

NORS TRAINING: Part I

The Three C's: Case, Complaint, Consultation

ANSWER SHEET

When reviewing each scenario below, remember:

- a. A case must have one or more complaints brought to or initiated by the ombudsman.
- b. The complaints must be made by or on behalf of one or more residents and the complaint(s) must be related to the health, safety, welfare or rights of the residents.
- c. The ombudsman must be actively involved in working on the complaint, and includes ombudsman investigation, strategy to resolve, and follow-up.

DIRECTIONS: For each scenario, indicate the following:

- a. Is it a case or consultation?
- b. If a case, how many complaints are there?
- c. In a case, who are the complainant and their role, for example, resident?

NOTE: Assume you have the resident's consent to take action. In cases involving abuse, disregard any mandatory reporting requirements in your state and answer the question with the information given from an Ombudsman perspective.

Answers are in bold following the questions.

1. A woman calls asking for information on care planning and how to select a nursing home for her mother.

It is one consultation to an individual.

2. You visit Mrs. Jones, who tells you they are still bringing her pureed food, even though her doctor said she could start eating regular food. You notice her call bell is broken. She indicates she would appreciate your assistance in resolving these problems. You speak to the DON about the call bell, and she promptly fixes the bell. You attempt to talk to the dietician about the pureed food, but she is not available until the next morning. You leave Mrs. Jones but tell her that you will check back with the dietician and will follow up with her on the

results and to ensure that the call bell is still functional.

It is a case with two complaints. Discuss that it can't be closed until both complaints are disposed. The complainant is Mrs. Jones, the resident. Discuss that an important ombudsman principle is to work at the direction of the resident so even though you as an ombudsman notice the call bell, this is still Mrs. Jones' case and you can have only one complainant for each case.

Is the call bell a complaint or a request? There is a difference between an ombudsman responding to a concern and an ombudsman facilitating communication between the resident and the staff. If the ombudsman is simply the messenger, as in "would you ask someone to adjust these pillows for me?" or "could you tell the aide I'd like to go the dining room now?" then it is not a complaint. However, in this instance, there is a problem which requires action, resolution and follow-up so it's a complaint.

3. A CNA approaches you about a labor dispute in the facility. She asks you to intervene with management on behalf of the staff, which is threatening to strike if they don't get health coverage.

This is not a case, and the ombudsman should not intervene, because it is not made by or on behalf of a resident or residents. If you provide information or suggestions, it could be counted as a consultation to a facility staff person. You could discuss how such a situation could affect residents.

4. Your state requires that all allegations of abuse be reported to the Adult Protective Services agency or the police and that the ombudsman program be notified. You receive a routine notification from APS, which is investigating the allegation.

This is neither a case nor a consultation. The ombudsman program is not actively involved in investigating and working to resolve the complaint. (This one not only illustrates that point but opens a vital teaching point in those states where the ombudsman program receives "pro forma" notification of abuse allegations but isn't the lead agency for investigating the allegations.)

5. Mrs. Oliver asks you to help her obtain the medical records for her mother, who recently died in a nursing home; she is the executor of her mother's will and was her health care durable power of attorney. She is planning to use the records in a private action lawsuit against the facility.

This may be a case, with one complaint, or it may not be a case. Discuss for whom the complaint is made, working on cases involving residents who are deceased, and — whether the situation could affect other residents (who may want to access their records). If it's a case, the complainant is Mrs. Oliver, a relative (executor). If not a case, it is a consultation where the ombudsman provides information on the process to access resident records.

6. A nursing home staff person tells you that Mrs. Smith's son, who has power of attorney for his mother, is verbally abusing Mrs. Smith, using her income for his own purposes and has not paid her bill for three months. The staff person requests your involvement in resolving the non-payment issue.

It is a case. There are two complaints; with facility staff as complainant. If the resident is at risk of discharge for nonpayment then a third complaint could be added.

7. Mr. Jones calls the ombudsman program, complaining that his mother has a black eye and the facility can give no explanation for it. An ombudsman representative visits his mother and notices light bruises on her face and arms, but cannot verify that she had a black eye.

It is a case, and there is one complaint: (ombudsmen open cases whether the complaint can be verified or not). The complainant is Mr. Jones, the son.

8. Mr. Brown's daughter (and guardian) Alice, calls the ombudsman program, concerned that her father is eating all his meals in his room, instead of in the dining room. You visit Mr. Brown, who seems despondent and is unable to express his wishes. You speak with the DON about Alice's concern; the DON says staff should be taking Mr. Brown to the dining room and that she will discuss the problem with two new aides and also put a note in Mr. Brown's chart. The following week you call Alice, who tells you the aides are now taking her father to the dining room and he appears much happier.

It is a case. There is one complaint made by Alice, a relative (guardian).

9. Ms. Miller, a resident of Sunny Valley Assisted Living Facility, stops you in the hall and tells you she has a problem: her son, who lives at home, has just been terminated from the Medicaid program and she is concerned he won't be able to pay for his medication. As she wheels off in her wheelchair, you notice that the wheelchair keeps veering to the left and hitting the wall. You ask if she would like your assistance in getting it fixed, or getting a new chair. She replies, "yes."

It is a case, and with one complaint Ms. Miller, the resident, is the complainant. (Even if the ombudsman brings a problem to the resident's attention, once the resident acknowledges the problem and gives the ombudsman permission to resolve the problem, then the resident should be named as the complainant.)

If you tell her how her son can appeal the Medicaid determination, you could document that as a consultation to an individual.

10. A facility administrator calls you to complain that the volunteer ombudsman assigned to his home is not doing her job. He explains that he called her about a problem the facility was having with a resident's behavior, but she refused to address the facility's concern and instead visited privately with the resident and refused to tell the administrator or the corporation's lawyer about her visit.

It is not a case because it was not made by or on behalf of the resident. It could be a consultation to facility staff. (The ombudsman may decide to initiate a complaint on behalf of the resident, depending on what the resident says or what the ombudsman observes. Discuss the need to seek information from the volunteer and resident)

BONUS QUESTION

On December 15th you go to Hilltop Haven to visit Mrs. Lee. Her daughter called you to complain that her mother would like to be bathed more often than once a week. On your way to Mrs. Lee's room you notice that there is dirty laundry on the floor in the hall and that the hall is dark because several lights are not working. You visit Mrs. Lee who wants your assistance and asks that you communicate with her, not her daughter. After you visit Mrs. Lee, you stop in to see Mrs. James. She tells you that they stopped her physical therapy and she does not know why and she complains that the sliding track for the privacy curtain is broken, so it does not close all the way. You investigate both complaints. You resolve and close the PT complaint within the week. You learn that the facility has tried to order a new track, but it's on back order. You keep the complaint open until the new track is installed. You go back to visit Mrs. James on January 15th. She tells you that they are installing the track the next day. She also tells you that she just received a notice from the facility saying that she will have to switch to the facility pharmacy even though it may cost more than the pharmacy she's been using for the past three years. You tell her you'll check into it for her.

How many **cases** do you open? (Identify each case by the complainant)

Answer: Open three cases:

Mrs. Lee, resident – 1 complaint

Ombudsman – 2 complaints: (An ombudsman should be the complainant when permission from a resident or her representative cannot be obtained or when permission of a resident is not necessary because numerous residents are affected by the problem, such as a general environmental concern).

Mrs. James, resident – 3 complaints:

It is possible that Mrs. James's pharmacy complaint could be a separate case/complaint. Whether you open one or two cases for Mrs. James would depend on your state's policy and also the amount of time between her complaints. For example, if she registered one or more concerns in December and January and all the complaints were resolved in February, you would close the case in February. If she then registered one or more concerns in March, you would open a new case. However, in the case cited, it's both a judgment call and a state policy call.