



**Ombudsman Learning Collaborative to Protect Residents
Against Nursing Facility-Initiated Discharges**

Peer-to-Peer Roundtable

May 21, 2019, 12:00 – 1:30

Topic: Coordination with Legal Services

Successes	Challenges
MOU with Legal Assistance Developer	Securing legal representation for residents during the appeal process
Collaboration with Legal Assistance Developer (LAD)	Securing legal representation for residents with diminished capacity
Building new relationships with legal assistance providers (LAPs)	Need for cross training between the Ombudsmen and the attorneys at legal service providers
Coordinating systems advocacy	More training for Ombudsman programs to represent residents in hearings
In-house legal counsel	
Starting to track hearing outcomes by region and compare them to the reason for discharge	
Training for Administrative Law Judges (ALJs)	

Resources

Ombudsman Learning Collaborative webpage:

https://ltcombudsman.org/state_home/state_support/ombudsman-learning-collaborative

Collaboration with Legal Assistance Providers webpage:

https://ltcombudsman.org/omb_support/pm/Collaboration#legal

Ombudsman Programs and Legal Assistance Developers Collaboration Toolkit

https://ltcombudsman.org/omb_support/pm/collaboration/legal-assistance-developers-toolkit

Access to Justice for Residents of Long-Term Care Facilities: Opportunities for Collaboration between Legal Service Providers and Ombudsman Programs

<https://ltcombudsman.org/uploads/files/support/2013-winter-kurtzparker-long-term-care.pdf>

Discussion Questions

1. Some State Ombudsman Programs report having a strong relationship with legal services, but also report having difficulty with legal assistance providers taking discharge cases.
 - a. If your program encounters this, what is the reason given for not taking cases?
 - b. If your program overcame this barrier, could you share how?
2. How do you engage with legal services?
 - a. Individual cases - Are they more likely to assist residents with concerns other than discharges, such as financial exploitation or fighting a guardianship?
 - b. Systemic advocacy – Are they more likely to assist the Ombudsman Program with systems advocacy, including legislation?
3. Some of you indicated that residents primarily represent themselves in a hearing. What is the main reason for this?
4. Do you think the legal assistance providers in your area would be interested in cross training?
 - a. What do you think are the most needed training topics for attorneys? For Ombudsmen? (e.g., residents' rights, federal regulations on discharge, the hearing process, how to effectively advocate during a hearing, cross examination, Medicaid)
 - b. What kind of collaboration or support do you need to accomplish this? For those of you who conduct the training, would you share your experience?
5. Have the legal assistance providers in your state assisted with cases where residents are not allowed back into the facility after winning the appeal? If so, what was the outcome?
6. Several of you have indicated, to your knowledge, that Administrative Law Judges (ALJs) are not trained. What kind of collaboration or support do you need to work with the appropriate entity to ensure they receive training? For those of you who conduct the training, would you share your experience?
7. Several of you also indicated that your state has no mechanism in place to enforce a favorable appeal decision.
 - a. Are you tracking outcomes of hearings to be able to indicate how often residents are not allowed back into the facility after winning an appeal?
 - b. Would this issue need to be addressed legislatively or in Rule?
 - c. Would your state be open to addressing this problem?
 - d. For those of you who do have a mechanism in place, would you share the process?