

# NALLTCO Code of Ethics for Ombudsmen

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

**1. *The Ombudsman provides services with respect for human dignity and the individuality of the client unrestricted by considerations of age, social or economic status, personal characteristics or lifestyle.***

The Ombudsman models the behavior that is expected from all staff in working with resident/clients/clients.

- We knock on doors and get permission to enter prior to entering.
- We ask the resident/client what name they prefer to be called and follow through by using that name in our interactions with them.
- We ask permission, if possible, before following through on a complaint or acting on their behalf.

We are not influenced by a resident/client's age (in some cases, this is determined by your State Ombudsman), physical or mental condition (see the Preamble about Protection and Advocacy Services), social or financial or other status, or lifestyle. We serve all the resident/clients/clients of the facility/services according to guidelines of the State Ombudsman and the Older Americans Act.

**2. *The Ombudsman respects and promotes the client's right to self-determination.***

The Ombudsman works to determine the wishes of the resident/client for any and all aspects of the resident/client's life. Some examples include:

- when to get up,
- what to wear,
- when to bathe (shower or bath),
- when and what to eat, who to "hang around with", and
- when and where to be discharged or where to live).

The Ombudsman determines if the resident/client wants assistance with self-determination and how to provide such assistance. The Ombudsman works with and on behalf of the resident/client by the resident/client's direction.

**3. *The Ombudsman makes every reasonable effort to ascertain and act in accordance with the client's wishes***

The Ombudsman is resident/client directed. Even with questions of capacity, the Ombudsman tries to determine what the resident/client wants and helps to determine what really matters for the resident/client and support system.

This might involve

- looking at past decisions made by the resident/client; listening to the underlying values and determining values history;
- asking questions about the area involved to determine what really matters and listening to the answer, making sure the resident/client understands what the Ombudsman is asking (this may be an instance where the same question is asked differently to ensure the understanding of the basic question);
- talking with family and interested others to determine resident/client preference;
- talking with the health care decision maker (depends on your state's law how this is determined both formally or informally);
- talking with the direct care giving staff to determine how they find out resident/client preference;
- working with any advanced directives including living wills, Powers of attorney to name several;

This is an opportunity to use a potential conflict to really sort out the differing values of the parties and to define the issues from the resident/client's point of view (a good use of the Ombudsman's mediating skills).

#### **4. *The Ombudsman acts to protect vulnerable individuals from abuse and neglect.***

The Ombudsman works to protect all resident/clients from abuse and/or neglect. There may be other systems set up to investigate incidents of abuse and neglect. The Ombudsman is often the "new" eyes, ears, and noses in a facility/location that either sees actual abuse or neglect or sees the potential for abuse or neglect. If the Ombudsman witnesses actual abuse or neglect, follow your State Ombudsman's policy on reporting and/or resolving the situation that is abusive or neglectful. In any case, the Ombudsman will continue working to resolve the abuse or neglect complaint. In addition, the Ombudsman will look at the underlying reason for the abuse or neglect and work to correct that as well.

When a resident/client reports abuse or neglect to the Ombudsman, the Ombudsman must follow their State Ombudsman's guidelines on how to continue working on the complaint. The resident/client might be able to understand that this complaint needs to be brought forward to the appropriate people who have the power to correct the concern. Certain other residents are afraid they will be "in trouble" or "get kicked out" if they make any complaints at all. In those cases, it might work to get the resident/client's permission to investigate and then proceed to ask other resident/clients in similar locations or circumstances if anything abusive or neglectful has happened to them. Often, "hiding" a resident in a group will protect their anonymity and help get to the cause of the abuse or neglect so that it might be remedied.

Often, Ombudsmen must work to change the underlying systems governing the facility/services or location where the resident/client lives. This may involve working on a multi-disciplinary team, legislative education, community mobilization or culture change within a facility/service.

**5. *The Ombudsman safeguards the resident/client's right to privacy by protecting confidential information.***

The rules governing the Ombudsman's duty concerning confidentiality are in the Older Americans Act. There may be additional constraints concerning resident/client confidentiality prescribed by the state Ombudsman or state regulations or state law. In general, Ombudsman records are held in private. They may be released only under direction of the State Ombudsman. The records must not disclose the identity of the resident/client and/or complainant unless the resident/client and the complainant has given written permission. Oral consent may be given with the Ombudsman documenting the consent contemporaneously in documents as directed by the State Ombudsman. Records may also be released upon a court order. This is a higher level of court involvement than subpoena.

The Ombudsman maintains records in ways to protect the confidentiality of the resident/client, the complainant and issues that are resolved or not. Complaint investigation may be through using a group approach. The resident/client is "hidden" in a similar group of resident/clients. The Ombudsman then proceeds with his/her usual approach to complaint investigation, verification and resolution with the focus on the "group" not the individual resident/client.

Aggregate information may be shared with the regulators and/or legislators concerning the scope and severity of the issues facing long term care resident/clients in the facility/service in question. Aggregate data is helpful when educating legislators and the community.

**6. *The Ombudsman remains knowledgeable in areas relevant to the long term care system, especially regulatory and legislative information and long term care service options.***

It is part of OBRA and, in many states, part of state regulations of other long term care facilities/services, that the Ombudsman be contacted to find out issues and concerns about a facility/service that the Ombudsman has. The Ombudsman may take part in the survey process and/or be present during the exit interview. Ombudsman aggregate data by facility/services is very helpful to meet this requirement.

Often, when long term care regulations are being changed, the Ombudsman has an opportunity to participate at the work group level. Often they may serve on Advisory Boards/Committees for the different types of long term care facilities/services at the state and local level. Another example of working with regulators is to participate with the regulators and other stakeholders in meetings the regulators might schedule, from provider forums to updates concerning facilities/services.

It is part of the Ombudsmen's work to educate their local Legislators, at the local, state and federal levels. This may involve:

- writing and disseminating an annual report describing the work done at the local level,

- types of problems/complaints resolved,
- underlying barriers,
- what the Ombudsman can do for the Legislator and
- what the Ombudsman needs from the Legislator to continue working for the well-being and rights of the long term care resident/clients.

Because Ombudsmen are members of the community in which the facility/service is located (usually), they are often seen as the repository of community resources and links. A local Ombudsman will be able to offer such information to the resident/client and their support system concerning ways to get to the least restrictive placement for the resident/client or other community supports (Olmstead Decision). With time, local Ombudsmen develop working relationships with community providers and are a source of information for resident/clients, family members and staff.

7. ***The Ombudsman acts in accordance with the standards and practices of the Long Term Care Ombudsman Program, and with respect for the policies of the sponsoring (contract) organization.***

Each State Ombudsman will have policies and procedures stating the standards and practices expected of the Ombudsman. In some cases, State law and regulation may dictate these in addition to the Older Americans Act. As the standards and practices change, Ombudsmen will receive the updated versions for their reference. If the State office does not have these, it is appropriate for the Ombudsman to ask for direction and guidance in writing. Written responses will help answer future questions.

The Ombudsman will also follow the standard operating procedures of the sponsoring agency. It is helpful to be located in an agency with similar philosophies and practices to the Ombudsman program policies and standards. Many times the agency may work with clients in their own homes. Often this work will be based on client preference as it is with the Ombudsman program. If there is a conflict, either in philosophy or practice, the State Ombudsman may be an asset in working out the differences. In extreme cases, the local program may be moved to another, more sympathetic, sponsoring agency.

8. ***The Ombudsman will provide professional advocacy services unrestricted by his/her personal belief or opinion.***

Sara Hunt summarized a presentation “Applying Ethical Principles to Individual Advocacy” by Joan McGiver Gibson, PhD. In the section concerning values, the point is made that “our values are shaped and refined over a lifetime, within the context of community through a process of communication...To really explore another person’s values, we have to engage in conversation...we cannot hold our values outside of the communication process.

“One approach to the discussion about values is to use a values history as a ‘jumping-off point’. A values history provides the opportunity to ask the person to teach us what we need to know. Values histories can serve as prompts to invite individuals to talk, to tell us what’s important to them. It is important to ask what certain terms or questions mean to each individual...The values history then becomes a communication tool for

understanding the person. We need to create an environment to allow individuals to teach us about themselves and what they value.”

Ombudsmen need to know their own values in order to be able to listen to the resident/client’s description of his or her value history and be clear about what the resident/client’s values are. The process can then continue with the Ombudsman advocating for the resident/client relative to the issue and his or her values.

**9. *The Ombudsman participates in efforts to promote a quality long term care system.***

The Ombudsman may promote a quality long term care system at several levels:

- The Ombudsman monitors laws and regulations concerning long term care in general to ensure that the resident/client’s voice is being heard. Monitoring may also involve educating the Legislators about long term care, Resident/client rights and the Ombudsman program itself.
- Ombudsmen develop working relationships with long term care providers, survey staff, other licensing professional, and any other agency that is concerned with the elderly and long term care. The Ombudsman is the voice of the resident/client when he or she is unable to speak; supports the resident/client when they are able and willing to speak.
- The Ombudsman provides community education at the local level to ensure long term care facilities/services meets community standards and the community is able to support those standards in the facilities/services in the neighborhood.
- Within the facility/service, the Ombudsman is educating resident/client’s, family members and staff about resident/client rights and quality care. The Ombudsman is a model of communication and problem solving between resident(s) and facility staff. This can result in staff responding to resident concerns without having to call in the Ombudsmen. Residents also learn that expressing concerns/questions can have a positive outcome.
- The Ombudsman works to empower the resident/client to advocate for him or herself whenever appropriate.

**10. *The Ombudsman participates in efforts to maintain and promote the integrity of the Long Term Care Ombudsman Program.***

Integrity is defined as firm adherence to a code of especially moral or artistic values (Merriam Webster’s on-line dictionary). Thus, our actions as Ombudsman Ombudsmen are related to the Code of Ethics in all aspects of our work.

- All Ombudsman actions are on behalf of resident/clients.
- The Ombudsman supervises the paid and unpaid staff following the Code of Ethics, ensuring the quality and integrity of the LTC Ombudsman program.
- The Ombudsman acts as a mentor and supporter of other LTC Ombudsmen, sharing information, program best practices and other kinds of support.
- Ombudsmen work with each other to ensure there is no conflict of interest.
- Others see the Ombudsman program as being free from conflicts of interest.
- Others see the Ombudsman program as having the highest standards of practice.

**11. *The Ombudsman supports a strict conflict of interest standard, which prohibits any financial interest in the delivery or provision of nursing home, board and care services or other long term care services, which are within their scope of involvement.***

- Financial stability is an on-going goal of the Ombudsman program. All funding sources must be evaluated in regards to conflict of interest standards.
- The Ombudsman must evaluate all staff (paid and unpaid) in light of the conflict of interest standards to ensure that all aspects of the program are free from conflicts of interest.

**12. *The Ombudsman shall conduct him/herself in a manner, which will strengthen the statewide and national Ombudsman network.***

- The Ombudsman always maintains the stature of a professional when working for or on behalf of the resident/client.
- The Ombudsman is free of any actual or potential conflict of interest or perception of conflict of interest.
- The Ombudsman speaks from the resident/client perspective with clarity and conviction.

Adopted by the membership spring 2008