



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

INITIAL CERTIFICATION TRAINING CURRICULUM FOR LONG-TERM CARE OMBUDSMAN PROGRAMS

Module 5: Access & Communication

WELCOME AND INTRODUCTION

Section 1

Welcome

- Your name
- Where you are from
- One thing you learned from Module 4
- What you hope to learn since the last module



ANY
QUESTIONS
?

Today's Agenda

Section 1: Welcome and Introduction (15 minutes)

Section 2: Access (45 minutes)

-----BREAK----- (5-10 minutes)

Section 3: Confidentiality & Disclosure of Ombudsman Program Information (30 minutes)

-----BREAK----- (5-10 minutes)

Section 4: Communication Strategies (45 minutes)

Section 5: Conclusion (15 minutes)

Module 5 Learning Objectives

- Ombudsman program authority to access:
 - Long-term care facilities
 - Residents
 - Records
- What to do when access is denied
- What information you can and cannot disclose
- Communication strategies

ACCESS

Section 2



Resident
(Right)

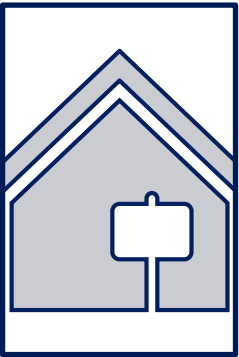


Ombudsman program
(Authority)

ACCESS

**→ State-Specific Regulations for Residents to
Access the Ombudsman Program**

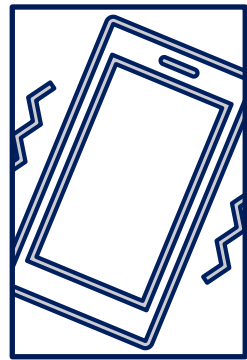
Nursing Facilities Must



Provide immediate access



Allow the LTCOP to
examine resident records



Not prohibit or discourage
residents from
communicating with the
LTCOP

The diagram consists of a large light gray rectangle on the left, divided into three horizontal sections. The middle section is a darker gray and contains the text 'LTCOP'. To the right of this middle section is a large white arrow pointing right, with the word 'ACCESS' written inside it. To the right of the arrow is a light gray rectangular area containing a list of four items: 'Facilities', 'Residents', 'Contact information for resident representatives', and 'Records'.

LTCOP

ACCESS

Facilities
Residents
Contact information
for resident
representatives
Records



HIPAA

The Health Insurance Portability and Accountability Act

Ombudsman program = health oversight agency

The facility, upon request, may share with the Ombudsman

- Resident's medical, social, other records
- List of resident names & room numbers
- The name and contact information of resident representatives

When does the Ombudsman Program Review Resident Records?

- Informed consent is obtained
- Consent is documented
- Access to records is necessary



Informed consent must...

- Come from a resident or resident representative **AND**
- Be given in writing, orally, visually, or through auxiliary aids and services.

Consent is documented...

- Per LTCOP policies (e.g., form or case notes)
- At the time the consent is given **AND**
- In the LTCOP resident's case file

Access to records is necessary to investigate the complaint **and** the resident is unable to communicate informed consent **and...**

- The resident representative refuses to consent **AND**
- The resident representative is not acting in the best interest of the resident **AND**
- **Approval is obtained from the State Ombudsman**

Access to records is necessary to investigate the complaint **and...**

- the resident is unable to communicate informed consent **and has no resident representative** then follow your program's policies and procedures.

→ Include your program's policies and procedures on accessing records when a resident is unable to communicate informed consent and has no resident representative.

- If access to resident records is necessary to investigate a complaint and the resident cannot communicate informed consent – What do you do?
 - Obtain consent from the resident representative
- What if the resident representative says no?
 - If the LTCOP believes the resident representative is not acting in the resident's best interest **and** you have permission from the State Ombudsman
 - **You may access the resident's records**



Consent not required to view:

- Activity calendar
- Current state survey/inspection results
- Facility admission contract
- Facility policies, especially those related to residents' rights
- Menus
- Number of staff per shift
- Lists of resident names and room numbers



→ State-Specific Policies and Procedures to Access

Is the Ombudsman Program Entitled to all Facility Information?



- Incident reports
- Personnel information on facility staff
- Non-public financial information

Interference with the Ombudsman Program



→ **State-Specific Policies and Procedures: Access Interference**



Why?

Reasonable

- Infectious disease outbreak
- Resident is receiving personal care
- Resident is out of the building
- Resident is in therapy

Not reasonable

- A family member denies access
- Staff denies visits because the guardian said so
- The provider does not answer the door or phone
- Staff says residents get “worked up” over learning their rights



Role Play

It's Brian. I'm being evicted in three days!
Please call me back on the nursing home phone before coming to see me!



What would you say to the staff person on the phone?

Who else might you talk to at the facility?

At what point do you visit the facility?

Please leave.
You're riling up the
residents by
explaining their
rights!



CONFIDENTIALITY & DISCLOSURE OF OMBUDSMAN PROGRAM INFORMATION

Section 3

Confidentiality

Don't identify residents or complainants without their consent.

Don't disclose any information about a resident or a complainant.

Do explain your program's confidentiality & disclosure requirements.



→ **State-Specific Policies and Procedures: Confidentiality**

Why is Confidentiality Important?

- Level of comfort
- Encourages individuals to be open
- Builds a trusting relationship
- Assures services are resident-directed



When the Complainant is Not the Resident

1

Cannot disclose the identity of the complainant without their permission

2

Must have the resident's permission to report back to the complainant

3

Required to honor both the resident's and the complainant's confidentiality





Resident = Client

Do

Follow the direction of
the resident

Maintain
confidentiality

Don't



Reveal
information
without
permission

Tell staff who
you are visiting

Allow staff to
follow you

Disclosure Rules

- Files, records, and information maintained by the LTCOP
- Identifying information of any resident or complainant with respect to whom the LTCOP maintains files, records, or information

When Information can be Disclosed

- As determined by the State Ombudsman
- Permission from the resident
- Permission from the complainant
- A court order

→ **State-Specific Policies and Procedures: Disclosure**

What Would You Do?

Lisa goes to Mrs. Jones's room to follow up on a complaint, but she is not there. Lisa asks the social worker where to find Mrs. Jones because her daughter called the Office with a concern.



A local law enforcement officer calls the Ombudsman program and asks if the representative knows anything about a resident named Daniel Johnson. Kari, the representative, knows Daniel well. They have had conversations about his family's management of his money, but he has not asked Kari to act on his concerns. Relieved the police are investigating, Kari tells the Officer about her concerns and offers to send her case notes to him.

What Would You Do?



Jane is a representative of the Office. A law firm serves her with a subpoena at her home. The subpoena asks for the dates of visits to “Caring Touch” personal care home, the names of the residents and staff that she spoke to and for her impressions of the home.

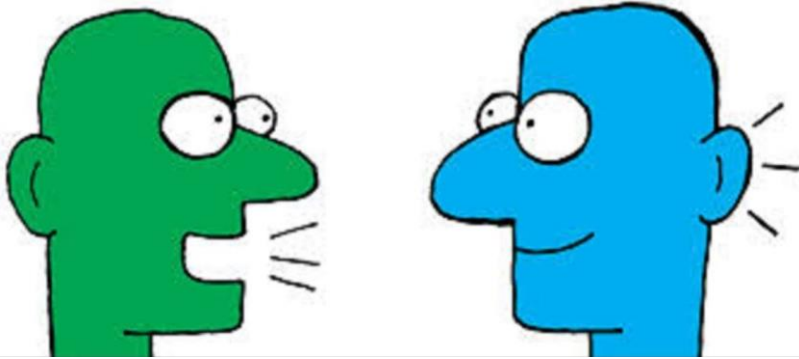
QUESTIONS?

COMMUNICATION STRATEGIES

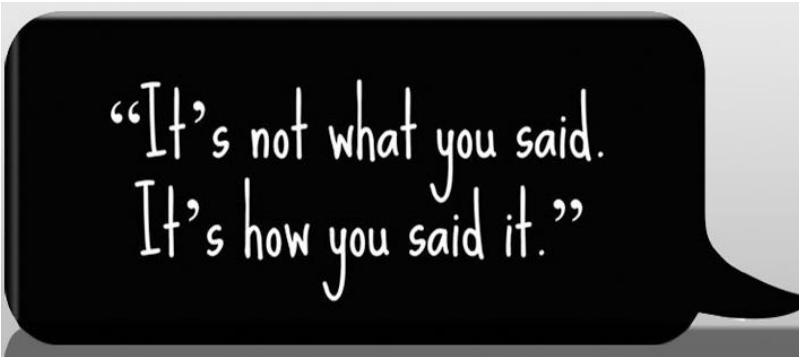
Section 4

Residents Speak Out: Resident's Rights





Words or Speech



Tone of Voice



Body Language

Words or Speech

Suggested Responses

- The resident - your mother- is our client and we're going to do the best we can for her.
- I am a resident advocate. I am here for your mother and what she needs, and hopefully we can all work together on this.

Responses to Avoid

- I work for the resident, not the family.
- I can't tell you anything about my visit with the resident.

I didn't say that.

Do I Look Like I'm Listening?

- Position yourself at the resident's eye level
- Lean forward when listening
- Face the person
- Nod your head
- Act natural
- Use positive facial expressions
- Wait for pauses
- Listen without interrupting



Body Language

Try not to:

- Cross your arms in front of your body
- Check your phone or divide your attention
- Tap your foot or drum your fingers
- Use negative facial expressions



Conveying Your Message



Words Matter

Rose



Do I Sound Like I'm Listening?

Demonstrate Interest

- Use minimal responses
- Encourage additional information

Active Listening

- Paraphrasing
- Asking open-ended questions

I see

*I'm happy
to listen*

Oh

*Sounds
like...*

*How? Why?
Tell me
about..*

Affirmation

I hear you
saying...

It sounds
like...

It appears
as
though...

Validation

There is
nothing wrong
with being
angry right
now about

It's okay to
feel sad...

Observation: Pay Attention

- Facial expressions
- Eye contact
- Posture
- Gestures



Barry

- ✓Treated well?
- ✓How's the food?
- ✓Activities?

“Everything is wonderful...”



Communication Tips



Individuals Who have Memory Loss

- Approach from the front and identify yourself
- Speak *to* the resident and not *about* the resident
- Talk to the resident face-to-face in a quiet space with minimal distractions
- Look at the resident and speak slowly and clearly



- Ask one question at a time
- Ask yes or no questions
- Give the resident ample time to respond to your questions
- Consider the feelings behind words or sounds
- Be respectful





Do you
remember me?

“Sweetie”

“Are you
pulling my
leg?”

Individuals Who are Blind or Visually Impaired

- Speak to the resident when you approach them.
- Identify who you are and introduce anyone else with you.
- Be descriptive about what you are doing.
- Don't touch or distract their service animal.
- If documents must be read or signed, ask the resident what would be most helpful for them to see better (e.g., increased lighting, magnification, etc.)
- Ask in what format they would like to receive information (e.g.; Braille, large print, audio, etc.)

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Individuals with Speech Impairments

- Concentrate on what the resident is saying
- Be patient
- Don't speak for the resident
- Ask questions which require only short answers or a nod
- Ask the resident to repeat what was said
- Don't pretend to understand
- Consider writing or another means of communicating

Individuals Who are Deaf or Hard of Hearing

- Gain the resident's attention
- Look directly at the resident, face the light, speak clearly, in a normal tone of voice, and keep your hands away from your face
- Use short, simple sentences
- Avoid eating or chewing gum
- Speak directly to the resident, not the interpreter

Is it okay to
communicate in
writing?



What is your
preferred
method to
communicate?

Text Telephone (TTY), dial 711

Individuals who Speak Another Language



- Have program information available in other languages
- When using gestures and nonverbal cues, be sensitive to the resident's reaction
- Use a communication board or a free application on your phone



- Ask the resident if there is someone they trust to interpret
- Ask the facility how they communicate with the resident
- Know your local resources
- Use an interpreter

→ Add State Specific Information on Use of Interpreters and auxiliary aids

- When using an interpreter:
 - Explain confidentiality
 - Explain the need to translate word for word
 - Ask them to be neutral
 - Direct questions to the resident
 - Look at the resident, not the interpreter, when talking

CONCLUSION

Section 5

Module 5 Questions

1. What information does the Ombudsman program require be kept confidential (unless given permission by the resident or complainant)?
2. Name something federal law authorizes the Ombudsman program to access.
3. Describe what you would do if you were denied access to a resident.
4. True or False? The representative may show their notes to a nurse if they promise not to share the information with anyone.

False

5. When a representative receives a complaint from a family member which of the following statement(s) are true?

The representative:

- Must have the complainant's permission to be identified, whether it is identified to the resident or a staff member or someone else
- Must have the resident's permission to report back to the complainant
- Is required to honor both the resident's and the complainant's confidentiality

All are True

6. How do you show someone you are listening to them?

7. Name tips to use when talking to an individual with a speech impairment.

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

Connect with us:

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The National LTC Ombudsman Resource Center



@LTCombudcenter



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