to train local ombudsmen and to perform regular, periodic evaluations of local programs. In addition to this programmatic work, the State Long-Term Care Ombudsman is charged with promoting and protecting the rights of residents through work at a systems level. Below are some highlights of the past year. In 2016, the program:

- Conducted five on-site evaluations of local ombudsman programs. The purpose of these visits is two-fold: first, to seek strengths and areas of improvement for each program, and to support implementation of best practices across the state; second, to provide material support, problem-solving, strategizing and information pertinent to each local program, based on its unique needs and attributes.
- Testified at the Colorado General Assembly in support of the formation of a State PACE (Program of All-Inclusive Care for the Elderly) Ombudsman Program. This bill passed.
- Worked with a stakeholder group on the formation of a State PACE Ombudsman Program (see page 10).
- Convened an ongoing partnership roundtable to discuss emergency preparedness in long-term care. Members include the advocates, the provider community, the state, regulators and emergency preparedness professionals.
- Spoke before 13 groups with a total audience of 680. Two of these presentations were to national audiences. The first was with the National Association of State Ombudsmen Programs (NASOP) regarding emergency preparedness and the second was a webinar presentation on behalf of the National Om-

budsman Resource Center (NORC) for new state ombudsmen on the topic of program support in a decentralized state program.

- Participated in a series of calls with leadership at the Centers for Medicare and Medicaid Services (CMS) regarding how to best address the growing problem of serving the atypical resident in long-term care.
- Served as a board member for the Colorado Coalition for Elder Rights and Abuse Prevention.
- Agreed to mentor the new State Long-Term Care Ombudsman in Tennessee for her first two years.
- Served as a member of the Independent Informal Dispute Resolution (IIDR) Committee, which can directly impact the care received by residents, and attended several policy committee meetings within the Colorado Department of Public Health and Environment and the Colorado Department of Health Care Policy and Financing.
- Served as a member of the National Association of State Ombudsmen Programs (NASOP) Legislative and Training committees.
- Served as a member of the State Veterans Community Living Centers Commission. This governor-appointed group traveled to all five veterans' homes to hold public meetings with residents. The members plan to continue this practice into the future.

*On the cover:*

Larry Velasquez, President of Resident Council at the State Veterans Community Living Center in Rifle and State Long-Term Care Ombudsman Anne Meier outside the facility in June 2016.

## THE ROLE OF AN OMBUDSMAN IN ADVOCATING FOR “ATYPICAL” RESIDENTS

The role of an ombudsman is as diverse as the population that the program serves. At the surface level the program is about better care and quality of life for people in residential care facilities. But, what is more subtle than physical needs, and is probably the greatest value of the program, is the right to be recognized as a person of value who has the same wishes, fears, wants, and needs of anyone living in America. The core of what ombudsmen do is respond to elders’ need for their personhood to be recognized as more than just a resident of a long-term care facility.

Many of the cases that are most difficult for ombudsmen are those involving residents with cognitive deficits, historical and sometimes recent trauma, lack of family involvement, and mental illness including psychosis. When facility administrators believe that they can no longer meet such complex needs, the most common response is to send atypical residents to the hospital and not accept them back into the facility.

One such case was with a woman with no family or friends, who suffered from both dementia and paranoid schizophrenia, and who had been homeless prior to making her way into a nursing home. Due to her disruptive behavior, she was evicted from three different nursing homes. On each occasion, she spent several weeks in local hospitals without a medical reason to be admitted, because no facility in the state would admit her.

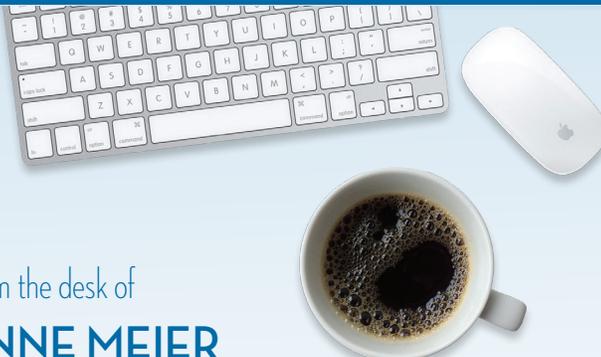
In the summer of 2016, this woman was yet again in the hospital for eight weeks until an assisted living residence welcomed her. When asked how she liked her new home, she promptly took the ombudsman by the arm for a tour to meet her new friends and view her new room. She felt she had a home and a new beginning. Within a few months, her paranoia complicated by her dementia caused her to become agitated and delusional. This was more than the assisted living residence could handle, but instead of shunting her off to the hospital, staff asked local mental health providers for help. However, when seeking psychiatric

assistance, staff were told the resident’s problems were related to dementia, and when searching for dementia help they were told her problems came from her psychiatric diagnosis. During this time the facility was surveyed for regulatory compliance and advised that they lacked the capacity to care for their challenging resident, and needed to discharge her to the hospital. She died in the hospital and nurses later shared that she told them she was very lonely. This woman had been given up on by family, friends, and providers resulting in her death, alone in a hospital room.

When ombudsmen speak about needed changes in the way care is delivered and funded, this is one case of many that compels us to be a voice, to raise awareness, and to find a better way, so that nobody falls through the cracks. This lack of access to urgently needed resources for vulnerable elders is a growing issue of social inequality. Our diverse nation has seen successful social movements demanding the recognition of rights for many groups who have experienced discrimination and inequity and will no longer stand for it. Historically, calls for change have all begun with a handful of people pointing out a need to address an injustice. The many fragile elders living in care facilities do not have the resources nor the voice to call for change themselves. Ombudsmen will speak for them.

## THE IMPORTANCE OF PROPER, PERSON-CENTERED CARE FOR RESIDENTS WITH CHALLENGING BEHAVIORS

The local ombudsman was contacted by the wife of a resident living in a nearby nursing home, who said she believed that the facility was looking to “dump” her husband. He had several severe disabling conditions, including disinhibition due to the effects of a stroke, a closed head injury and vascular dementia. A neurology workup confirmed that his difficult behavior (making sexually suggestive comments to staff) was a direct outcome of his cognitive challenges. Even though it was explained to the staff that he was not a “sexual predator,” but simply needed care specific to his unique condi-



From the desk of

**ANNE MEIER**

State Long-Term Care Ombudsman

*It is said that the measure of a civil society is how it cares for its most compromised citizens - the very young and the very old, those beset by tragedy or unfortunate circumstances, and those dependent on others for care. In Colorado, the Long-Term Care Ombudsman Program strives to be one of the voices for those who are not well served. In this report, you will find stories from the field, highlighting the successes and the challenges faced by ombudsmen on a daily basis. And while these stories are just a small sampling of the 3,719 complaints received last year, we cannot forget that each case has a face and is a real person. In every corner of the state there are ombudsmen who speak every day for those who have no voice. I want to recognize and praise their hard work. They do a difficult job and they do it well.*

*The Strategic Action Planning Group in Aging (SAPGA) is to be commended for wrapping up its initial report. The charge of the governor-appointed group was to take a comprehensive look at issues faced by aging Coloradans all across the state. According to the State Demographer's Office, Colorado is the third fastest aging state in the nation. SAPGA's charge was to study our current*

*aging infrastructure and make recommendations for where Colorado should be in 2030. Of the eight overarching goals identified, one of interest to both advocates and vulnerable elders is: "Colorado will empower and protect seniors from abuse, neglect, and exploitation." This is a broad goal, but perhaps the most compelling vision for the 40,000 people who live in long-term care settings. All of us working with elders pledge to remain involved and vigilant in pursuing this goal.*

*Thankfully, a major initiative is underway to address those people in Colorado who do require 24-hour support, but are not the typical resident in a nursing home or assisted living residence. They have needs that are not adequately addressed by the traditional long-term care system, such as aggressive or self-injurious behavior, and can present a real challenge for the staff that care for them - and for fellow residents. Ombudsmen and other long-term care advocates applaud a recent effort by the state to address this swiftly developing challenge. A conversation is beginning to take shape involving providers, advocates, regulators and others. When Colorado better serves its most challenging residents in a more person-centered manner, then it will raise the bar for the care of all residents as well.*

*Colorado's Long-Term Care Ombudsman Program calls on policy makers and care communities to meet this challenge, and to strive to create and sustain the quality of care and quality of life that our elders and others in long-term care have earned. As advocates we will work toward a system of care that is the envy of the nation. Our elders deserve no less than our best.*

*Anne K. Meier*

tion, a staff member reported the resident to the local police. Due to the sexual nature of the complaint police were forced to open an investigation.

The administrator openly admitted that he did not care if they "got a deficiency" (a notice of violation of federal law that negatively affects the facility's status during regulatory compliance inspections), they just wanted him gone! At the ombudsman's request, a state survey team conducted an investigation and reached the conclusion that the resident was not a threat to himself or others. The facility was cited in the survey for violations

related to transfer and discharge. The resident remained in the facility, but his wife ultimately placed him in a metro Denver facility (almost a five-hour drive), stating she was afraid that if her husband wasn't wanted and maybe even actively disliked, staff would not provide good care.

The administrator spoke with the ombudsman several months later, saying the facility lost staff despite the challenging resident being removed from the facility. He admitted he had made a mistake, erring on the side of the facility's need and not in favor of better serving and retaining a resident.

## SNAPSHOT OF LONG-TERM CARE IN COLORADO

Colorado has **223** nursing homes with a total of **20,943** beds and **631** assisted living residences with a total of **21,309** beds.

In Colorado, nursing facilities must be visited by an ombudsman at least once a month and assisted living residences at least quarterly. In SFY 2015/16, local ombudsmen made **7,675** visits to facilities - many more than were required - to monitor the quality of care, quality of life and to investigate and act upon concerns and complaints. This includes conversations with individual residents and attendance at resident council meetings.

**In Fiscal Year 2015/16, across Colorado, local ombudsmen**

- ▶ Investigated **3,719** complaints of which 75% were partially or fully resolved to the satisfaction of the resident.
- ▶ Provided **4,990** facility consultations and **7,782** consultations to individuals, residents and family members on a wide range of long-term care issues and concerns.
- ▶ Attended **1,690** resident council meetings and conducted **1,127** community education sessions and **102** training sessions for facility staff.

## THE TOP FIVE COMPLAINTS IN NURSING HOMES AND ASSISTED LIVING SETTINGS IN 2015/16

- 1. Resident Care**—includes medical care and personal care—**1,100**  
*193 complaints were for failure to respond to requests for assistance, and 188 involved problems with medications*
- 2. Quality of Life**—includes meals, environment and activities—**1,140**
- 3. Resident Rights**—includes autonomy and freedom from abuse—**1,312**  
*277 complaints involved violation of rights during admission, transfer, discharge or eviction; 627 concerned interference with the exercise of civil and human rights; and 151 were allegations of abuse, neglect, exploitation or restraint*
- 4. Administration**—includes inadequate staffing, and failure to implement procedures—**365**
- 5. Outside Agencies/Entities**—includes complaints about licensing, state payer sources, and improper actions of a guardian—**169**



## THE LEGAL ASSISTANCE DEVELOPER PROGRAM IN 2016

Mary Catherine Rabbitt has served as Legal Assistance Developer since 2008; she has been an elder law attorney since 1984, during which time she has seen the growth of specialization on elder law issues. Today, there are more than 250 Colorado attorneys who belong to the Elder Law Section of the Colorado Bar Association.

Each of the Area Agencies on Aging across Colorado contract with either a private attorney or with a local office of Colorado Legal Services (“CLS”) or its affiliate, the Northwest Colorado Legal Services Project. Eleven of the 16 regions currently contract with CLS; the other five regions utilize the services of private attorneys. Mary Catherine has supervised the legal work of these contracting attorneys through yearly self-evaluations and a more intensive on-site evaluation every four years. She provided technical assistance, training and legal resources to the attorneys, as well as leadership, vision, oversight and guidance for each of these 16 diverse programs. Mary Catherine also tracked legislation affecting older persons.



*Steven Seay (Boulder Ombudsman, Region 3B) receiving the “Elder Abuse*

*Awareness and Prevention Award” given by the Elder Justice Coalition and Adult Protective Service teams of Boulder County. Pictured with him is Lead Ombudsman Erica Corson.*

In 2016, Mary Catherine responded to 1,088 requests for technical assistance:

- 296** calls from local legal assistance providers, local ombudsmen & AAA directors
- 696** calls from other professionals, such as attorneys and social workers
- 96** calls from seniors and family members

She provided nine trainings to over 500 participants on such topics as: Sources of Law for Ombudsmen; Guardianship Law in Colorado and Alternatives to Guardianship; Medicaid Long-Term Services and Supports, including Home and Community-Based Services; How to Choose a Nursing Home or Assisted Living Residence; Elder Abuse and Scams against Older Adults; Misuse of Power of Attorney (POA); Implementation of Mandatory Reporting of Abuse of Elders and Vulnerable Adults; and trainings on new federal, home and community based services, ombudsman and nursing home regulations. She conducted four on-site evaluations of local programs in Greeley, Grand Junction/Glenwood Springs, Lamar and Montrose, and reviewed the self-evaluations from the other 12 local programs.

Over the past several years, Mary Catherine has worked on legislation related to mandatory reporting of abuse of elders and at-risk adults; she also served on the SB-078 Elder Abuse Task Force to implement mandatory reporting, and the Public Guardianship Advisory Committee that was recommended by the Elder Abuse Task Force. Mary Catherine gave more than 20 trainings on mandatory reporting to over 700 county Adult Protective Services workers, ombudsmen and nursing home personnel across the State. Since implementation of the laws began in 2014, and because of new reporting requirements in that law, Colorado was able to track more than \$64 million in actual substantiated losses to Coloradans 70+ in only the first two years of mandatory reporting of elder abuse and financial exploitation.

Mary Catherine retired on December 31, 2016.

REGION *	NUMBER OF CLIENTS SERVED*	HOURS OF SERVICE	PRO BONO UNIT	NUMBER UNABLE TO SERVE
1	104	84	0	0
2A	232	278	0	0
2B	153	988	5	22
3A	5122	4177	202	514
3B	214	562	18	0
4	81	105	7	0
5	2	2	0	0
6	180	285	0	0
7	154	1396	176	44
8	9	12	19	0
9	336	348	21	4
10	202	249	144	1
11	1085	613	212	6
12	159	88	30	3
13	29	255	59	1
14	11	28	14	0
	8073	9470	907	595

\*This is not an unduplicated count of clients.

*In the 2016 Colorado General Assembly, Mary Catherine worked on the following pieces of legislation: HB16-1011-Medical Decisions for Unrepresented Patients; SB16-131- Provisions Related to the Conduct of Court-Appointed Fiduciaries; SB16-199 - PACE Conversion and Implementation of an Ombudsman Program for PACE Participants; and HB16-1277- Timelines for Administrative Appeals to an Administrative Law Judge, Right to a County Dispute Process and Right to Continuing Benefits.*

*Mary Catherine continued to serve on a committee of the Elder Law Section (ELS) of the Colorado Bar Association that will be proposing a Public Guardianship Pilot Program in 2017, and she continued to chair a sub-committee of the ELS that looked at Medicaid regulations. She also served on the Executive Committee of the National Association of Legal Service Developers, on the Planning Committee for the Sixth Senior Law Day in Jefferson County and supervised the work of the Medicare-Medicaid Advocacy Program serving persons who are eligible for both Medicare and Medicaid.*

# A TRIBUTE TO MARY CATHERINE RABBITT

BY MARY ANNE HARVEY

Mary Catherine Rabbitt has had a distinguished legal career and a rich community life of faith and leadership. Disability Law Colorado (DLC) has indeed been fortunate to have her as the legal assistance developer since 2008. She has worked tirelessly to secure legal services for older individuals around the state.

As legal assistance developer, Mary Catherine has provided training and technical assistance to legal providers and local ombudsmen as well as legal support to the State Long-Term Care Ombudsman Program. She has expertly tracked trends in elder law and served as the voice of elders to policymakers, regulators and government officials. In 2011, she was inducted into the National Elder Rights Advocacy “Hall of Fame” for her advocacy work in protecting vulnerable older adults.

Prior to coming to DLC, Mary Catherine was the chief executive officer and president of the Loretto Community for six years. She has been a member of that faith community since she was 18. For 16 years before that, she was an attorney with Colorado Legal Services where she was associated with the Senior Citizen Law Center. She was an advocate in class action litigation affecting low-income clients receiving Medicaid benefits and Old Age Pensions. She also represented individual claimants in probate and administrative hearings and litigated elder abuse and financial exploitation cases.

Most notably, Mary Catherine represented Catholic Charities and the Colorado Health Care Conversions Project in administrative proceedings before the Colorado Division of Insurance regarding the conversion of Blue Cross-Blue Shield Colorado from a nonprofit to a for-profit company in 1997. This resulted in securing \$155 million to serve the health care needs of Coloradans through the Caring for Colorado Foundation.

Mary Catherine was lead counsel in *Miller v. Ibarra* and assisted in drafting the Miller Trust legislation in 1991. This was known as the “Utah Gap” legislation in Colorado and was later incorporated into federal Medicaid law. She was a co-founder of the Colorado Center for Law and Policy and the Colorado Fund for People with Disabilities.

We will certainly miss her expertise, advice and good humor. We congratulate her on a wonderful career and wish her health and happiness in retirement.

## INTRODUCING THE NEW COLORADO LEGAL ASSISTANCE DEVELOPER

Kelsey Lesco obtained her master’s degree in public administration from the University of Arizona with a focus on public policy development and program evaluation. She received her law degree from the University of Oregon with a specific emphasis on elder law. Her law school training included an intensive domestic violence clinic where the students sought protective orders for individuals affected by elder abuse. She also studied mediation and facilitation under two prominent mediators.

Since July 2014, Kelsey has been an attorney for the Protection and Advocacy for Individuals with Mental Illness Program at Disability Law Colorado. In addition to investigating allegations of abuse and neglect in facilities, she coordinated the Nursing Home Project, helping to move people with mental illness and developmental disabilities living in nursing homes back into the community.

## STORIES FROM THE FIELD

### *Protecting Grandparents and their Grandchildren from Eviction*

A senior couple, who were living in a mobile home that they owned, obtained temporary custody of their grandchildren through a juvenile court so that the children would not be taken into foster care. The administrators claimed their mobile home park was for 55+ and tried to evict the couple because their grandchildren lived there. Colorado Legal Services filed a Fair Housing Act lawsuit in federal court challenging that the mobile home park discriminated against the couple based on familial status. An agreement was reached and eviction was prevented. The happy couple can now have their grandchildren live with them.

## A LETTER FROM MARY CATHERINE RABBITT Colorado Legal Assistance Developer

Revisions made to the Older Americans Act programs through the “Older Americans Act Reauthorization of 2016” stressed the importance of legal services as a benefit for older adults. The face of elder law is changing; the legal problems that older adults face in 2016 are far more complex than in the past and the knowledge and skills needed to address these problems are changing too. Issues include: income security; health and long-term care financing; housing and home foreclosures; consumer debt and consumer fraud; elder abuse and financial exploitation; contesting unwanted guardianships and over-reach by guardians and by agents under a power of attorney (POA); end-of-life issues; Medicare, Medicaid and public benefits eligibility; age discrimination in employment and housing; retirement benefits; reverse mortgages and home equity conversions; divorce consultation; and grandparent rights.

Family dynamics have also impacted the field of elder law. Who is the client? Does he or she have the capacity to make financial and medical decisions? Is he or she being unduly influenced by adult children? Second and third marriages are far more common today, with each elder bringing assets to the marriage and each set of adult children worrying about their inheritance. Changing demographics and changing family dynamics are profoundly impacting this area of the law, with 10,000 Baby Boomers turning 65 each day (until 2030). Given the present average life expectancy of 75.5 years for men and 80.5 for women, the fastest growing age group in the United States is persons over 90 years of age.

### Problems with Adult Children

Some of the most challenging legal issues for local attorneys at the Area Agencies on Aging (AAA) involve adult children moving into their parents’ home and then refusing to leave. Most of these cases involve drug abuse and the mental health issues that accompany the drug abuse. In addition, there is often financial exploitation, usually involving the theft and

Quarterly reports from each local AAA program now include a breakdown of the types of legal issues addressed in the 16 regions; the demographics of service by income, age, minority and disability status and by the number of rural and isolated clients served. The types of legal services provided include “advice-only”; brief service; document preparation; mediation and negotiation, and actual representation in court or before an administrative law judge. The new reporting form also tracks the number of pro bono units of service, which totaled 907 hours of donated services in 2016. The reporting form also tracks the number of clients those 16 programs were unable to serve: a total of 595 clients in 2016. Over 300 hours of community education was provided by the local legal assistance providers to older adults in their service areas.

The data from those quarterly reports show us the most urgent needs of elders in our state. The highest number of requests for legal assistance from older adults was for help with foreclosures and other housing issues, such as evictions. Housing concerns were followed closely by consumer cases (consumer debt and consumer fraud), and assistance with Medicaid eligibility and coverage. Other pressing concerns for elders included: public benefits, estate planning, Social Security and powers of attorney.

That’s the backdrop to the work of the Colorado Legal Assistance Developer. As I prepared for my retirement in December 2016, I was able to look back on the work of the Colorado Legal Assistance Developer during these past nine years as well as to look forward to the future of this program under the leadership of Kelsey Lesco.

*Mary Catherine Rabbitt*

pawning of the seniors’ personal property. The Pueblo AAA reports that a senior came into the office seeking help. Her son was on heroin. He had stolen nearly all of her personal property to sell for his drug habit, and she had fled the house in fear. The police would not help, telling her “it is a civil matter.” Local attorneys prepared a Notice to Quit and will take other action if needed to protect the elder and allow her to return home safely.



## NEW PROGRAM TO PROTECT COLORADO'S SENIORS

### The PACE (Program of All-Inclusive Care for the Elderly) Ombudsman

The newly created position of State PACE Ombudsman at Disability Law Colorado, arose out of concern expressed by stakeholders and the general public at an open hearing on the proposed corporate conversion of Innovage. This major PACE (Program of All-Inclusive Care for the Elderly) provider proposed to convert its legal status from a nonprofit to a for-profit corporation in October 2015, and advocates for the state's elders wanted to see protections in place to ensure that the high quality of services which PACE promises continued under the new business model.

The Attorney General's Office has an official role in overseeing such conversions, and following an internal review of the conversion plan and a study of the extensive public testimony, Colorado Attorney General Cynthia H. Coffman issued an opinion, noting: "The opinion satisfies my Office's longstanding duty to protect Colorado's charitable assets and also my statutory duty to review PACE conversions." The opinion also stated: "The Attorney General finds that the Long-Term Care Ombudsman Program provides a model for patient care monitoring that offers important protections to frail or disabled clients and is not duplicative of existing regulatory programs. An ombudsman serves as an independent advocate for patients, not affiliated with their medical providers and empowered to work on their behalf....Consistent with public comment, the Attorney General agrees that extending the Long-Term Care Ombudsman Program to include PACE providers would benefit the program."

**AGING IS AN INEVITABLE PROCESS.  
I SURELY WOULDN'T WANT TO GROW  
YOUNGER. THE OLDER YOU BECOME, THE  
MORE YOU KNOW; YOUR BANK ACCOUNT OF  
KNOWLEDGE IS MUCH RICHER."**

10 --WILLIAM HOLDEN

The State PACE Ombudsman Program was established by the Colorado Legislature in 2016 to protect the rights of the participants receiving services throughout all the PACE organizations in Colorado. The PACE program serves people 55 and older in Colorado who qualify for Medicare and/or Medicaid. PACE organizations promote independent living and provide all-inclusive services in the home, community and PACE centers. There are three PACE providers and five service areas throughout Colorado. The service areas include the Denver metro area, Loveland, Colorado Springs, Pueblo and Montrose. The role of the State PACE Ombudsman is to build and implement the program, to handle complaints made by or on behalf of the participants, to provide information and trainings on the PACE Program, and to monitor legislation and regulations affecting participants and their families. Disability Law Colorado is honored to have been chosen as the home for this vital new program to protect the rights, health and wellbeing of Colorado's elders.

*Leah McMahan joined Disability Law Colorado as the State PACE Ombudsman in 2017. Prior to accepting this position, she worked for the largest single entry point agency for health services in Colorado. Serving approximately 10,000 clients in the Denver metro area, this position required intimate knowledge of home and community-based services. In this work, she oversaw four Medicaid waivers, three teams and the training program. She has also been a local long-term care ombudsman with Denver Regional Council of Governments and supervised the team serving residents in assisted living residences. Early in her career, she served as a counselor for children and adolescents who live with trauma and severe mental illness. Leah has a bachelor's degree in sociology and a master's degree in counseling from Regis University.*

*Leah looks forward to the challenge of running this new program, stating: "During the first year of the State PACE Ombudsman Program, I hope to create awareness and visibility, build relationships with stakeholders, obtain data to support the program and provide outreach and education statewide."*

REGION	LEAD OMBUDSMAN	LEGAL ASSISTANCE PROVIDERS	AREA AGENCY ON AGING
<b>1. Logan, Morgan, Phillips, Sedgwick, Washington, Yuma</b>	<b>Marlene Miller</b> 970-848-2277 mmilleraaa@yahoo.com	<b>Mark Earnhart, Esq.</b> 970-522-4135 mark@earnhartlaw.com	<b>Bob Held</b> 970-867-9409 bheld@necalg.com
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## ABOUT 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. We specialize in civil rights and discrimination issues, and are committed to increasing opportunities for adults and children with disabilities to live, work and attend school in the community, enjoying independent and productive lives. We also protect the rights of people in institutions to be treated with dignity and respect.

As Colorado’s Protection and Advocacy System (P&A), Disability Law Colorado has authority under federal law to gain access to facilities and records in order to investigate allegations of abuse and neglect. Similar P&A organizations exist in every state and territory as part of the National Disability Rights Network.

The Colorado Long-Term Care Ombudsman and Legal Assistance Developer programs have been administered by Disability Law Colorado since 1988 along with other disability advocacy programs.



*Marlene Miller, Lead Ombudsman for Region 1 (Northeast Colorado) receiving the Allen Buckingham Senior Leadership Legacy Award from the Colorado Commission on Aging.*

**“THERE IS A FOUNTAIN OF YOUTH: IT IS YOUR MIND, YOUR TALENTS, THE CREATIVITY YOU BRING TO YOUR LIFE AND THE LIVES OF PEOPLE YOU LOVE. WHEN YOU LEARN TO TAP THIS SOURCE, YOU WILL TRULY HAVE DEFEATED AGE.”**

**-SOPHIA LOREN**