

Code of Ethics for Local Long Term Care Ombudsmen

PREAMBLE

Regardless of an ombudsman's level of responsibility or the complexity of the issue or problem that is being addressed, there is a basic set of principles that guide an ombudsman's decisions.

In addition to the Older Americans Act, the 53 State Ombudsman programs have differing laws and rules governing them. For each of the following, please be sure to check with your state laws and rules and State Ombudsman. You may want consider legislative work if your state laws and rules conflict with the Older Americans Act.

Protection and Advocacy Services are in the Older Americans Act as the advocacy resource for resident/client with Mental Health issues and/or Developmental Disabilities. Your State Ombudsman may have a working relationship with Protection and Advocacy Service staff and have guidelines available on working with this resource.

A state may also be limited by its funding sources. Some funding limitations may include:

- Working with resident/clients under the age of 60,
- Working with resident/clients in community facilities (Board and Care),
- Working with resident/clients in their own home.

The Older Americans Act dictates that we are resident/client directed. In some cases, the resident/client's ability to communicate or think or know may be in question. As Ombudsmen, we usually visit often enough to determine when and how a resident/client communicates his/her wants/needs to another person. We visit with the resident at that time and are able to follow through on his/her direction.

A guardian could be involved. In some states, the guardian is directed to make decisions as the resident/client would make those decisions. How this is determined is through history and advance directives if there are any. Sometimes guardians do not meet the wants and/or needs of the resident/clients. The Ombudsman can carry those concerns about the guardian forward to the appropriate agency or program according to the laws and rules of their State and the State Ombudsman program's policy.

In some instances a Power of Attorney may be present and acting on behalf of the resident/client (or not in some cases). A Power of Attorney only assists or helps a resident/client when the resident/client needs that assistance. Powers of Attorney are not guardians and may not make decisions for the resident/client when the resident/client is able to make those decisions. The exception is for Durable Power of Attorney when the situation is present that has triggered the Power of Attorney. This situation is usually when the Physician (or two) declares that the resident/client is not able to make decisions. We may get involved with those situations where the Durable Power of Attorney is not acting as the resident/client would act nor in their best interest. We are

still resident/client directed and we may need to follow up on the decisions the Durable Power of Attorney is making. Check with your State Ombudsman for further guidance.

There may be some confusion about Mandatory Reporting as an Ombudsman. The Older Americans Act is clear that Ombudsmen are resident/client directed. Ombudsmen must know the reporting requirements of the state in which they are working. In some states, the Ombudsman is a mandatory reporter must report to the entity indicated in state law, any incidence of abuse or neglect that is suspected or has been reported to the Ombudsman. If your State Ombudsman has directed the local Ombudsman to verify the alleged abuse or neglect prior to reporting to the entity indicated in state law, then this is the direction to follow.

In other states, Ombudsmen are not mandatory reporters and are allowed to report incidents of abuse and neglect reported to them by a resident/client only with the resident/client's permission. The exception to this rule, in those states, is if the Ombudsman witnesses the episode of abuse or neglect. In that case they are permissive reporters and follow the direction of their State Ombudsman.

In cases where there is no policy or procedure available from the State Ombudsman, there may be some suggestions on how to create such policy or procedures in the Self-Evaluation and Continuous Quality Improvement Tool for Local Long-Term Care Ombudsman Programs developed by Robyn Grant and available through the National Ombudsman Resource Center.