



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

INITIAL CERTIFICATION TRAINING CURRICULUM FOR LONG-TERM CARE OMBUDSMAN PROGRAMS

Module 4: Long-Term Care Settings, Residents' Rights, and Enforcement

WELCOME AND INTRODUCTION

Section 1

Welcome

- Your name
- Where you are from
- One thing you learned from Module 3
- What you hope to learn since the last module



ANY
QUESTIONS
?

Today's Agenda

Section 1 – Welcome and Introduction (15 minutes)

Section 2 – Long-Term Care Settings (20 minutes)

Section 3 – Who's Who in Long-Term Care Facilities (30 minutes)

Break (5-10 minutes)

Section 4 - Residents' Rights in Nursing Facilities (60 minutes)

Break (5-10 minutes)

Section 5 – Regulatory Process for Nursing Facilities (30 minutes)

Section 6 – Residents' Rights in RCCs and the Regulatory Process

Section 7 – Conclusion (15 minutes)

Module 4 Learning Objectives

- Long-term care settings
- Staffing in long-term care
- Residents' rights in long-term care facilities
- How the Ombudsman program can help when rights are violated
- Residents' rights in residential care communities
- Regulatory process

LONG-TERM CARE

Section 2

Long-Term Services and Supports



Paying for Long-Term Services and Supports

Resident Funds

- Social Security
- Pensions
- Insurance
- Other Income

Government Payer Sources

- Veterans' Assistance
- Medicare
- Medicaid
- HCBS Waiver

Veterans' Assistance

Benefits include

- Nursing and medical care
- Physical therapy
- Activities of daily living
- Pain management

Settings include

- RCCs
- Nursing Facilities
- Adult day homes
- Home



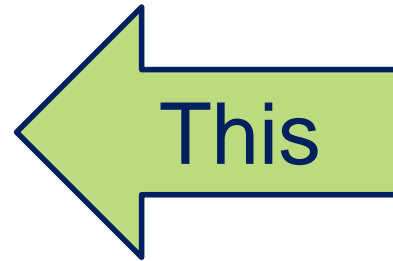
Medicare – Federal Funds

- Skilled care
- Qualifying stay & criteria
- Limited coverage

Medicaid – State & Federal Funds

- Long-term care
- Income-based
- Payer of last resort

Medicaid Home and Community-Based Services (HCBS) Waiver Programs



Skilled Nursing Facility or Nursing Facility



Medicare

Medicaid

Federal



- ☐ Certified
- ☐ Medicare
- ☐ Medicaid
- ☐ Federal regulations

State



- ☐ Licensed
- ☐ State regulations

Skilled Care

- Physical Therapy
- Wound Care
- Speech Therapy
- IV Medication

Long-Term Care

- Bathing
- Grooming
- Walking and exercise
- Medication Management

→ Residential Care Communities

Assisted living

Board and care

Congregate care

Enriched housing programs

Homes for the aged

Personal care homes

Adult foster/family homes

Shared housing establishments



Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)

Critical Access Hospitals (CAH)



Continuing Care Retirement Communities (CCRC)

Palliative Care

- Provided by the facility
- Provides comfort care
- Can begin at diagnosis
- Anyone with a serious and/or chronic illness
- Works with the resident, family, doctors
- Provides medical, social, emotional, & practical support



Hospice Care

- Provided by a hospice agency
- Provides comfort care
- Begins after treatment is stopped
- For terminally ill people
- All attempts to cure the illness stop

Home and Community Based Services (HCBS)



WHO'S WHO IN LONG-TERM CARE FACILITIES

Section 3

→ Key Staff in Nursing Facilities

- Administrator
 - *Manager, Director
- Director of Nursing (DON)
- Assistant Director of Nursing (ADON)
- Charge Nurse
- Certified Nursing Assistant (CNA)
- *Non-Certified Attendant, Assistant, or Caregiver





- MDS Coordinator
- Care Plan Coordinator
- Social Worker or Social Services Director
- Activities Director
- Dietary Manager or Director of Food Services
- Physical, Speech, and Occupational Therapists

- Laundry Supervisor
- Housekeeping Manager or Director of Housekeeping
- Maintenance Supervisor
- Business Office Manager
- Admissions Coordinator



- Medical Director
- Pharmacist Consultant
- Other Personnel



Call lights not being answered

Residents are bored

Cold food

Sticky floors

Poor staff attitudes towards residents

Broken sink

Soiled laundry in the resident's room

Not included on shopping trips

Resident's bill

CNAs waking residents at 4:00 AM



Administrator

DON

Charge nurse

Maintenance supervisor

Activities director

Housekeeping manager

CNA

Business office manager

Social service director

Dietary manager

→ **State Requirements for Staffing in Nursing Facilities**

Federal Nursing Facility Staffing Requirements

- One Registered Nurse (RN)
 - the DON may serve as the 1 RN on duty if the facility has fewer than 60 beds
- One licensed nurse on duty for evening and night shifts
- A sufficient level of additional staff, including CNAs

RESIDENTS' RIGHTS IN NURSING FACILITIES

Section 4

Ombudsman Program Role and Residents' Rights

- Educate
- Advocate
- Empower
- Clarify residents' rights
- Help residents exercise their rights

A Voice for Residents in Long-Term Care

Individuals lose “all”, “some”, or “none” of their rights when they move into a nursing facility?

Individuals lose none of their rights when they move into a nursing facility.

True or False? Long-term care residents are afforded additional rights under federal law.

TRUE

Federal Nursing Home Requirements

- Describes residents' rights
- Describes required actions and responsibilities
- State survey agency
- State surveyor

Residents' Rights

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility.

A facility must:

- Treat each resident with dignity and respect
- Care for each resident in a manner that promotes quality of life
- Recognize each resident's individuality
- Protect and promote the rights of the resident
- Provide equal access to care

Exercise of Rights

The resident has a right to exercise their rights as a resident and as a citizen of the United States.

A facility must:

- Ensure the resident can exercise their rights without interference, coercion, discrimination, or reprisal
- Support the resident in exercising their rights

Staff do not knock or
get permission to
enter a resident's
room



A staff member stands
over Mary when they
assist her with eating
and refer to her as a
“feeder.”

Planning and Implementing Care

The resident has the right to be informed of, and participate in, their treatment, including the right to:

- Be fully informed of their health status and medical condition in a language they can understand
- Participate in the development and implementation of their person-centered plan of care

Margaret



- Margaret is scared and uncomfortable with male CNAs. She hit one aide, but nothing is addressed in the care plan.

Dan



- Dan repeatedly says he wants to move out of the nursing facility and into the assisted living where his wife resides, but his goal is not included in the care plan.

Choice of Attending Physician

The resident has the right to choose their attending physician.



Tony was automatically assigned the facility's medical director as his physician when he entered the facility. He was not given the choice to use his own doctor whom he has seen for 20 years.

Respect and Dignity

The resident has a right to be treated with respect and dignity, including the right to:

- Be free from physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms
- Retain and use personal possessions
- Receive services in the facility with reasonable accommodation of resident needs and preferences

- Share a room with a spouse or another resident when both individuals live in the facility and both consent to the living arrangement
- Receive written notice, including the reason for the change, before the resident's room or roommate in the facility is changed

Dorothy is new to the facility and has some problems with her memory. She was found in the facility kitchen one night so the facility put a chair alarm on her recliner and tells her she can't leave her room.

Diane and Denise developed a same-sex relationship while living in the facility and want to share a room. Both have decisional capacity. There is an open room, but the facility will not let them move in together because Diane's son refuses to agree to the arrangement.

Self-Determination

The resident has the right to, and the facility must promote and facilitate, resident self-determination through support of resident choice including, but not limited to, the right to:

- Choose activities, schedules, health care and providers consistent with their interests, assessments, and plan of care
- Make choices about important aspects of their life in the facility
- Interact with members of the community and participate in community activities both inside and outside the facility
- Receive visitors of their choosing at the time of their choosing

- Deny visitors
- Immediate access to representatives
- Organize and participate in resident and family groups
- Participate in other activities, including social, religious, and community activities
- Choose to or refuse to perform services for the facility
- Manage their financial affairs

Marie said she is bored and wants to feel useful. She has asked staff if she can help around the facility, such as folding napkins, or helping the Activity Director with setting up activities, but was told no because they can't allow residents to "work" in the facility.



Staff are waking residents at 4:00 a.m. to get ready for their day. During the resident council meeting, residents complained and said they don't want to get up that early.

Information and Communication

The resident has the right to be informed of their rights and of all rules and regulations governing resident conduct and responsibilities during their stay in the facility.

The resident has the right to access their personal and medical records.

- When accessing records, the facility is required to provide the information in the form or format requested (if available) within 24 hours, excluding weekends.
- The resident has a right to obtain a copy of their records within 2 working days of request.

The resident has a right to send and receive mail. The facility must protect and facilitate residents' right to communicate, including reasonable access to:

- A telephone
- The internet (where available)
- Stationery, postage, writing implements and the ability to send mail

The resident has the right to have reasonable access to and privacy in their use of electronic communications such as email and video communications and for Internet research.



Mae asked to see her records but was told that they are all in electronic form and no one has time to sit with her and go through them.



George can only visit his daughter via video calls because she lives in another state. When he asks to use the residents' computer, he is always told it is not working properly or that someone else is using it. George hasn't talked to his daughter in months.

Privacy and Confidentiality

The resident has a right to personal privacy and confidentiality of their personal and medical records.
Personal privacy includes:

- Accommodations
- Medical treatment
- Written, telephone, and electronic communications
- Personal care
- Visits
- Meetings of family council and resident council

You walk by Sara's room and notice that she is sleeping and completely exposed from the waist down.

You are visiting Velma, a resident whom the facility has described as a "chronic complainer." Staff have come in and out of her room several times during your visit. Velma expressed her annoyance with the interruptions.

You are talking to Mike in his room when the CNA comes in to provide personal care to Matt, his roommate. The aide does not pull the curtain and does nothing to seek privacy for Matt.

Safe Environment

The resident has a right to a safe, clean, comfortable and homelike environment including, but not limited to, safely receiving treatment and supports for daily living.

A puddle of liquid is
in the middle of the
hallway.



The night shift staff
leaves dirty food trays
in the hallway for
hours after dinner is
served to residents in
their rooms.

Grievances

The resident has the right to voice grievances to the facility or other agency or entity that hears grievances without discrimination or reprisal and without fear of discrimination or reprisal.



During your last visit, Connie asked for your help with a concern. At the next visit, Connie said staff treat her differently now after talking to you. Connie said staff are rude and ignore her requests for help.



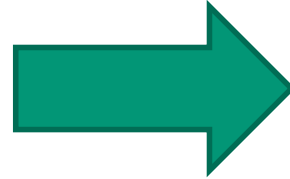
Mark stated he has complained several times about cold food but feels like he is getting the run-around from staff.

Contact with External Entities

A facility must not prohibit or discourage a resident from communicating with federal, state, or local officials.

- Federal and state surveyors
- Other federal or state health department employees
- Representatives of the Office
- Any representative of the protection and advocacy systems as designated by the state
- Any representative of the agency responsible for the protection and advocacy systems for individuals with mental illness.

James told the facility that he wants to talk to the surveyor during the investigation, but the facility does not inform the survey agency of his wishes.



Explain James' right to talk to the surveyor and give him the number to the state survey agency so he can speak to a surveyor.



Freedom from Abuse, Neglect, and Exploitation

The resident has the right to be free from abuse, neglect, misuse of resident property, and exploitation.

This includes, but is not limited to, freedom from physical punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.

Joan complains that the aides are rough with her while providing care.



Discuss Joan's right to have care provided in a manner that does not result in pain and offer to talk to the supervising nurse.



Admission, Transfer, and Discharge

The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless one of the six reasons for transfer or discharge exist.

Residents have the right to receive a 30-day written notice of a facility-initiated transfer or discharge.

Reasons for transfer or discharge

- The resident's welfare and the resident's needs cannot be met in the facility
- The resident's health has improved sufficiently so the resident no longer needs the services provided by the facility
- The safety of individuals in the facility is endangered due to the clinical or behavioral status of the resident
- The health of individuals in the facility would otherwise be endangered
- The resident has failed to pay for a stay at the facility
- The facility ceases to operate

QUESTIONS?

REGULATORY PROCESS FOR NURSING FACILITIES

Section 5



CMS

- Centers for Medicare and Medicaid Services

SSA

- State Survey Agency
- (insert your SSA here)

Surveys

- Standard Survey
- Abbreviated Standard Survey

Standard Survey

Every 9-15 months

State and Federal Regulations
are met

Notify the LTCOP

→ **Add State-Specific Information here**

Survey Team

- Registered nurses
- Nutritionists
- Sanitarians
- Environmental specialists
- Other professionals



- Unannounced
- Hold a brief entrance conference
- Surveyors go to assigned areas
- Call the LTCOP



During the Survey

- ✓ **ALL residents** are screened and observed
- ✓ Resident Representative interviews conducted
- ✓ Records are reviewed
- ✓ Mealtime observation
- ✓ Infection control checked
- ✓ Medication passes observed
- ✓ Staffing – sufficient? competent?
- ✓ Concerns are identified and investigated



Resident Meeting

- Permission from the Resident Council President
- Observe the meeting
- Support residents



→ **Add State-Specific Information here**



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Life Safety Code

- Physical Structure
- Electrical systems
- Fire code compliance



→ Add State-Specific info on Abbreviated Standard Survey

- Complaint investigation
- Unannounced

- Substantiated or unsubstantiated
- Failed to meet any of the regulatory requirements
- Practice or procedure that led to the complaint has been changed to achieve compliance



RESIDENTS' RIGHTS IN RESIDENTIAL CARE COMMUNITIES AND THE REGULATORY PROCESS

Section 6

Similar

- Older Adults
- Services
- Resident Characteristics
- Loss & Grief

Different

- No Federal Regulations
- Less Training
- Setting
- Mental or Behavioral Needs

Residential Care Communities

LTCOP approaches

- Resident agreement or contract
- Connection with provider
- Communication skills



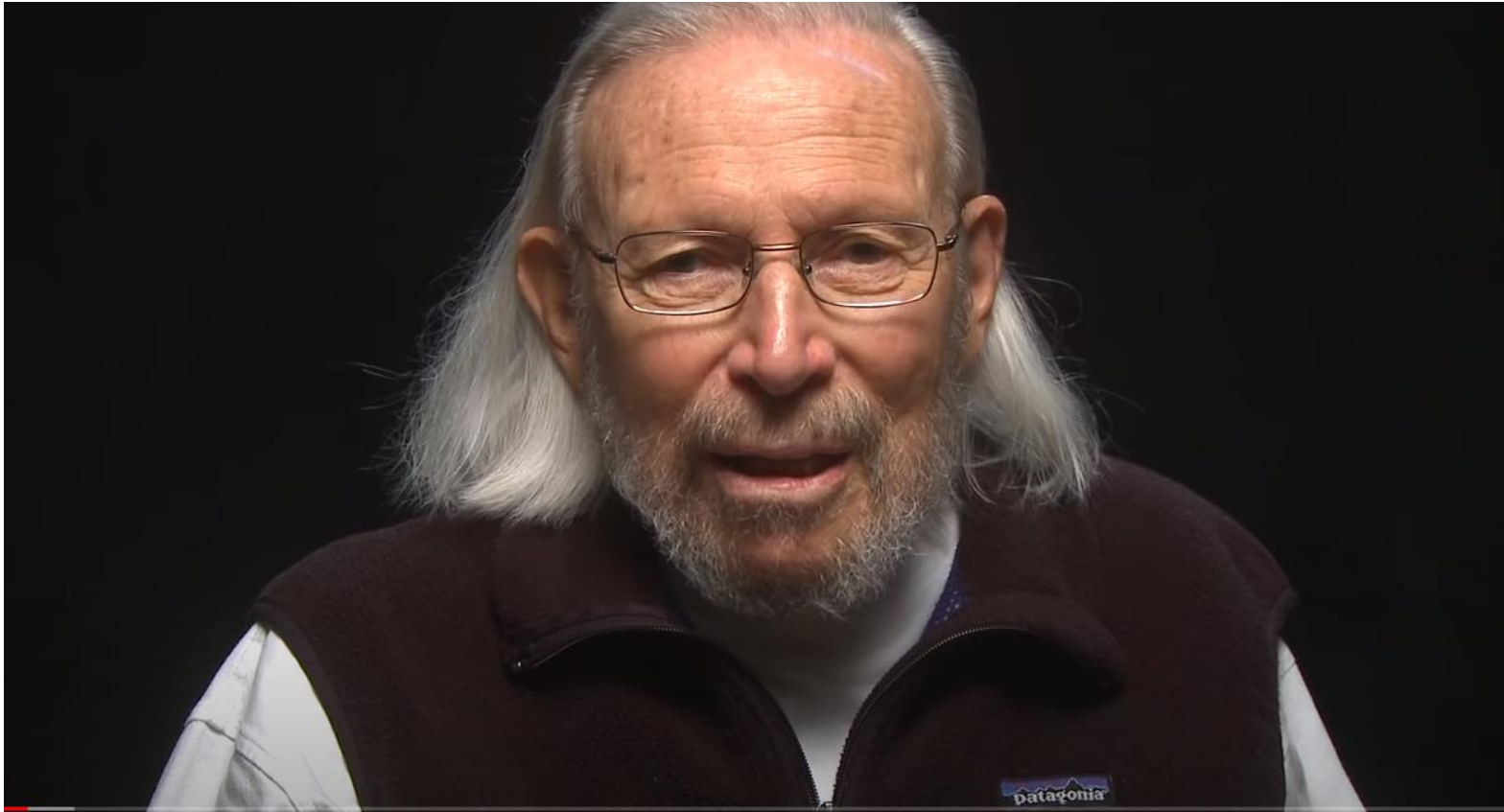
→ **State-Specific RCC Information**

→ **State-Specific HCBS**

Home and Community-Based Services

- The HCBS Settings Rule requires that all home and community-based settings meet certain qualifications.
- The HCBS Settings Rule includes additional requirements for provider-owned or controlled home and community-based residential settings.

The Thin Edge of Dignity



CONCLUSION

Section 7

Module 4 Questions

1. The LTCOP advocates for quality of _____ and quality of _____ for people who live in nursing facilities and _____.
2. Name three rights all residents have and explain how you might advocate when they are violated.
3. A nursing home changed breakfast time from 8:00 to 7:00 a.m., but a group of residents don't want to get up that early. Do residents have a say in the time change?

4. A resident tells you they want to watch television in the living room of their assisted living in the late hours of the evening. The manager said no because the TV must be off at 8:00 p.m. because it keeps other residents awake.

Who does the LTCOP represent, the complainant or those who go to bed at 8:00 p.m.?

5. Name one thing a state surveyor looks at when they enter the facility for a standard survey.

6. True or False? Surveyors are required to notify the LTCOP after entering an RCC.

QUESTIONS?

ADDITIONAL RESOURCES

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.ltombudsman.org

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