

## **Chapter 3**

# **Equipping California Long-Term Care Ombudsman Representatives for Effective Advocacy: A Basic Curriculum**

## **CALIFORNIA'S LONG-TERM CARE SETTING**

Curriculum Resource Material for  
Local Long-Term Care Ombudsman Programs

**Developed by the California State Long-Term Care  
Ombudsman Program  
Curriculum Development Task Force**

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## Introduction

This chapter is an overview of California's long-term care system. There are a variety of facilities providing long-term care services to Californians. Ombudsman representatives are mandated to maintain an ongoing presence in the long-term care setting of Skilled Nursing Facilities (SNFs), Distinct Part Facilities (DPs), and Residential Care Facilities for the Elderly (RCFEs). Intermediate Care Facilities (ICFs) and the Ombudsman's role in the different types of ICFs will also be discussed in this chapter. In addition, Ombudsman representatives investigate abuse complaints in Adult Residential Facilities (ARFs), Adult Day Health Care (ADHC) centers, and Adult Day Programs (ADPs).

It is important for the Ombudsman representative to understand the services provided by each type of facility and the terms applied to describe them. This enables Ombudsman representatives to better serve and advocate for the residents of long-term care facilities.

## Skilled Nursing Facility (SNF)

### Definition

The number of labels applied to different health care facilities confuses many people. Probably the most misunderstood term is "nursing home." The term nursing home may refer to convalescent hospitals, nursing facilities, rehabilitation centers or skilled nursing facilities. These facilities will be referred to as skilled nursing facilities or SNFs.

By definition a skilled nursing facility provides **24-hour** skilled nursing care, related services, or rehabilitative services for the injured, disabled, or sick individuals. The typical resident is a person who is chronically ill or recuperating from an illness and needs regular nursing care and other health related services. Residents in SNFs are under the direction of their personal care physician or the facilities medical director. Each resident must have an individual plan of care developed by the physician, resident and facility staff. These facilities provide a protective environment with medical and social services for individuals whose needs cannot be met in a less restrictive setting.

### **[Ombudsman representatives maintain an ongoing presence in SNFs.]**

#### **General Services Provided by SNFs:**

- 24 hours care to residents whose primary need is for availability of skilled nursing care on an extended basis
- Dietary services
- Social services
- Pharmaceutical services
- Recreational therapy services

- Access to dental care
- Emphasis on rehabilitation, such as gait training and bowel and bladder training
- Specialized units for dementia residents
- May provide ancillary services such as, physical, occupational and speech therapies
- Administration of potent and dangerous injectable medications and intravenous medications and solutions on a regular basis

### **Governing Laws and Regulations**

There are two basic types of skilled nursing facilities: (1) Licensed and (2) Licensed and Certified. Skilled nursing facilities do not have to accept Medi-Cal or Medicare residents. But, if they wish to, they must seek certification beyond licensure. In other words, a facility that wishes to treat Medi-Cal or Medicare residents must meet standards established by the federal government for participation in these programs. Regulations for skilled nursing facilities can be found in the following:

- The Nursing Home Reform Law 42 CFR Title 18 (Medicare) and Title 19 (Medi-Cal)
- California Code of Regulations, Title 22, Division 5, Chapter 3

The California Department of Public Health (CDPH), Licensing and Certification Division is responsible for licensing SNFs and providing inspections to ensure compliance with licensing standards. CDPH, Licensing and Certification Division have district offices throughout the state.

### **Skilled Nursing Facility Ownership**

Ownership and management of skilled nursing facilities are carried out by a variety of providers with an array of administrative and financial arrangements.

#### **For Profit Ownership**

There are two basic forms of proprietary ownership.

(1) Individual owners and partnerships: Profits are distributed to the individual owner or partners who are personally liable for business operations and debts. The individual owner or partnership can be sued as individuals.

(2) Corporate: Corporate stockholders or members are not individually liable for the corporation's operations and debts. Stockholders cannot be personally sued. The majority of California's SNFs are corporate owned.

#### **Non-Profit Ownership**

Non-profit SNFs *also* produce profits, but these may not be legally distributed to individuals or groups for personal use. Instead, profits are returned to the general fund of the organization. Many non-profit facilities are sponsored by religious or charitable institutions.

## **Government Ownership**

Other skilled nursing facilities are government operated. These facilities are administered by federal, State, or county governments.

## **Distinct Part Facility (DP)**

### **Definition**

The Distinct Part Facility is for the individual who requires skilled nursing and rehabilitative services on a 24-hour basis. Services must be performed safely and effectively only by professional or technical personnel within a structured setting, usually in an acute hospital setting. A majority of DP residents stay a short time, generally a maximum of three weeks, and then are discharged to either a skilled nursing facility or their home. Residents residing in this type of facility may be recovering from a surgery or an acute illness. Some hospitals refer to these wings or sections as **distinct part** SNFs.

### **[Ombudsman representatives maintain an ongoing presence in DPs.]**

### **General Services Provide by DPs:**

Provides the same services as a SNF and

- Treatment for acute illness
- Rehabilitation services
- Shorter stay (generally three weeks)

### **Governing Laws and Regulations**

The same laws and regulations that govern SNFs also apply to DPs.

- The Nursing Home Reform Law 42 CFR Title 18 (Medicare) and Title 19 (Medi-Cal)
- California Code of Regulations, Title 22, Division 5, Chapter 3

CDPH, Licensing and Certification Division is responsible for licensing DPs and providing inspections to ensure compliance with licensing standards.

## **Residential Care Facility for the Elderly (RCFE)**

### **Definition**

A Residential Care Facility for the Elderly provides non-medical care and supervision for persons 60 years or older who may need assistance with activities of daily living (ADLs). ADLs may include help with dressing, toileting, bathing, eating, ambulating and transferring. Residents of RCFEs should not require on-going medical care. RCFE residents may also be persons under the age of 60 with compatible needs. Some RCFEs provide care to dementia and Alzheimer's residents. RCFEs range in size from small facilities with six residents to large facilities with hundreds of residents. RCFEs are also known as Board and Care Facilities and Assisted Living Facilities.

**[Ombudsman representatives maintain an ongoing presence in RCFEs.]**

**General Services Provided by RCFEs:**

- Transportation
- Activity program
- Assistance with medication
- Prevention of wandering
- Supervision
- Meals and snacks
- Housekeeping and laundry services

**Governing Laws and Regulations**

- Health & Safety Code, Sections 1569-1569.87
- California Code of Regulations, Title 22, Division 6, Chapter 8

The California Department of Social Services (DSS), Community Care Licensing Division (CCL) is responsible for licensing RCFEs and providing inspections to ensure compliance with licensing standards. CCL has district offices throughout California.

**Intermediate Care Facility (ICF)**

**Definition**

Intermediate Care Facilities (ICFs) provide nursing care directed by a physician. ICFs are appropriate for residents requiring less nursing care than provided by a SNF but requiring more care than provided by a RCFE or ARF. Many ICF populations are developmentally disabled. Here are the definitions of the different types of ICFs as found in California Health and Safety Code, section 1250:

- (d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

**[Ombudsman representatives maintain an ongoing presence in ICFs.]**

- (e) "Intermediate care facility/developmentally disabled habilitative" [ICF/DD – Habilitative] means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

**[Ombudsman representatives are required to respond only to abuse complaints in ICF/DD--Habilitative. The Ombudsman is responsible for receiving and investigating the complaint.]**

- (g) "Intermediate care facility/developmentally disabled" [ICF/DD] means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

**[Ombudsman representatives are required to respond only to abuse complaints in ICF/DD. The Ombudsman is responsible for receiving and investigating the complaint.]**

- (h) "Intermediate care facility/developmentally disabled--nursing" [ICF/DD--Nursing] means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

**[Ombudsman representatives are required to respond only to abuse complaints in ICF/DD--Nursing. The Ombudsman is responsible for receiving and investigating the complaint.]**

**General Services Provided by ICFs:**

- Each resident accepted into an ICF must be under the care of a physician
- Nursing services that include restorative nursing and personal care.
- Treatment for minor illnesses
- Routine treatment for major disorders
- Pharmaceutical services
- Activity program
- Access to dental services
- Emergency Services

**Governing Laws and Regulations**

- California Code of Regulations, Title 22, Division 5, Chapter 4

These facilities are also eligible to participate in the Medi-Cal program if certified by the State for participation.

CDPH, Licensing and Certification Division is responsible for licensing ICFs and providing inspections to ensure compliance with licensing standards.

## **Adult Residential Facility (ARF)**

### **Definition**

Adult Residential Facilities (ARFs) provide 24-hour non-medical care and supervision to adults aged 18-59. Residents in these facilities are primarily developmentally disabled and are often clients of the Regional Centers or are mentally disabled and are clients of the Department of Mental Health.

**[Ombudsman representatives are required to respond only to elder abuse complaints in ARFs. The Ombudsman is responsible for receiving and investigating the complaint.]**

### **Governing Laws and Regulations**

- California Code of Regulations, Title 22, Division 6, Chapter 6

CCL is responsible for licensing ARFs and providing inspections to ensure compliance with licensing standards. CCL has district offices throughout California.

## **Adult Day Health Care (ADHC)**

### **Definition**

Adult Day Health Care is a community-based program designed to restore or maintain optimal capacity for self-care to frail elderly persons and other physically or mentally impaired adults. The primary goal of ADHC is to delay or prevent inappropriate or personally undesirable institutionalization. The program stresses partnership with the participant, the participant's family and the community in working towards maintaining or restoring personal independence. Generally, participants attend 2-3 days a week but may attend up to 5 days a week.

**[Ombudsman representatives are required to respond only to abuse cases in ADHCs. The Ombudsman is responsible for receiving and investigating the complaint.]**

### **Governing Laws and Regulations**

This type of facility is licensed as a health facility and is eligible to participate in the Medi-Cal program if certified by the State for participation.

- Health and Safety Code (licensure), Division 2, Chapter 3.3
- Welfare and Institutions Code (Medi-Cal), Division 9, Chapter 8.7
- California Code of Regulations (licensure), Title 22, Division 5, Chapter 10
- California Code of Regulations (Medi-Cal), Title 22, Division 3, Chapter 5



CDPH, Licensing and Certification Division is responsible for licensing ADHC. California Department of Aging (CDA), ADHC Section is responsible for Medi-Cal certification. CDPH and CDA are responsible for providing inspections to ensure compliance with licensing and Medi-Cal standards.

## Adult Day Program (ADP)

### Definition

The Adult Day Program is a community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

**[Ombudsman representatives are required to respond only to abuse cases in ADPs. The Ombudsman is responsible for receiving and investigating the complaint.]**

### Governing Laws and Regulations

- Health and Safety Code, section 1502 (a)(2)
- California Code of Regulations, Title 22, Division 6, Chapter 3

