

New York Long Term Care Ombudsman Summit Summary

Pathways to Effectiveness

September 2005

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The *Pathways to Effectiveness: California Local Long Term Care Ombudsman Summit* was held on September 19th - 20th 2005 in Niagara Falls, New York. Focusing on critical topic areas related to the performance of Local Long Term Care Ombudsman Programs (LLTCOP), the meeting was highlighted by in-depth discussions and the ratification of key recommendations aimed at enhancing local ombudsman program performance. The Summit was a one and one half day convening, sponsored by the Institute for Health & Aging at the University of California, San Francisco, in conjunction with the New York State Long Term Care Ombudsman Annual Training Conference and Association meetings. The Summit produced a comprehensive set of recommendations and priorities to enhance to the performance of LLTCOPs in New York.

More than 100 attendees participated in the Summit, representing a broad spectrum of advocates in the arena of aging. They included representatives of LLTCOPs from across the State and the State Office of the LTCOP, most notably, Martha Haase, New York State Ombudsman. An expert panel recognized for their knowledge in Long Term Care (LTC), health care policy and law, state government policy, consumer advocacy, and the LTCOP assisted in leading proceedings. William Benson, *President, National Citizens' Coalition for Nursing Home Reform & Andersen Benson Consulting Services, Washington, DC* and Sara Hunt, *Consultant, National Ombudsman Resource Center, Washington DC* served as co-moderators. Sue Wheaton, *Ombudsman Program Specialist, Administration on Aging, Washington, DC* and Carroll Estes, *Founding Director, Institute for Health & Aging, UCSF* delivered remarks. Facilitators for topic areas included: Eric Carlson, *National Senior Citizens Law Center, Los Angeles, CA*, Patricia Nemore, *Center for Medicate Advocacy, Washington, DC*, along with Sara Hunt and William Benson. Representatives from the New York State Ombudsman Association (NYSOA) served as co-facilitators for discussions including: Ronnie Abromovitz, Margaret Hadad, Christian Reitler, and Kim Salisbury



offering considerable hands-on knowledge and expertise in respective topic areas. George Pettengill, NYSOA President, provided opening and closing remarks. Special invitees included a contingent representing both local and state ombudsmen from California, including: Joe Rodrigues (California State Ombudsman) and Kathy Badrak and Benson Nadell (California Long-Term Care Association (CLTCOA Board Members). Other special invitees included members of the project advisory committee including: Faith Fish, *Former New York State Ombudsman*; Iris Freeman, *Advocacy Strategy*; Debi Lee, *National Association of Local Long Term Care Ombudsmen (NALLTCO)*; Carol Scott, *National Association of State Ombudsmen Programs (NASOP)*; Lori Smetanka, *National Ombudsman Resource Center (NORC)*; and Bernadette Wright, *AARP*.

This paper includes selected information related to the New York Local Long-Term Care Ombudsman Summit including: summit structure & activities, focal topic areas, priority recommendations and initial action steps to enhance program performance related to each topic area.

The Summit: Structure & Activities

The nature of the Summit was participatory and hands-on, utilizing a consensus-building framework modeled on that used for the 2002 NASOP Retreat¹. This model provided for in-depth discussion of issues and maximum opportunity for participation among local ombudsmen. Participants were asked to consider a number of discussion questions and to develop a set of proposed recommendations to enhance the performance of LLTCOPs. Four broad topic areas framed deliberations:

- **Rehabilitative, Convalescent and Post Acute Care**
- **Board & Care Facilities**
- **Systems Advocacy and Legal Support**
- **Use of Volunteers and the Adequacy of Resources**

A **Topic Briefing Paper** was prepared by the project staff focusing on each topic area, with input from the NYSOA executive committee and selected expert reviewers. Each paper contained information specific to the topic area, including an introduction and overview, relevant research findings from the IHA/UCSF Local Ombudsman Study, major issues and concerns, related literature and web resources, and prepared discussion questions. Reports were distributed via email to each Local Ombudsman Program and the Office of the State LTC Ombudsman in New York two weeks prior to the Summit.

¹ National Association of State Ombudsman Programs (NASOP) Retreat (2002). *The LTCOP: Rethinking and Retooling for the Future*. Peachtree City, Georgia.

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We would like to thank the New York Ombudsman Association (NYSOA), the California LTC Ombudsman Association (CLTCOA), the New York State Office of State Long-Term Care Ombudsman, the California State Office of Long-Term Care Ombudsman, and the California Department of Aging for their support and assistance.

We thank the members of our Project Advisory Committee, Project Consultants and Special Reviewers for their support and thoughtful input on these topics and papers, and the Ombudsmen and Key Respondents who shared their experiences and knowledge throughout this project.

The format of the Summit activities involved an **Introductory Session** followed by a series of **Topic Area Breakout Sessions**. Breakout Sessions addressed each of the key topic issues listed above separately. The sessions were intended to promote group discussion of major issues, consider specific discussion questions relating to the effectiveness of LLTCOPs, and propose recommendations to enhance the performance of LLTCOPs in these areas. Attendees selected and participated in the breakout sessions of their choosing. Each session was led by a Facilitator, a State or National expert in issues relating to a particular topic area, and a Co-Facilitator, a Local NY Ombudsman representative with hands-on programmatic knowledge of the issue.

The Break-Out Topic Sessions were followed by **Work Group Meetings**, intensive small group meetings. Each Ombudsman Coordinator selected one primary topic area and attended the Work Group Meeting targeting that issue. Each Work Group was charged with the responsibility to synthesize and summarize information gathered during Topic Area Breakout Sessions into a single set of recommendations (short and long term) related to the topic area. Work Group Meetings were attended by Local Ombudsman Coordinators as well as a limited number of interested local program staff and volunteers.

The culmination of the summit was the **Plenary Session**, involving brief presentations of recommendations drafted by each Work Group. During this session three priority recommendations

were presented for each topic area. An opportunity for additional feedback and audience comments was also provided to clarify recommendations and to enhance the proposed set of recommendations related to each topic area. Recommendations were individually ratified through a general majority vote during the closing plenary session of all ombudsman participants. Group discussion led to the assimilation of some similar recommendations into broader recommendations. Ultimately, four recommendations were selected via vote as the key priorities drawn from the 13 recommendations that were supported and reviewed by the group during the plenary session.



Summit Focal Topic Areas

The Summit was organized around four topic areas, based largely on survey input from local ombudsmen. Areas were designed to encompass a range of potential issues for discussion.

REHABILITATIVE, CONVALESCENT AND POST ACUTE CARE

This session focused on issues relevant to Post Acute, Rehabilitative and Convalescent Care. Discussion centered on the definition of Post Acute, Rehabilitative and Convalescent Care, on defining the Ombudsman role in that setting, and how to work with other entities to best serve the needs of the residents.

BOARD & CARE FACILITIES

This session focused on issues relevant to Board & Care type facility settings. Discussion centered on improving coverage and services to residents in Board & Care Facilities, how to effectively work with other organizations in this area, and how to advocate for better oversight in these types of facilities.

SYSTEMS ADVOCACY AND LEGAL SUPPORT

This session focused on issues relevant to Systems Advocacy and Legal Support. Discussion centered on the effectiveness of systems advocacy, how to build the necessary relationships to engage in systems advocacy, and the need for legal support for the local programs.

USE OF VOLUNTEERS & ADEQUACY OF RESOURCES

This session focused on issues relevant to Use of Volunteers and the Adequacy of Resources. Discussion centered on the stigma of the word "volunteer," the amount and quality of training the volunteers receive, and the legal ramifications of using volunteers. Additional discussion focused on adequacy of resources available for the LLTCOP and how to best utilize those resources.

Approved Recommendations by Topic Area

A closing plenary presentation was held on the second day of the summit, involving brief presentations of recommendations to improve New York Local Ombudsman programs that had been drafted by each Topic Area Work Group. Three (3) priority recommendations for each of the four topic areas were outlined with a short period of time allotted for necessary clarification of recommendations. An opportunity was provided to openly discuss and debate the merits of each proposed recommendation and, if necessary, to enhance or modify the recommendation. Ultimately, recommendations were individually considered and ratified through a general majority vote. Each recommendation was either accepted or rejected; only Local New York Ombudsmen were eligible to vote. Following is a list of proposed recommendations, organized by Topic Area and recorded verbatim from session proceedings. All recommendations were approved by a majority vote. Group discussion led to combining a few similar recommendations to create broader more enhanced recommendations. Recommendations resulting from this process, are so indicated.

REHABILITATIVE, CONVALESCENT AND POST ACUTE CARE

Develop an ombudsmen education and training protocol related to short-term care, including Medicare and other insurance and appeals.

Identify a systemic way for short-term residents to know about ombuds role and how to contact them.

Define best practices for ombuds persons in their role with respect to short-term residents.

BOARD & CARE FACILITIES

Training for LTCO

- Begin with coordinators
- Regional trainings as well as state
- Curriculum very specific to adult homes: different types, roles, staffing, residents, who, when, what of agencies relating to Board & Care- how to access
- For volunteer ombudsmen, more curriculum for other topics like the mental health, how to work with mix of populations, resources for volunteers, focus on how to work as ombudsman
- Input from local ombudsmen regarding curriculum

Memorandum of Understanding (MOU)*

- Come from State LTCOP
- Come from Department of Health (DoH), NYS Office of Children and Family Services (NYSOCFS), Commission on Quality of Care (CQC), Office of Mental Health (OMH), Attorney General (AG)
- Content:
 - Ombudsmen input into survey, notification, exit (presence), have/receive results
 - Ombudsmen get relevant letters from state (Dear Administrator Letters (DALs) and Do Not Refer (DNRs))
 - Clearly define ombudsman role and role of agencies
 - Regular (quarterly) meetings with DoH on regional level and at state level.
- Communication: SLTCOP and Local regarding meeting with DoH, issues
- Copy of MOU to all LTCO and DoH regional.

More money for working with Board & Care

- Federal, state grants from Foundation, look at targeting AL money
 - For: recruit, train, maintain volunteers (targeted)
 - Additional staff to support volunteers, go further with advocacy (ombudsman staff)
 - Consumer education and recruitment statewide
 - Marketing, PR developed by state (other partners might help with this- in-kind)
 - Travel to visit facilities- money for mileage

SYSTEMS ADVOCACY AND LEGAL SUPPORT

Formal working agreements between LTCOP and state agencies that regulate and reimburse facilities (designed to improve access and communication with these agencies).*

Full time attorney in state government for representing ombudsman programs' issues and staff- one specifically knowledgeable in ombudsman laws and health care issues.

Legal support guaranteed in each program for resident representation (includes clarifying Title IIIB legal services programs duties in long term care).

For each local program, coordinator trained by the state ombudsman in systems advocacy, so they can provide information and direct volunteers in systems advocacy roles.

USE OF VOLUNTEERS AND ADEQUACY OF RESOURCES

Obtain adequate funding including CMP funds, at state and local level to support adequate staff (including volunteers) for number of beds in New York, and to have a full time coordinator for each program (or cluster of programs as appropriate).

NTSOFA/LTCOP to aggressively pursue: ‡

- New partnerships to bring new volunteers to the program (e.g. Universities/Schools of Social Work, Gerontology, Private industry- Target Corp., Associations- National Education Association (NEA))
- Prepare and generate on –going publicity/promotion to provide public information regarding LTCOP and to recruit volunteers

To improve and increase LTCOP training resources in New York by: ‡

- NYSOFA/LTCOP will have a full time training coordinator who will develop and provide training and training resources for local programs
- Increase the use of technology- e.g. distance learning, Tele- and Video- conferencing, CD's
- Develop and maintain comp. modules with appropriate materials:
 - Program management
 - Volunteer management: training, supervision and retention
 - Basic, continuing education, advanced

*Recommendations combined by group

‡ Recommendations combined by group

Note: Recommendations transcribed verbatim as presented during plenary session proceedings.

Priority Recommendations & Action Steps

New York Local Ombudsman adopted four recommendations as their highest priority. Selected through open voting process, Local Ombudsman attendees were charged with identifying recommendations that were of the highest priority from among the eleven approved recommendations (representing the recommendations approved earlier during the Summit from each of the four focal topic areas). Following this vote, each recommendation was discussed individually by the larger group of all summit attendees. The group collectively identified specific action steps to guide implementation of each recommendation. This section outlines the priority recommendations selected by Local Ombudsman and initial strategy, other stakeholders, and persons/organizations who will assume leadership in initiating implementation efforts concerning each recommendation. An additional session lead by Bill Benson and Sara Hunt further explored each recommendation. Summit participants were asked to consider if the recommendation were implemented, what would be the effect on the residents of long term care facilities and the ombudsman program itself. Additionally, participants were asked to develop arguments for the implementation of the recommendations if any obstacles were met.

PRIORITY RECOMMENDATION #1

To improve and increase LTCOP training resources in New York by:

- NYSOFA/LTCOP will have a full time training coordinator who will develop and provide training and training resources for local programs
- Increase the use of technology- e.g. distance learning, Tele- and Video- conferencing, CD's
- Develop and maintain comp. modules with appropriate materials:
 - Program management
 - Volunteer management: training, supervision and retention
 - Basic, continuing education, advanced
- New partnerships to bring new volunteers to the program (e.g. Universities/Schools of Social Work, Gerontology, Private industry- Target Corp., Associations- NEA)
- Prepare and generate on -going publicity/promotion to provide public information regarding LTCOP and to recruit volunteers

Identification of Potential Outside Stakeholders: SLTCO and state staff, Local Coordinators, NYSOFA, Volunteers, Use National Ombudsman Resource Center (NORC) resources, NYSOA, Other training/technology expertise in NY, Full time trainer coordinator at SLTCOP→Marty? → Maybe Civil Monetary Penalties (CMP) funds?, potential partners, including universities and corporations, Media, Government office- potential industry such as ad. groups, professional associations.

Leadership: Local LTCOP Coordinators: Edie Sennet, Judy, Christian Reitler; Marty Haase(SLTCO), Ronnie Abromovitz (NYSOFA Committee) including LTCOP reps from each region. Reps may vary as per topic for development.

Effects for LTCOPs

- Majority of residents in all LTC facilities will know about LTCOP
- Future residents
- SLTCO will have educated the providers organizations and the unions so they can do publicity for the LTCOP
- Expand partnership with AARP, LTCC, etc
- AoA know more about LTCOP and do/provide publicity.

Justification

- Satisfying residents rights which are part of the Older Americans Act
- Educating consumers on the NYS LTCOP and NYSOFA
- By recruiting volunteers- cost saved by use of volunteers in program
- Ensuring better quality of life for the hundreds of LTC residents
- Utilizing NORS data to show effectiveness of program through number of complaints
- Opportunity for volunteers to be involved in their community and advocate for change.

Implementation

- Regional trainings

Note: Recommendations transcribed verbatim as presented during plenary session proceedings.

PRIORITY RECOMMENDATION #2

Full time attorney in state government for representing ombudsman programs' issues and staff- one specifically knowledgeable in ombudsman laws and health care issues.

Stakeholders

SLTCO, Local LTCOP

Leadership

Steve Syzdek, NYSOA as needed- Kit Ali, Ruth Berger

Effects for Nursing Home Residents

- Dramatically improve the emotional physical, psychosocial and sexual well-being of NYS residents
- Improve overall effectiveness of local LTCOP throughout NYS
- More cost effective because
 - Expedient and efficient delivery of services
 - Increase retention rates of all state certified ombudsmen by reducing frustration and fostering confidence.
 - Legal counsel to advise local LTCOP of legal options to prevent costly, inappropriate levels of care

Effects for LTCOPs

- Each local legal service provider would have expert support for NYSOFA LTCOP Counsel
- Local Coordinators would have LTCOP counsel for legal support and backup if faced with lawsuits, court orders, or subpoenas.
- LTCOP counsel to provide backup consultation in resolving individual complaints
- LTCOP counsel will provide legal interpretation of laws and regulations to programs

Justification

- Strengthen and bring clout, guaranteeing that residents rights, choice and autonomy will be met as mandated/defined by OAA/OBRA
 - Access to ombudsmen
 - Guarantee of effectiveness of advocates "legal backup"
 - Positive outcomes of complaints
- Information/ study/ plan
- Talk with stakeholders
- Then legislative involvement

PRIORITY RECOMMENDATION #3

Memorandum of Understanding

- **Come from SLTCO**
- **Come from DoH, NYSOCFS, CQC, OMH, AG**
- **Content:**
 - **Ombudsmen input into survey, notification, exit (presence), have/receive results**
 - **Ombudsmen get relevant letters from state (DALs and DNRs)**
 - **Clearly define ombudsman role and role of agencies**
 - **Regular (quarterly) meetings with DoH on regional level and at state level.**
- **Communication: SLTCO and Local regarding meeting with DoH, issues**
- **Copy of MOU to all LTCO and DoH regional.**

Formal working agreements between LTCOP and state agencies that regulate and reimburse facilities (designed to improve access and communication with these agencies).

Stakeholders

SLTCO, Local LTCO, other state agencies, Providers (?). Priority: DoH→ two divisions (Adult Homes)

Leadership

Marty Haase, Steve Syzdek, Kim Salibury, Laura Petta

Resource

NORC, include provisions that are in NH reform Law regarding role of LTCO

Implement

Other state agency (entire agency), providers, AAA's → educate and inform.

Effects for Nursing Home Residents

- Will increase the oversight in SNFs and B & C facilities.
- Improve the quality of life and care for all residents in LTC
- Will also give residents a feeling of empowerment and importance when it can be said that the DoH and LTCOP are working together taking their issues seriously
- It will formalize current agreements with SNF and include B & C
- The role of the ombudsmen will be more clearly defined

Recommendations Continued Below

Priority Recommendation #3 Continued From Above

Effects for LTCOPs

- Collaboration
- Credible
- Efficient and effective complaint handling
- Support culture change
- Cost savings
- Quality of care

Justification

- Better two way communication between DoH and LTCOP
- More resources to assist residents
- Improve the quality of life for residents

PRIORITY RECOMMENDATION #4

Training for LTCO

- **Begin with coordinators**
- **Regional trainings as well as state**
- **Curriculum very specific to adult homes: different types, roles, staffing, residents, who, when, what of agencies relating to Board & Care- how to access**
- **For volunteer ombudsmen, more curriculum for other topics like the mental health, how to work with mix of populations, resources for volunteers, focus on how to work as ombudsman**
- **Input from local ombudsmen regarding curriculum**

Stakeholders

SLTCO, "New" training coordinator, Regional LTCO representatives

Leadership

Marty Haase and others from volunteer training

Effects for Nursing Home Residents

- Will produce better advocates and provide consistency, knowledge and interpretation
- Residents will be better served
- The number of trained certified ombudsmen will increase
- Residents will have a better understanding of ombudsman role
- Better trained ombudsmen equals longer retention equals stronger bond with residents

Effects for LTCOPs

- Residents will have better trained ombudsmen to assist with empowering themselves (e.g., proper family council involvement without nursing home direction)
- Coordinators spending less time on training and more time on ombudsmen work
- Ombudsman training obtaining ongoing consistent up-to-date information to help residents with current issues
- Should increase ombudsmen retention and this will increase effectiveness of program
- Will reduce coordinator (especially new) mistakes
- Good management should increase the effectiveness of reporting what we already do
- Can train volunteers more than one time per year if have readily available materials

Justification

- A more focused training curriculum would facilitate better ombudsman retention and therefore, better use of limited resources

Additional Considerations & Comments

Voting Process:

For purposes of expediency, a threshold was adopted in the voting process to approve or reject a recommendation. Specifically, rather than to require that each recommendation be considered 'perfect' or 'ideal' in scope and wording, each ombudsman was instructed to use a criteria of general acceptability phrased in the following manner: *'Could you live with this recommendation – Yes or No?'*

Recommendation Phrasing/Wording:

Recommendations as prepared and presented during the Summit and herein were not intended to be the final or legal wording, but rather were drafted for the purpose of initial discussion.

Additional Recommendations:

Each Topic Work Group generated a list of several recommendations relating to each respective Topic Area; however, only the four top recommendations selected and put forth during the plenary session were presented and debated. As such, the additional recommendations (not put forth during the plenary session) were *not* rejected by the local ombudsmen, but rather were considered tabled for discussion at a later point. A listing of these additional recommendations has been transcribed by research staff and retained by NYSOA for future reference and use.

Background of the Summit & the Local LTC Ombudsman Project

New York Local Long Term Care Ombudsman Project is a collaborative effort between the University of California, San Francisco - Institute for Health & Aging (IHA) and the New York State Ombudsmen Association (NYSOA) to identify and examine factors that affect performance of the local LTCOPs in New York. The project is supported by The Commonwealth Fund, the Langeloth Foundation, and the New York Community Trust. The Archstone Foundation and The California Endowment fund a comparable project being carried out in California. The project is expected to contribute to dialogue at both the state and national levels concerning future programmatic and policy directions in time for deliberations concerning the 2005 re-authorization of the Older Americans Act and the Long Term Care Ombudsman Program within it.

The New York Summit represents one component of a larger overarching project focused on Local Long Term Care Ombudsman Programs, entitled the *Enhancing the Performance of Local Long Term Care Ombudsman Programs in New York State and California*.

The *Enhancing the Performance of Local Long Term Care Ombudsman Programs in New York State and California* project, builds on the work and expertise of Principal Investigator Dr. Carroll L. Estes who also served as Chair of the 1995 Institute of Medicine/IoM study of the Ombudsman Program and a more recent 50 state LTCOP survey funded by the Kaiser Family Foundation².

This project was designed to identify the specific factors (activities, resources, roles and organizational characteristics) that are associated with program effectiveness to improve the quality of care for residents of LTC facilities. This two-year, two-phase project entails two primary components: (1) Research Phase and (2) Dissemination Phase.

The research phase of the project involved: (1) collecting and analyzing NY (and CA) local ombudsmen telephone survey interview and secondary data (from the National Ombudsman Reporting System/NORS) and interview data from selected state officials, federal experts, and other key informants. Specifically, the project focuses on federally mandated activities and roles of ombudsman programs as well as associations with the organizational elements hypothesized

as distinguishing effective programs: adequacy and control over resources, organizational autonomy, and inter-organizational relationships. The role and work of Local LTCOPs is examined in specific issue domains of elder abuse, neglect, and financial exploitation; rehabilitative, convalescent and post acute care; cultural competency; end-of-life issues; legal service and support; staffing and staff training; relationships and interagency coordination; and system advocacy.

The Dissemination Phase involves several critical elements, of which the New York Ombudsman Summit (and a corresponding California Ombudsman Summit held in April 2005) are central features. This phase of the project involves working collaboratively with local and state ombudsman programs in New York and California, as well as policy makers, key experts in fields related to Long Term Care and Ombudsman programs.

An additional component of the Dissemination Phase is a 'Policy Event' to be held in New York and California. The Policy Event will emphasize recommendations for future state and national level policy surrounding Ombudsman programs and intended to further draw attention to the project's findings and implications for change. Finally, the research team will integrate materials, research findings, and information gathered through dissemination activities to develop a best practices tool kit relating to local ombudsman programs in each of the project states.

Additionally, project staff will monitor any progress regarding work toward implementation of recommendations or any related follow-up to other aspects of the Summit. Research staff will encourage those persons and organizations occupying leadership roles in the implementation of the four priority recommendations to provide periodic updates to summit attendees regarding activities and accomplishments in these areas.

2 C.L. Estes, D.M. Zulman, S.C. Goldberg and D.D. Ogawa. *State Long-Term Care Ombudsman Programs: Factors Associated with Perceived Effectiveness*. *The Gerontologist*, Vol. 44(1), 2004.

Feedback from Summit Participants

An evaluation form was provided to all Summit attendees to obtain anonymous feedback regarding the Summit. Fifty-six attendees completed and returned evaluations of the Summit. The majority rated the Summit and specific portions of the meeting favorably. More than 90% rated the Summit as either *Good* or *Excellent*. Most positively rated was the opportunity to network and discuss the program with other staff and discuss opportunities to advocate for change. Among the most common complaints expressed by attendees was the lack of 'down-time' for participants. As the schedule was tightly planned, involving a series of intensive discussions and debates around a broad range of critical topic areas, the meeting offered limited opportunity for unstructured activity.

Several summit attendees provided comments concerning potential impacts they believed the Summit may have for LLTCOPs in New York.

[The summit] was an opportunity for state local coordinators to develop the vision and direction for the work ahead.

Everyone is excited about being a part of something important- starting something new.

This was not as much a training on issues but results oriented work towards common problems that we are all having.