



**The National Long-Term Care  
Ombudsman Resource Center**

# ***INITIAL CERTIFICATION TRAINING CURRICULUM FOR LONG-TERM CARE OMBUDSMAN PROGRAMS***

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**Module 1:** The State Long-Term Care Ombudsman Program:  
Roles, Responsibilities, and Authorities

*Updated May 2022*

# WELCOME AND INTRODUCTION

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## Section 1

# Welcome

- Your name
- Where you are from
- Name the “aha” moment that brought you here today
- What you hope to gain from this training



ANY  
QUESTIONS  
?

# Today's Agenda

Section 1: Welcome and Introduction (20 minutes)

Section 2: Overview & History of the Long-Term Care Ombudsman Program (15 minutes)

Section 3: Long-Term Care Ombudsman Program Requirements and Management (15 minutes)

Section 4: The State Long-Term Care Ombudsman Program (30 minutes)

-----**BREAK**----- (10 -15 minutes)

Section 5: The Long-Term Care Ombudsman Program Role and Responsibilities (60 minutes)

Section 6: Conflicts of Interest (10 minutes)

Section 7: Long-Term Care Ombudsman Program Ethics (30 minutes)

Section 8: Conclusion (15 minutes)

# Module 1 Learning Objectives

- The history of the program
- Laws and regulations pertaining to the Long-Term Care Ombudsman program (LTCOP)
- Program structure
- Training requirements
- Functions and responsibilities of the State Long-Term Care Ombudsman
- Duties of representatives of the Office of the State Long-Term Care Ombudsman
- The difference between individual advocacy and systems advocacy

# Federal Training Requirements

- A minimum of 36 hours of initial certification includes:
  - up to 7 hours of independent study
  - at least 10 hours in the field
  - 16-20 hours of classroom style training



# → State Training Requirements





Om • buds • man

ombudsman = representative of the Office = representative



State Long-Term Care Ombudsman = State Ombudsman = Ombudsman

# Module 1 Key Words and Terms

- Office of the State Long-Term Care Ombudsman = Office
- State Long-Term Care Ombudsman program = program
- State Long-Term Care Ombudsman Programs Rule = LTCOP Rule

# Trainee Manual

- A tool
- A resource



# OVERVIEW & HISTORY OF THE LONG-TERM CARE OMBUDSMAN PROGRAM

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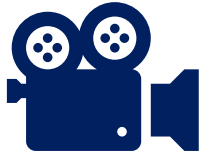
## Section 2

# What is an Ombudsman?

- Representative
- Advocate ombudsman







# “What is a Long-Term Care Ombudsman?”



# The State Long-Term Care Ombudsman

- State Ombudsman, Ombudsman
  - Head of the State Long-Term Care Ombudsman program responsible for:
    - ensuring all program requirements are fulfilled
    - ensuring representatives of the Office fulfill their duties
    - designating representatives of the Office and local Ombudsman entities



# Representatives of the Office

- Employees or volunteers
- Designated by the State Ombudsman
- Responsible for carrying out the duties of the program



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# → History of the Program



- **1970s**

- The program officially began in 1972 with implementation of President Nixon's 1971 Eight Point Initiative to improve nursing home care.
- The program started as a demonstration program to test its effectiveness. By the late 1970s, all states were required to have an Ombudsman program as a requirement of the Older Americans Act (OAA).

- **1980s**

- The program expanded to include board and care as well as other similar adult care facilities.
- Clarifying language was added to the OAA to ensure the program's access to long-term care facilities, residents, and records.

- **1990s**

- Title VII, the Vulnerable Elder Rights Protection Program, was created in the 1992 amendments to the OAA.
- The 1992 OAA amendments also included the creation of an Office of the State Long-Term Care Ombudsman and clarified some conflicts of interest.

- **2000s**

- The 2000 OAA amendments included specific language that prohibited Ombudsmen entities and representatives of the Office from financial gain through an action or potential action brought on behalf of individuals they served.

- **2006**

- Reauthorization added “Assisted Living Facilities” to the definition of “Long-term Care Facility” thereby requiring the LTCOP to provide services to residents of Assisted Living Facilities.

- **2015**

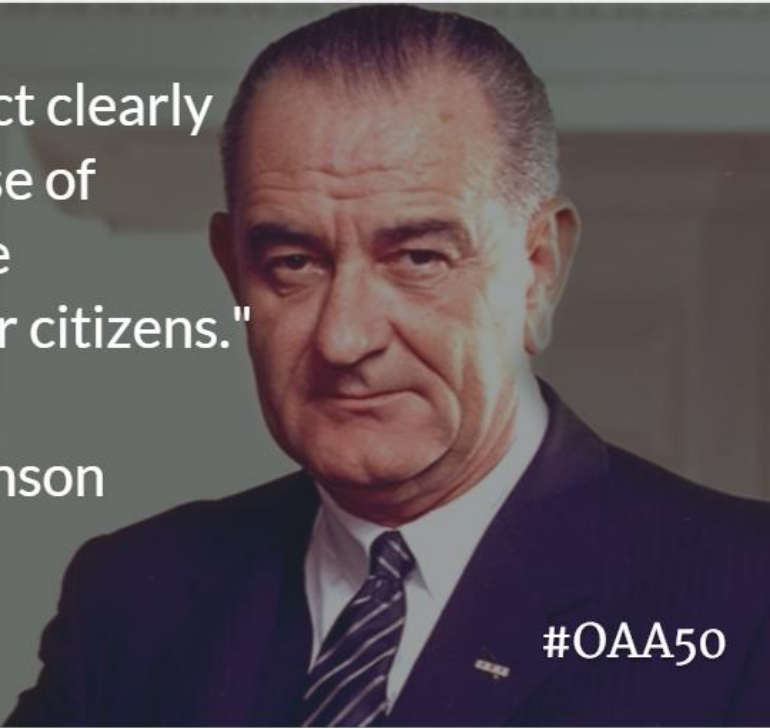
- The State Long-Term Care Ombudsman Programs Rule was published in February 2015 with an effective date of July 1, 2016. The LTCOP Rule adds clarity to many of the program responsibilities and provisions in the OAA.

- **2016**

- The 2016 OAA amendments added clarity and additional authority to the LTCOP in several areas.

- **2020**

- OAA reauthorization clarified that the LTCOP is allowed to provide, and financially support, recognition for individuals designated as volunteer representatives.

A portrait of President Lyndon B. Johnson, an older man with dark hair, wearing a dark suit, white shirt, and a striped tie. He is looking slightly to the left of the camera with a serious expression.

"The Older Americans Act clearly affirms our Nation's sense of responsibility toward the well-being of all our older citizens."

President Lyndon B. Johnson  
July 14, 1965

#OAA50

# **LONG-TERM CARE OMBUDSMAN PROGRAM REQUIREMENTS AND MANAGEMENT**

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## **Section 3**

# Federal Requirements for Designation

- Complete both state and federal training requirements
- Identify, remove or remedy all conflicts of interest
- Meet the criteria of certification and/or designation under your state's policies and procedures

# → **State Requirements for Designation**



# The Older Americans Act (OAA)

- Authorizes the State Units on Aging and the Area Agencies on Aging
- Allows for services and funding in every state to support the dignity and welfare of individuals who are 60 years of age and older. Some services include:
  - Home and community-based services
  - Nutritional programs
  - Health promotion and disease prevention activities for older adults
  - Programs that protect vulnerable persons, such as the Long-Term Care Ombudsman program

# Authorizes the State Ombudsman and the LTCOP

- Authorizes funding for the LTCOPs
- Authorizes the establishment of the Office
- Determines the functions and responsibilities of the Ombudsman
- Identifies the Ombudsman as the head of the State LTCOP, responsible for the management and fiscal management of the program
- Authorizes the Ombudsman and representatives of the Office to have regular, timely, private, and unimpeded access to residents and access to residents' records.
- Requires that all potential individual and organizational conflicts of interest are identified and remedied



# The State Long-Term Care Ombudsman Programs Rule (LTCOP Rule)

- Responsibilities of key figures, including the Ombudsman and representatives
- Responsibilities of the entities in which LTCOPs are housed
- Criteria for person-centered approaches to resolving complaints
- Role of LTCOPs in resolving abuse complaints
- Conflicts of interest

## → State Requirements

# Program Management

- **Federal**

- U.S. Department of Health and Human Services (HHS)
- Administration for Community Living (ACL)
- Administration on Aging (AoA)

- **State**

- State Unit on Aging (SUA)



- **Local**

- Area Agencies on Aging (AAA)
- Local Ombudsman Entities (LOE)



- **Local Ombudsman entities (LOEs) are required to:**
  - Refrain from having personnel policies or practices which prohibit representatives of the Office from performing the duties of the program
  - Be responsible for the personnel management, but not the programmatic oversight of representatives
  - Coordinate with the State Ombudsman when hiring representatives of the Office

- Allow the State Ombudsman to monitor the performance of representatives;
- Identify, remove or remedy all conflicts of interest
- Adhere to the Ombudsman's federal and state confidentiality and disclosure requirements.



# STATE LONG-TERM CARE OMBUDSMAN PROGRAM

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## Section 4

# State Long-Term Care Ombudsman Program

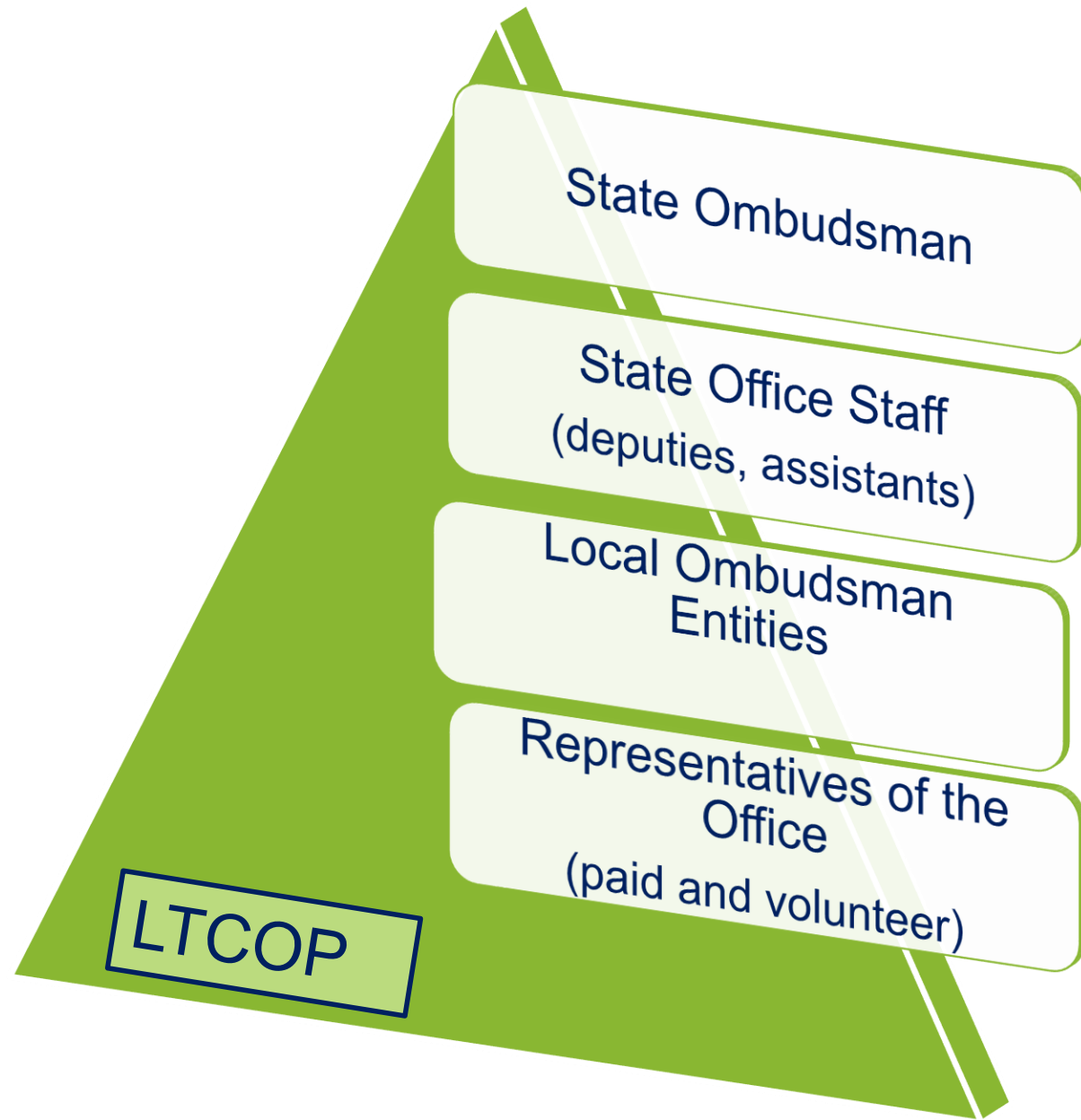
Ombudsman program

SLTCOP

Long-Term Care  
Ombudsman program

LTCOP

program



# Responsibilities

- Identifying, investigating, and resolving complaints
- Educating residents, their family and facility staff about residents' rights, good care practices, and similar long-term services and supports resources
- Ensuring residents have regular and timely access to Ombudsman services
- Providing technical support for the development of resident and family councils

- Advocating for changes to improve residents' quality of life and care
- Providing information to the public regarding long-term care facilities and services, residents' rights, and legislative and policy issues
- Representing resident interests before governmental agencies
- Seeking legal, administrative, and other remedies to protect residents

# Individual Advocacy

- Supporting a resident in advocating for a daily shower
- Addressing a resident's need to be assisted with eating slowly and in a quiet environment
- Helping a resident fight being discharged from the facility



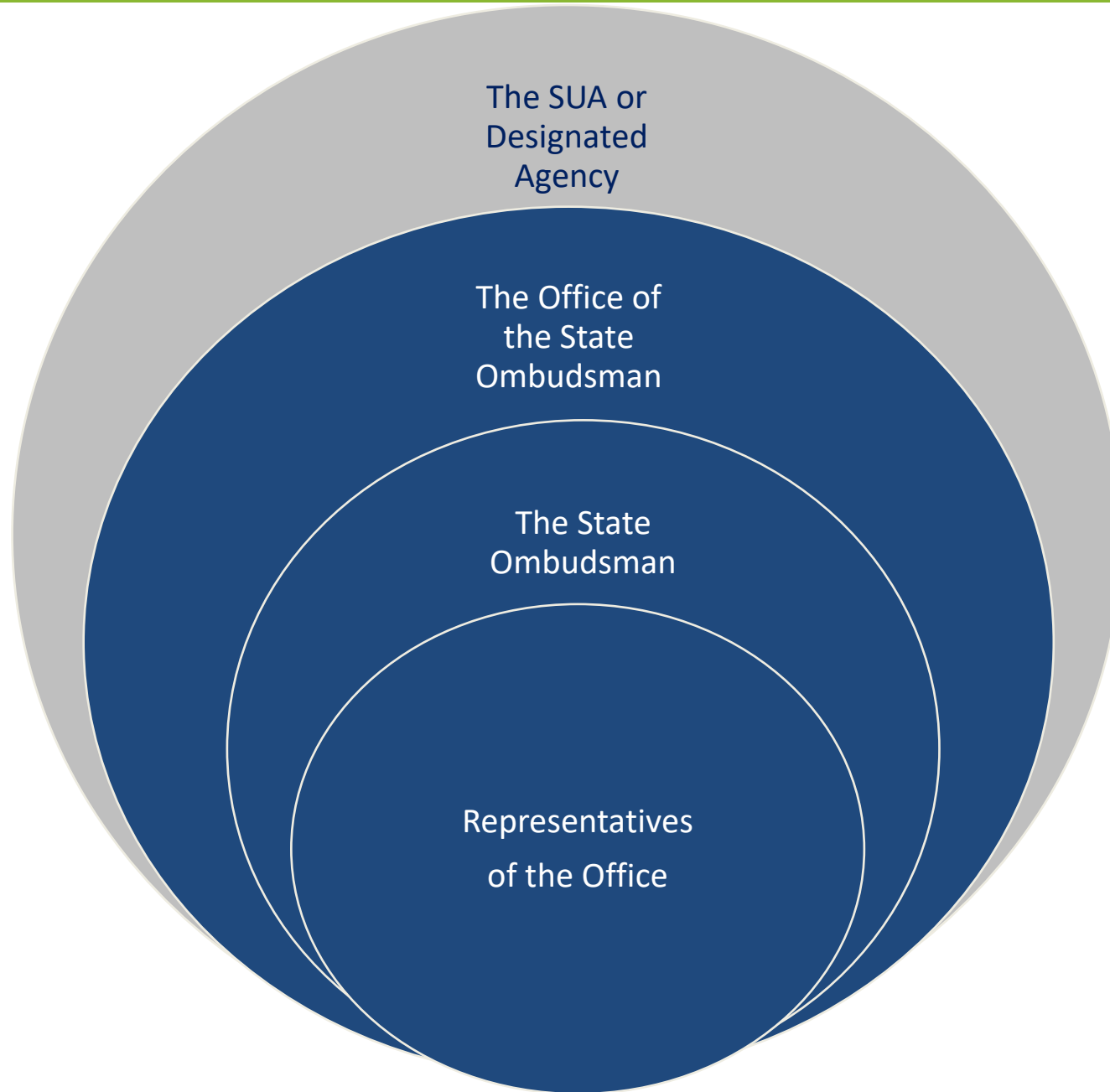
# Systems Advocacy

- Within the facility
  - Cold food complaints
  - Infection control complaints
  - Call lights not being answered
- Outside of the facility
  - Working to change discharge laws
  - Working to require facilities to have a generator

# **The Office of the State Long-Term Care Ombudsman (Office)**

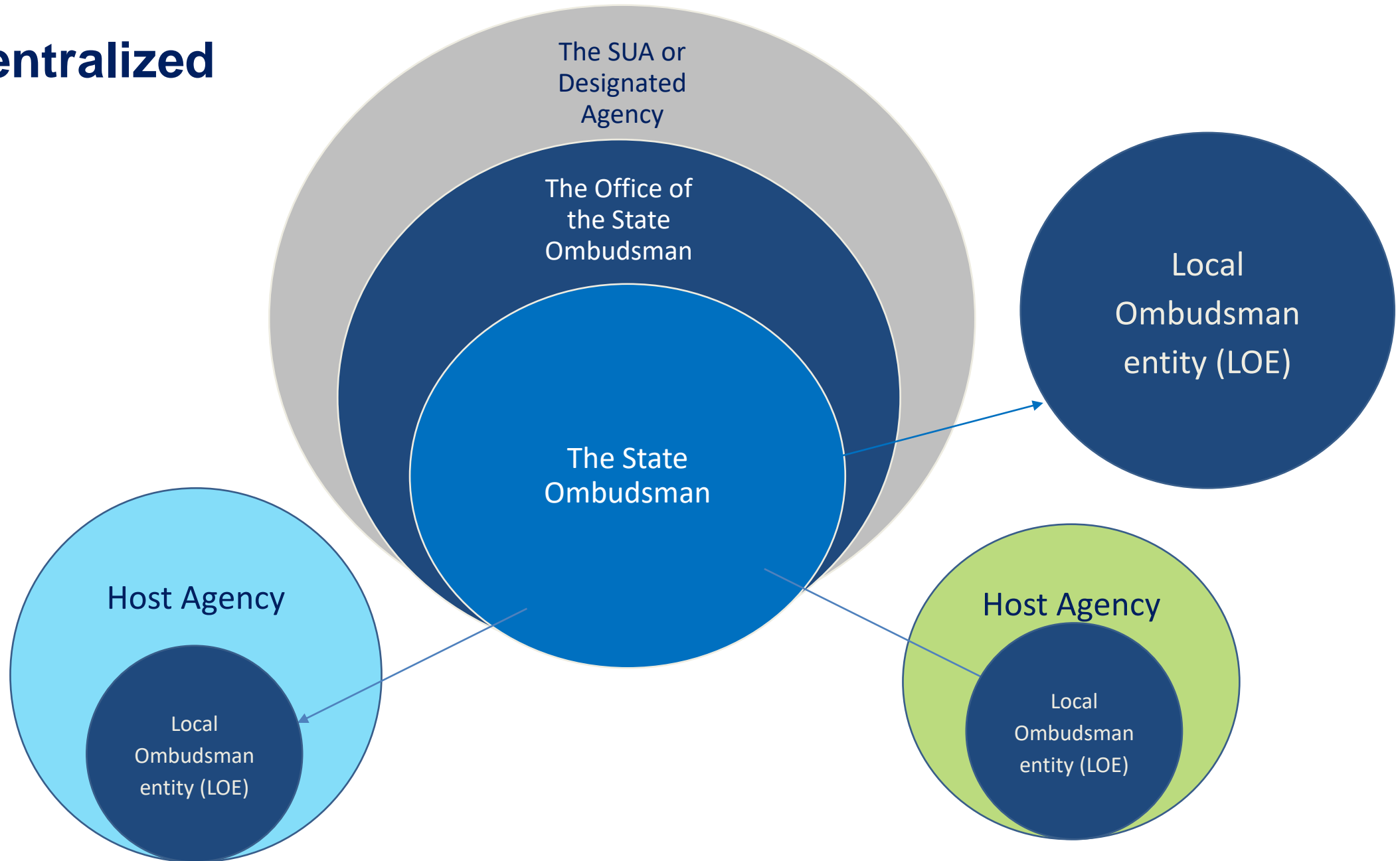
- Headed by a State Ombudsman
- Distinct and separately identified
- Carries out the functions and responsibilities in the OAA and the LTCOP Rule

# Centralized





# Decentralized



# LONG-TERM CARE OMBUDSMAN PROGRAM ROLE AND RESPONSIBILITIES

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Section 5



## Activity: Who are We?

- Investigator
- Judge
- Neutral
- Open-minded
- Social Worker
- Friend
- Mediator
- Facilitator
- Advocate
- Educator

Best Describes	May Describe	Does Not Describe



# Fact or Fiction? The LTCOP...

-Works in the best interest of the resident

Fiction



# Fact or Fiction? The LTCOP...

- Needs permission from the resident to discuss the resident's concerns with anyone

Fact



# Fact or Fiction? The LTCOP...

- Investigates allegations of abuse

Fact



# Fact or Fiction? The LTCOP...

- Acts as a neutral third-party

## Fiction





# Fact or Fiction? The LTCOP...

- Just stirs up trouble

Fiction





# Fact or Fiction? The LTCOP...

- Does not have the professional background or training necessary to understand the issues affecting residents living in long-term care facilities.

Fiction



# What do we do?

Functions, Responsibilities, and/or Duties	The Ombudsman (§ 1324.13)	Representatives of the Office § 1324.19
1. Establish or recommend policies, procedures, and standards for the administration of the LTCOP.	X	
2. Require representatives to fulfill the duties set forth in the LTCOP Rule and in accordance with state program policies.	X	
3. Determine designation, refusal, suspension, or removal of designation of LOEs and representatives.	X	
4. Monitor the performance of LOEs.	X	

Functions, Responsibilities and/or Duties	State Long-Term Care Ombudsman	Representatives of the Office
5. Establish training requirements for representatives.	X	
6. Has sole authority to determine disclosure of files, records, and other information maintained by the Office.	X	
7. Determine the use of fiscal resources appropriated and available for the operation of the Office and determine that program budgets and expenditures of the Office and LOEs are consistent with the laws, policies, and procedures governing the LTCOP.	X	
8. Provide administrative and technical assistance to representatives of the Office and agencies hosting LOEs.	X	

Functions, Responsibilities and/or Duties	State Long-Term Care Ombudsman	Representatives of the Office
9. Coordinate with and promote the development of citizen organizations consistent with the interests of residents.	X	
<p>10. Analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the state.</p> <p><i>*This language is specific to the Ombudsman per § 1324.13(a)(7)(i)</i></p>	X	

Functions, Responsibilities and/or Duties	State Long-Term Care Ombudsman	Representatives of the Office
11. Recommend any changes in laws, regulations policies, and actions as the Office determines to be appropriate; and facilitate public comment on the laws.	X	
12. Review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and facilitate the ability of the public to comment on the laws, regulations, policies, and actions. <i>*This language is specific to representatives of the Office per § 1324.19(a)(5)(i)</i>		X

Functions, Responsibilities and/or Duties	State Long-Term Care Ombudsman	Representatives of the Office
13. Identify, investigate, and resolve complaints made by or on behalf of residents and relate to action, inaction or decisions that may adversely affect the health, safety, welfare, or rights of residents.	X	X
14. Provide services to protect the health, safety, welfare, and rights of residents.	X	X
15. Inform residents about the means for obtaining LTCOP services.	X	X

Functions, Responsibilities and/or Duties	State Long-Term Care Ombudsman	Representatives of the Office
16. Ensure that residents have regular and timely access to the services provided through the LTCOP and that residents and complainants receive timely responses from the representatives of the Office to requests for information and complaints.	X	X
17. Represent the interest of residents before governmental agencies, assure that individual residents have access to, and pursue administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents.	X	X
18. Promote. provide technical support for the development of, and provide ongoing support as requested by the resident and family councils to protect the well-being and rights of residents.	X	X

# Fundamentals of the Long-Term Care Ombudsman Program

Empower

Ensure Confidentiality

Represent the Interests of Residents

Educate

Provide Resident-Directed Advocacy

Comply with Federal & State Laws, Regulations, and Policies

Document



# What Makes the LTCOP Unique?



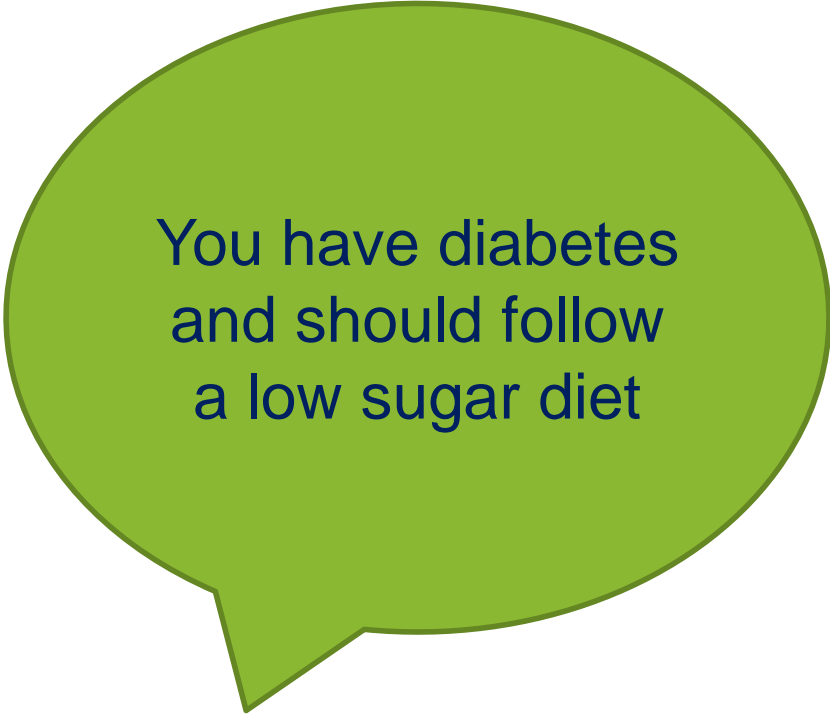
# Best Interest

- Best interest?
- It sounds nice....
- What is it?
- Who can tell me what is in **my** best interest?




# The LTCOP does NOT focus on best interest

- LTCOP *does not* make decisions for the resident.



You have diabetes  
and should follow  
a low sugar diet



It's not safe to  
live at home  
without services



You shouldn't  
smoke

The LTCOP does support and advocate on behalf of resident wishes, supporting the resident's right to self-determination.

You have diabetes and should follow a low sugar diet

You have a right to choose what to eat.

It's not safe to live at home without services

No one can keep you in the facility against your will. What can be done to assure you will be safe when you go home?

You shouldn't smoke

If the facility allows smoking, and you wish to smoke, let's talk to the staff to try and make that happen.




# Mandated Reporters

- Sounds important!
- Sounds like something we should do...
- Actually, No!
- What do you mean we are not mandated reporters?



- Representatives **are not allowed** to report suspected abuse, neglect, and exploitation of a resident without permission to do so.

A decorative graphic consisting of several overlapping, semi-transparent green triangles and quadrilaterals, creating a layered, geometric effect. It is positioned to the left of the text block.

REPRESENTATIVES ARE REQUIRED TO ACT ON  
BEHALF OF A RESIDENT PER RESIDENT'S WISHES  
AND DIRECTION. REPORTING WITHOUT  
PERMISSION FROM THE RESIDENT DISCREDITS  
THE INTEGRITY OF THE PROGRAM AND DAMAGES  
THE REPRESENTATIVE-RESIDENT RELATIONSHIP.

# Resident-directed

A daughter calls the LTCOP and says her mother, Olga, gets terrible care and never gets her showers as scheduled. The representative visits Olga and Olga says that her daughter worries too much, and she has no concerns with her care. However, Olga complains the food is often cold and asks the representative to talk to the dietary manager about the problem.



The LTCOP worked with Tonya about concerns of staff and residents verbally abusing her because of her sexual orientation. The LTCOP provided training on rights and abuse. With the help of the LTCOP, Tonya filed a complaint with the state agency responsible for investigating long-term care facilities and the results showed evidence of verbal abuse. While the verbal abuse stopped, she still feels uncomfortable around certain people. The LTCOP continues to work with Tonya towards her feeling more comfortable in the facility.

## Resident's Satisfaction





# Who are we?

- Investigator
- Judge
- Neutral
- Open-minded
- Social Worker
- Friend
- Mediator
- Facilitator
- Advocate
- Educator

Best Describes	May Describe	Does Not Describe
Advocate	Mediator	Friend
Open-minded	Neutral	Judge
Investigator		Social Worker
Facilitator		
Educator		

# CONFLICTS OF INTEREST

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## Section 6

# What are Conflicts of Interest?

- An attorney representing an individual who is suing a company in which the attorney has investments
- A doctor's relationship with a drug company that influences what medication is prescribed
- Hiring a relative who is not qualified for the job

# Conflicts of Interest

- Individual
- Organizational

All perceived or actual conflicts of interest are required to be identified, removed, or remedied.



# Individual Conflicts of Interest

- The State Ombudsman
- Representatives of the Office
- Members of their immediate family



- Involvement in licensing or certification of a long-term care facility
- Owning or investing in a long-term care facility
- Employment by a long-term care facility
- Receipt of, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility

- Accepting gifts or gratuities from a facility, a facility staff member, a resident or a resident's decision-maker
- Accepting money, or other considerations from anyone other than the Office, or an entity approved by the Ombudsman, for conducting your duties as a representative without the Ombudsman approval



- Serving as a legal decision-maker for a resident to whom you provide Ombudsman services
- Serving residents of a facility where your immediate family member resides





## → Individual Conflicts of Interest

My step-mother resides in the facility where I am assigned, but we haven't talked in years, so I don't think it is a conflict of interest.

I worked in the facility where I am assigned for only 2 months and it was 2 years ago. I left on good terms, so I don't see a conflict of interest.

I own a licensed group home and would like to become a representative of the Office.

I license and inspect assisted living facilities, but would like to volunteer as a representative of the Office in my spare time.

# Organizational Conflicts of Interest

- An organizational conflict of interest is a situation in which two entities have duties or responsibilities that may directly or indirectly influence their own interests.

The agency hosting the LTCOP where I work has a nursing home administrator on their Board of Directors and the administrator votes on our local Ombudsman budget. Is this a conflict?

# LONG-TERM CARE OMBUDSMAN PROGRAM ETHICS

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Section 7

# Ethics

- Based on individual and social beliefs about what is or is not acceptable behavior.



# Stay in Your Lane

## LTCOP Lane

- ☐ Getting help
- ☐ Coordinating
- ☐ Facilitating
- ☐ Changing laws
- ☐ Changing policies
- ☐ Providing training
- ☐ Pointing out problems



## Not Your Lane

- ☐ Providing care
- ☐ Feeding residents
- ☐ Pushing residents in their wheelchairs
- ☐ Telling facility staff how to do their jobs
- ☐ Policing

# Ethical Dilemmas

- June
- Jack
- Billie



# June



June asks you to pour her a glass of water because her throat is dry. The water pitcher and cup are on her bed-side table, but out of her reach.

She's thirsty and can't reach her water but who is responsible to get the water for her? Does she have fluid restrictions? Does she have difficulty swallowing?

Response - *"I'd be happy to ask a staff member to assist; is that okay with you?"*

# Jack



You are talking to Jack in a public area, but he wants to talk in private. He uses a wheelchair and cannot push himself down to his room. He asks you to do so.

He needs help with his wheelchair and wants to talk privately with a representative, which is his right to do so. Who is responsible for taking him to his room?

Response - *“If you are okay with it, I’d be happy to ask a staff member to assist you; I am not allowed to push residents in their wheelchairs.”*

# Billie



During a visit in Billie's room, she tells you she's chilly and asks you to get her sweater out of her closet and help her put it on.

She is uncomfortable and wants her sweater but is it okay for the representative go through her closet even at her request? Who is responsible for assisting her with dressing?

Response - *"I'd be happy to ask a caregiver to assist you; is that okay with you?"*

# Consider

- Is the request within the scope of my duties as a representative of the Office (Is it my job/role/responsibility to fulfill this request)?
- Who else might be responsible for conducting the actions I am being asked to fulfill?
- Is there potential harm that could be done to the resident if I personally act on the request?
- What can I do to assist the resident without overstepping the boundaries of the program?

# Who does the LTCOP represent?



=





# Who does the LTCOP represent?



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Stella complains that meals served in her room are cold, and asks you to sample the food to see if you agree.



Kai is at risk of choking but wants to eat all meals alone in his room. He is not comfortable eating in the dining room and doesn't want a staff member in his room "babysitting" him. Kai asks you for help with convincing the staff to let him eat in his room.





# Code of Ethics for the Long-Term Care Ombudsman

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 choices.
2. The Ombudsman respects and promotes the client's right to self-determination.
3. The Ombudsman makes every reasonable effort to ascertain and act in accordance with the client's wishes.

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

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

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.

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 organization.

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

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

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

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

12. The Ombudsman shall conduct himself/herself in a manner that will strengthen the statewide and national Ombudsman network.

# CONCLUSION

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Section 8

# Module 1 Questions

## *True or False?*

1. The authority of the LTCOP comes from the Older Americans Act.

✓True

2. Representatives of the Office are required to fulfill the duties set forth in the Older Americans Act, the LTCOP Rule and the policies and procedures set forth by the Office and the State Unit on Aging.

✓True

## ***True or False?***

3. The Office of the State Long-Term Care Ombudsman is a distinct entity, separately identifiable from the State Unit on Aging or another hosting agency.

✓True

4. Only the State Ombudsman has the authority to designate, refuse to designate, or suspend or remove designation of a representative of the Office or a Local Ombudsman Entity, unless the State Unit on Aging overrules the State Ombudsman's decision.

✓False

## ***True or False?***

5. My father just started working as a maintenance man in an assisted living facility. I don't visit that particular facility, so I don't need to report it as a conflict of interest.

✓False

6. The facility reached out to me and asked if I would volunteer to help take residents to activities every Tuesday. I noticed during my regular visits as a volunteer representative that residents miss activities because no one is able to take them to scheduled activities, so, I agreed to do so. It is not a conflict of interest because I volunteer as a representative on Fridays.

✓False



Determine if the following requests to the LTCOP are appropriate or inappropriate:

A. Mr. Lopez has uncontrolled diabetes and is morbidly obese. Against the doctor's recommended diet, he wants to eat the desserts that the other residents without diabetes are served. He asks you to talk to the dietary manager about getting the same desserts as everyone else.

✓Appropriate

B. The facility social worker contacts the LTCOP and asks for help finding a facility for a resident who is causing "problems."

✓Inappropriate

C. Mrs. Thompson complains that she is lonely and asks you to stay longer to keep her company and look through her photo albums with her.

✓ Inappropriate

D. Mrs. Cohen tells the LTCOP she would like to go to Temple every week. Mrs. Cohen states that she heard “The Ride” program takes two fellow residents, but she needs assistance to fill out the application and submit it. With Mrs. Cohen’s permission, the LTCOP asks the social worker to help the resident complete the application.

✓ Appropriate

E. Mr. Clark wants your help to convince the facility staff that he should be allowed to take a shower every morning. The facility says they are concerned they don't have enough staff to allow for Mr. Clark or anyone else to shower daily and asked "what would happen if all of the residents wanted to take a shower every morning?" The staff member asks you to talk Mr. Clark out of his request.

- ✓ This is an appropriate request from the resident, but an inappropriate request from the staff member. The LTCOP can assist a resident with the right to choose to shower daily. However, the LTCOP would not attempt to talk the resident out of something that is his right, as the staff member has requested.

**QUESTIONS?**

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# ADDITIONAL RESOURCES

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Refer to your trainee manual for other sources of information related to topics discussed in this module.

# Contact Information

- INSERT PRESENTER CONTACT INFORMATION



# The National Long-Term Care Ombudsman Resource Center

## The National Long-Term Care Ombudsman Resource Center (NORC)

[www.ltcombudsman.org](http://www.ltcombudsman.org)

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