

Best Practices Personnel Handbook: Long-Term Care Ombudsmen

NOTE: The Illinois Department on Aging has not given final approval of this personnel handbook.

Foreword

The Department on Aging is pleased to present this ***Best Practices Personnel Handbook: Long-Term Care Ombudsmen*** for use by the Illinois Regional Long-Term Care Ombudsman Programs in supporting their volunteers. Training and keeping volunteers have been shown to greatly enhance a program's ability to ensure that residents in long-term care facilities have a meaningful access to ombudsman services.

The Institute of Medicine study, ***Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act***, commissioned by Congress, identifies exemplary practices for ombudsman programs, including ombudsman competencies. In 1998, the I CARE-Project Advocate Long-Term Care Ombudsman Program, a program of the Illinois Retired Teachers Association Foundation, working cooperatively with the Department on Aging, received a grant from the Retirement Research Foundation of Chicago to develop exemplary practices for ombudsman programs. With these funds, this best-practice personnel handbook was developed. Members of the task force considered these materials necessary supports for the ombudsmen in doing their work. They represent the kind of framework ombudsmen need to understand the mission of the programs.

Appreciation is extended to the Personnel Task Force, chaired by Michael O'Donnell, that developed the best practice materials.

In keeping with the intent of the grant, all parts of the materials may be copied and used in ombudsman or other volunteer programs nationwide. Credit must be given to the Retirement Research Foundation for its generosity in funding this important work.

Introduction

Long-Term Care Ombudsmen work daily to uphold their commitment to protect and promote the rights and quality of life for 128,000 Illinois citizens residing in nursing facilities.

Governor George Ryan, 1999

In order to do this important work of protecting the rights of residents in long-term care facilities, ombudsmen, both paid and volunteer, need a supportive framework and a helpful managing agency in which to operate. I CARE-Project Advocate, under the auspices of the Illinois State Long-Term Care Ombudsman Office, secured a grant from the Retirement Research Foundation of Chicago to produce materials that would assist managing agencies in nurturing their staff and volunteer ombudsmen.

A personnel task force was convened which determined that it would be most effective to develop a model "Best Practices" handbook on performance competencies for ombudsmen. Task Force members judged that it would be most efficacious to give ombudsmen the critical information they need in order to do this significant advocacy work.

The task force reviewed materials from Illinois' and other states' programs, the American Association of Retired Persons, and the Institute of Medicine in making recommendations on what best practices should be included in this ***Best Practices Personnel Handbook: Long-Term Care Ombudsmen***.

With the intent of developing materials that would be helpful to ombudsmen as they engaged in the important work of protecting residents' rights, the task force committed itself to developing framework documents: a *Mission Statement*, *Statement of Values*, *Code of Ethics*, and *Code of Conduct*. Members of the task force believed that these materials were of paramount importance in setting the necessary tone and creating an atmosphere in which ombudsmen could do this important work and in which residents would have a meaningful access to services.

The following briefly describes the units of the personnel handbook:

The *Mission Statement* and *Statement of Values* speak to how profoundly important it is to honor and respect the frail elderly. Ombudsmen are visiting with residents who are living through a stage of life they have yet to live and have much to learn from.

The *Code of Ethics* and *Code of Conduct* reflect the importance of developing a serious and purposeful behavior in order to do this work.

Residents' Rights restates the rights, protections, and privileges guaranteed to all persons residing in long-term care facilities.

The *Expectations of Ombudsmen* and *What the Program Guarantees the Ombudsman* should be helpful in creating a volunteer-friendly environment and -their inclusion suggests how important it is that volunteers know what they can count on from the program and what the program expects from them.

Ombudsmen should expect their programs to have these kinds of documents in place, as they are critical to knowing the expectations of the managing agency and the program. They are necessary if ombudsmen are to be able to promote services that enhance each long-term care resident's dignity and individuality.

Mission Statement and Statement of Values

The Long-Term Ombudsman Program exists to serve the needs of older persons residing in long-term care residential facilities. We seek to promote care for residents in a manner and in an environment that maintains and enhances each resident's dignity and respect in- full recognition of his individuality, self-esteem, and self-worth.

In pursuit of this mission, we commit to the following values:

Value of Older People

We believe that older persons, whether they are residents of long-term care facilities or live in their own homes, are to be valued. We believe that older people have a positive effect on society, We believe this about all people, no matter how severe the disability or the level of dementia.

We believe that society should value older people and provide protection of their rights as needed.

We believe that every person is unique and each has the right to participate in decisions that affect him.

We believe that no resident should ever be abused, neglected or exploited.

We believe that residents should have a meaningful access to the ombudsman program to protect their rights.

We believe that older people should have autonomy and choice, to the maximum extent possible, about how they wish to live their everyday lives.

Values Regarding Long-Term Care Facilities

We believe that facilities should provide living environments for residents that allow them to live in the manner they lived in their own homes.

We believe that facilities should promote residents' rights, not just tolerate them.

We believe that facilities should provide individualized care that promotes the highest level of functioning and well being possible.

Values of Ombudsmen

We treat all people with dignity, respect and compassion.

We are resident-centered, not facility-centered, and, as such, we place the welfare of the resident above all other concerns.

We believe that our ability to develop relationships with residents based on mutual trust is the foundation of our success in providing direct, individual advocacy services.

We believe that confidentiality and empowerment are the cornerstones of our advocacy services.

We believe that we should provide an easy, meaningful access to our ombudsman services so that residents know how to contact us and avail themselves of our services.

We believe that we should build awareness in the community of ombudsman services through family councils and public education.

We believe that we should understand and ensure the enforcement of laws, regulations, and policies that improve long-term facility care.

We believe that we must defend the resident's right to self-determination, even if the resident's decision runs counter to our own personal or moral beliefs, or is detrimental to the resident's health.

Residents' Rights in a Long-term Care Facility

The State of Illinois publishes a booklet, *Residents' Rights for People in Long Term Care Facilities*, outlining the rights of citizens living in a long-term care facility. Because of the critical nature of this material, these rights are repeated here.

In 1818, the Illinois Constitution mandated all citizens the fundamental right to "**health, safety and welfare.**"

Just because someone resides in a long-term care facility does not mean he forfeits any rights.

The following are rights, protections and privileges guaranteed to long-term care facility residents mandated by Federal and Illinois law:

- The resident has the right to all state and federal guarantees.
- The resident has the right to choice and freedom to the maximum extent possible.
- The resident has the right to safety and good care to maintain health at the highest practical level of functioning and well being possible.
- The resident has the right to clear and complete information about his medical condition and treatment.
- The resident has the right to participate in his own care.
- The resident has the right to choose between medically indicated treatments. The resident has the right to refuse treatment.
- The resident has the right to be free from chemical and/or physical restraints unless it is medically indicated. The long-term care facility must try alternative approaches first.
- The resident has the right to be free of neglect and abuse by anyone. This includes verbal and mental abuse.
- The resident has the right to have his information kept in strictest confidence by the ombudsman. This includes verbal statements about himself, his medical facility records and any other private information.
- The resident has the right to privacy.
- The resident has the right to have, or refuse to have, visits by family/friends.
- The resident has the right to manage his own money.

- The resident has the right to keep and use his own personal property. If a resident's property is missing, the long-term care facility must try to find it.
- The resident has the right to be informed about paying for his own care and about getting Medicare and Medicaid.
- In most circumstances, the resident has the right to stay in a facility, and always has the right to appeal proposals to be transferred or discharged.
- The resident has the right to vote as a citizen of Illinois and the United States for the candidate of his choice.
- The resident has the right to practice the religion of his choice.
- The resident has the right to participate with other residents in the resident advisory council.
- The resident has the right to complain and present grievances to his facility and to get a prompt response without fear of reprisal, coercion or interference.
- The resident has the right to ask the long-term care ombudsman program or other advocacy groups for help in all areas.
- The resident has the right to present grievances to outside organizations and advocates, including, but not limited to, the following agencies:

Illinois Department on Aging Senior Help Line
(800) 252-8966 (Voice and TTY)

Illinois Department of Public Health
(800) 252-4343
(800) 526-0844 (TTY)

Equip for Equality
Assists residents with psychiatric disabilities and/or developmental disabilities
(800) 537-2632 (Voice and TTY)

Code of Ethics

1. The ombudsman will act at all times to respect the dignity and individuality of clients.
2. The ombudsman will respect each client's right to self-determination, and right to live a life according to values adopted for herself, and will refrain from restricting services on the basis of the ombudsman's personal beliefs. The ombudsman will make every reasonable effort to ascertain and act in accordance with the client's wishes and beliefs.
3. The ombudsman will act in accordance with her role as advocate of the client, and report any potential conflict of interest with this role.,
4. The ombudsman will provide service to all clients who request it, without regard to age, gender, race, religion, social or economic status, national origin, personal characteristics, or lifestyle.
5. The ombudsman will at all times respect the privacy of every client, respecting client confidentiality both within and outside the facility.
6. The ombudsman will act to protect vulnerable individuals from abuse and neglect, and report any cases of this to the proper authorities.
7. The ombudsman will act in accordance with the standards and practices of the ombudsman program.

Code of Conduct

The Long-Term Care Ombudsman program only exists to ensure that persons residing in long-term residential facilities receive quality, appropriate, caring services and that their rights are respected. It is the expectation of the program that all people will be treated with dignity, respect, and compassion.

In order to provide appropriate, quality advocacy services, long-term care ombudsmen shall conduct themselves with integrity and responsibility and shall behave at all times in a manner consistent with this Code of Conduct. The ombudsman shall sign an agreement of participation in the program and make a commitment to the requirements of the program and to this Code of Conduct.

Knowledge and Competencies of Ombudsmen

- The ombudsman shall act, at all times, in a knowledgeable manner reflective of the training she has received, and within the training guidelines and requirements of the program.
- The ombudsman shall demonstrate a knowledge and understanding of the principles of empowerment. Only if residents are unable to act on their own behalf will the ombudsman intervene.
- The ombudsman shall demonstrate a knowledge and understanding of her role as a mandated reporter of abuse and neglect.
- The ombudsman shall demonstrate a knowledge and understanding of the residents' rights, including their right to have all information about themselves kept in strictest confidence.
- The ombudsman shall demonstrate a knowledge and understanding of the various manifestations of racism that sometimes occur in facilities and be willing to address them.
- The ombudsman shall demonstrate a knowledge and understanding of, and comfort with, cultural diversity.
- The ombudsman shall demonstrate an ability to communicate among cultures and ethnic groups.
- The ombudsman shall demonstrate a knowledge and understanding of conflict resolution skills and alternatives to confrontation. She shall apply these skills in necessary situations.
- The ombudsman shall demonstrate a knowledge and understanding of the use and misuse of physical and chemical restraints.
- The ombudsman shall respect the personal boundaries of residents and not touch or hug them without permission.

Allegiances and Duties

- The ombudsman shall display an attitude and demeanor respectful and supportive of the program.
- The ombudsman shall develop and maintain a professional relationship with the staff of the long-term care facility, always understanding that her allegiance lies with the resident and the mission of the ombudsman program.
- The ombudsman shall, at all times, present herself in a manner that reflects positively on the Long-Term Care Ombudsman Program. The ombudsman shall maintain an appearance of cleanliness and good hygiene, with body, hair, and clothes clean and odor-free.
- The ombudsman shall not use or distribute alcohol, tobacco, or any controlled substance, including any over-the-counter or prescription medicine, while performing her duties as an ombudsman.

Conflict of Interest

- The ombudsman shall only perform her duties in a facility where no conflict of interest exists.
- The ombudsman's only interest in serving shall be to ensure residents' rights are respected. She shall have no other personal interest, such as a fiscal interest (e.g., selling things), a proselytizing interest (e.g., promoting a particular religion), a recruitment interest (e.g., union organizing), or a political interest (e.g., actively supporting a particular party or candidate).
- The ombudsman shall ordinarily only serve in a long-term care facility where no immediate family member resides. When the ombudsman serves in a facility where a family member resides, the ombudsman shall notify the regional ombudsman. In such circumstance where the ombudsman will continue to serve in the facility, the ombudsman shall demonstrate an understanding of her two different roles as a family caregiver and as an ombudsman, and act accordingly.
- The ombudsman shall not accept tips or gifts of any kind from residents, their families, or from anyone or any group affiliated with the facility. Neither shall she give such.
- The ombudsman shall pay for all meals, beverages, and food products in the facility unless she has asked for a taste in response to a complaint.

Confidentiality

Empowerment is impossible without confidentiality.

To empower a resident, the ombudsman must first gain trust. The ombudsman needs to assure the resident that anything the resident says will be held in strictest confidence unless the resident decides otherwise. **The one exception to this is in the case of abuse or neglect.**

If a resident has given an ombudsman information regarding abuse or neglect, the ombudsman, as a mandated reporter, must report this to the Department of Public Health. The ombudsman must inform the resident that if information divulged by the resident is in regard to abuse or neglect, the ombudsman must report the information in accordance with the "Abused and Neglected Long Term Care Facility Residents Reporting Act."

Ombudsmen will come in contact and deal regularly with information or records of a personal nature. All information pertaining to residents is confidential and prohibited from disclosure. The ombudsman program has a strict policy concerning confidentiality of records, and ombudsmen should practice discretion and care in discussion of personal matters of any nature. Under no circumstances should matters of a confidential nature be discussed with unauthorized persons.

The confidentiality policy of the ombudsman program is as follows:

All information that is identifiable with any specific individual must be kept confidential unless the person concerned or his designated representative has given informed consent for the information to be released. This applies to both the resident's verbal information and financial or medical/facility records.

1. Right of Protection. The residents shall have a right to the protection of confidential information about themselves. This right may be superseded only in exceptional situations, e.g., in cases of **abuse or neglect**, or a court subpoena.
2. Informed Consent. No information about a resident, or information obtained from a resident, shall be disclosed by an ombudsman in a form that identifies the resident, without the informed consent of the resident, or his designated representative, unless the disclosure is required because of **abuse or neglect**, by court order, or for program monitoring by authorized federal, state, or local monitoring agencies. This consent must be in writing to obtain records, but can be verbal for discussing concerns with facility staff or someone else.
3. Third Party Information. An ombudsman receiving confidential information about a resident from, another agency or individual shall not divulge this information without securing the resident's or designated representative's informed consent.

4. Use of Information in Research and Training. The use of a case record or resident information for research or training purposes shall not be considered a breach of confidentiality, provided the identity of the resident and his family have been effectively disguised.

It is important for the ombudsman to remember that information about a situation must not be divulged, even if a specific resident's name is not used, if the facility staff or others can easily "figure out" whom the ombudsman is talking about.

In addition, an ombudsman must not give out any information regarding the time or place of a Department of Public Health survey, if she should have knowledge of it.

Expectations of Ombudsmen

The ombudsman shall be an accountable representative of the Long-Term Care Ombudsman Program.

1. The ombudsman shall ideally visit her assigned nursing home once a week. The time and day of the visits should vary from week to week.
2. The ombudsman shall report all cases of abuse or neglect to the Department of Public Health and to the regional ombudsman.
3. The ombudsman shall maintain confidentiality of all information she receives.
4. The ombudsman shall be sufficiently resident-oriented that she will readily identify resident complaints.
5. The ombudsman shall submit monthly reports to the Long-Term Care Ombudsman Program office each month on a day established by the program.
6. The ombudsman shall submit complaint forms to the Long-Term Care Ombudsman Program office within 72 hours (3 days) of observing/documenting the offense/violation/complaint, or in accord with the program's procedures.
7. The ombudsman shall adhere to all commitments made in the *Ombudsman Initial Visitation Agreement*
8. The ombudsman shall meet all training requirements of the program, including the initial training, site training, and yearly inservice training.
9. The ombudsman shall read all mailings, newsletters, informational packets, etc., sent to her by the Long-Term Care Ombudsman Program.
10. The ombudsman shall take every opportunity to inform the community of the necessity for and the work of the Long-Term Care Ombudsman Program, and record at least one inquiry a month.
11. The ombudsman shall expect to be assigned to another facility each year, if possible, in accordance with program policy.

What the Program Guarantees the Ombudsman

1. The program will clearly delineate what the ombudsman will do and what the program will do.
2. The program will develop a job description for each ombudsman position and will update it if the responsibilities change.
3. The program will provide the required initial training and inservice training as required in the **Illinois Ombudsman Standard, Policy and Procedure Manual**, to all the ombudsmen. The program will provide paid staff to support volunteer ombudsmen in the areas of supervision, consultation, advice, and on-site support as needed.
4. The program will provide training in dealing With violent behavior of residents.
5. The program will provide training in dealing with difficult behavior of nursing home staff, residents and families.
6. The program will provide, in a timely manner, a) access to technical assistance, training, and help on documentation, and b) brochures and informational materials for the education of residents, family members, staff and the community.
7. The program will clearly communicate the documentation and reporting requirements and expectations.
8. The program will provide assistance to the ombudsman when it is requested, or when the program determines such intervention is necessary.
9. The program will inform the ombudsman of the Department on Aging's policies and standards, and any changes in these policies and standards that pertain to her duties and/or job description.
10. The program will conduct a recertification review of all ombudsmen, both paid and volunteer, and will recognize the ombudsman as a caring person at the time of this annual performance review. The program will also promote recognition of ombudsmen at the community level.
11. The program will have a policy on the reimbursement of ombudsmen, paid and volunteer, for travel expenses.

I CARE-Project Advocate Ombudsman Personnel Task Force

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Editorial Note: In an attempt to be consistent and gender neutral throughout the text, masculine pronouns were used for references to residents and feminine pronouns for references to ombudsmen.