



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

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

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## **Module 9: Challenging Complaints and Referral Agencies**

# WELCOME AND INTRODUCTION

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## Section 1

# Welcome

- Your name
- Where you are from
- One thing you learned from Module 8
- What you hope to learn since the last module



ANY  
QUESTIONS  
?

# Today's Agenda

Section 1: Welcome and Introduction (15 minutes)

Section 2: Challenging Complaints (90 minutes)

-----BREAK----- (15 minutes)

Section 3: Additional Referral Agencies (45 minutes)

Section 4: Conclusion (15 minutes)

# Module 9 Learning Objectives

- Common challenges when investigating complaints involving facility-initiated discharges and available resources
- Role of the LTCOP and other entities when complaints of abuse, neglect, and exploitation are made
- The various referral agencies utilized by the LTCOP and how they assist individuals

# CHALLENGING COMPLAINTS

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## Section 2



- Discharge
- Allegations of abuse, neglect, and exploitation (ANE)





# Discharge Complaints

- What's the difference?
  - Transfer
  - Discharge



# Discharge Challenges Regarding Residential Care Communities (RCCs)



- No federal regulations
- Different state rules/regulations
  - Definitions or terminology
  - Reasons for discharge
  - Notification requirements

# Nursing Facility Definitions

- Discharge

- The movement of a resident from a bed in one certified facility to a bed in another certified facility or other location in the community, when return to the original facility is not expected.

- Transfer

- The movement of a resident from a bed in one certified facility to a bed in another certified facility when the resident expects to return to the original facility.

# Who Initiated?

- **Facility-Initiated**

- A transfer or discharge which the resident objects to, did not originate through a resident's verbal or written request, and/ or is not in alignment with the resident's stated goals for care and preferences.

- **Resident-Initiated**

- Means the resident or, if appropriate, the resident representative has provided verbal or written notice of intent to leave the facility. Leaving the facility does not include the general expression of a desire to return home or the elopement of residents with cognitive impairment.

# Six Reasons

- The facility cannot meet the resident's needs
- The resident no longer needs the services provided by the facility
- The resident endangers the safety of individuals in the facility
- The resident endangers the health of individuals in the facility
- The resident fails to pay for their stay at the facility
- The facility closes

# What Makes Discharge Cases Difficult?



- Regulations are not understood
- Problems are hard to resolve
- People are emotionally charged
- Multiple problems
- Facility isn't following regulations
- Resident representative
- Time-consuming

**You're not alone!**

# Valid Reason?

Jerry



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# Transfers and Discharges

## Basic Discharge Complaint Investigation Process Checklist

<b>Ombudsman Program Complaint Processing Stage 1</b>	<b>Basic Discharge Complaint Investigation Checklist:</b>
Intake	Begins once the LTCOP receives discharge complaint.
Initial Plan Development	<p>Directs the LTCOP to advise resident of rights related to discharges, right to appeal, right to legal counsel, offer to assist resident with complaint resolution.</p> <p>Guides the LTCOP to request a care plan meeting, a second opinion, an appeal of the discharge notice, a referral for legal assistance, a request for permission to access records and to speak with necessary parties.</p>
Investigate	<p>Suggests questions to ask residents and staff members</p> <p>Explains potential resolution strategies and action steps.</p> <p>Provides the legal basis for the LTCOP's resolution strategies and action steps.</p>
Verify	Determines interview questions help clarify verification.

# Allegations of Abuse, Neglect, and Exploitation (ANE)

- Ombudsman shall not report alleged ANE without proper consent
- Maintaining confidentiality
  - Preserves the integrity of the Ombudsman program
  - Fosters trust between representatives and residents
  - Requires careful analysis and consultation with your supervisor

# Recognizing Abuse

## **Physical** – Intentional use of physical force

- A staff member slaps a resident, or a CNA pinches a resident's arm to get them to move out of the way

## **Sexual** – Forced and/or unwanted sexual interaction of any kind.

- A manager shows a resident a video containing nudity making the resident uncomfortable

## **Psychological** – Infliction of anguish, pain, or distress through verbal or nonverbal acts.

- A physical therapist tells a resident they will never see their family again if they don't comply with physical therapy, or a staff member yells at a resident who did not make it to the restroom in time

# Neglect (Gross Neglect)

<i>Cause</i>	<i>Effect</i>
<i>Incorrect body positioning leading to...</i>	<i>contractures and pressure sores/pressure ulcers.</i>
<i>Failure to assist with toileting and/or not changing a disposable brief in a timely manner, leading to...</i>	<i>a resident falling while going to the bathroom alone; a resident sitting in urine or feces which can cause skin breakdown; feelings of shame, indignity, and distress for resident.</i>
<i>Lack of assistance eating or drinking leading to...</i>	<i>malnutrition and dehydration.</i>

<i><b>Cause</b></i>	<i><b>Effect</b></i>
<i>Lack of assistance with walking leading to...</i>	<i>immobility.</i>
<i>Poor hand washing techniques leading to...</i>	<i>infection.</i>
<i>Lack of assistance with participating in activities of interest leading to...</i>	<i>withdrawal and isolation.</i>
<i>Ignoring call lights or cries for help leading to...</i>	<i>residents having unnecessary pain, anxiety, increased falls, and losing bladder or bowel control.</i>

# Exploitation (Financial Exploitation)

## Misappropriating income or assets

- The aide purchases additional items for themselves.

## Charging excessive fees for goods and services

- Charging \$200 a week to bring in the resident's dog for a visit.

## Improper or fraudulent use of power of attorney or legal authority

- Borrowing money to buy a boat using the resident's name without permission.



# The Ombudsman Program and Complaints about ANE

Explain residents' rights and the LTCOP role

Assist with reporting ANE

Meet with residents

Meet with family members

Work with the facility to ensure residents feel safe

Ensure the facility makes efforts to protect residents from further harm

Follow up with the facility

Research the facility's ANE history

# Ariella



**Why would a resident choose not to report abuse, neglect, or exploitation?**

**Fear of Retaliation**

# Reporting Requirements

If a resident is able to communicate consent or if the resident is unable to consent, and has a resident representative

Discuss pros and cons of reporting.

Discuss outcomes of reporting.

Resident or Resident representative **permission to report is required.**

Even with a professional license (e.g., a licensed social worker) that mandates abuse reporting, the representative must adhere to the Ombudsman program federal disclosure requirements when conducting the duties of the program. The representative must not report ANE without appropriate consent from the resident, resident representative, or the Office.

# Noah



# Witness to Abuse, Neglect, or Exploitation



- Identify someone in the facility to stop the ANE
- Seek informed consent from the resident to disclose resident-identifying information to appropriate agencies

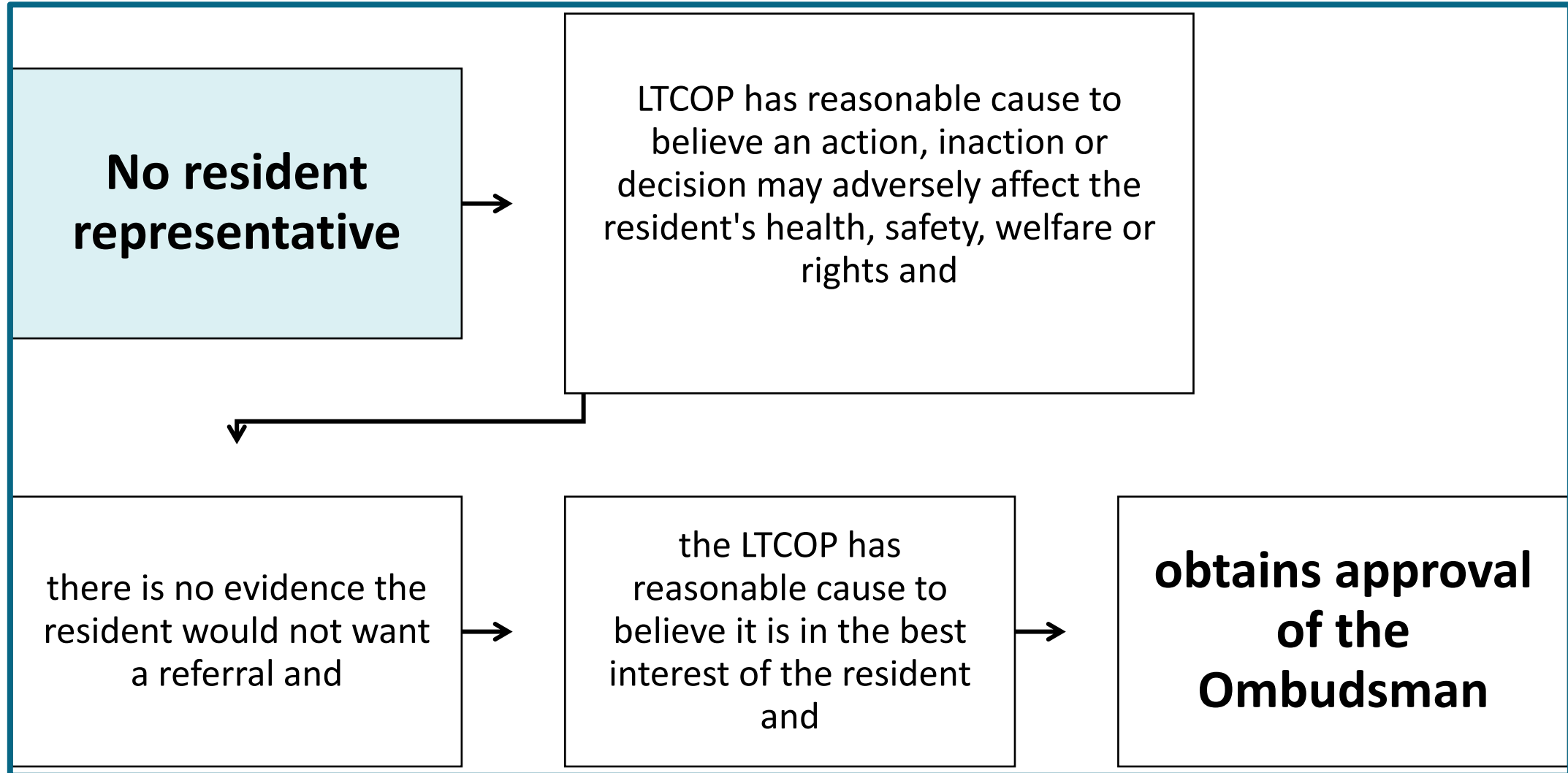


# Denny

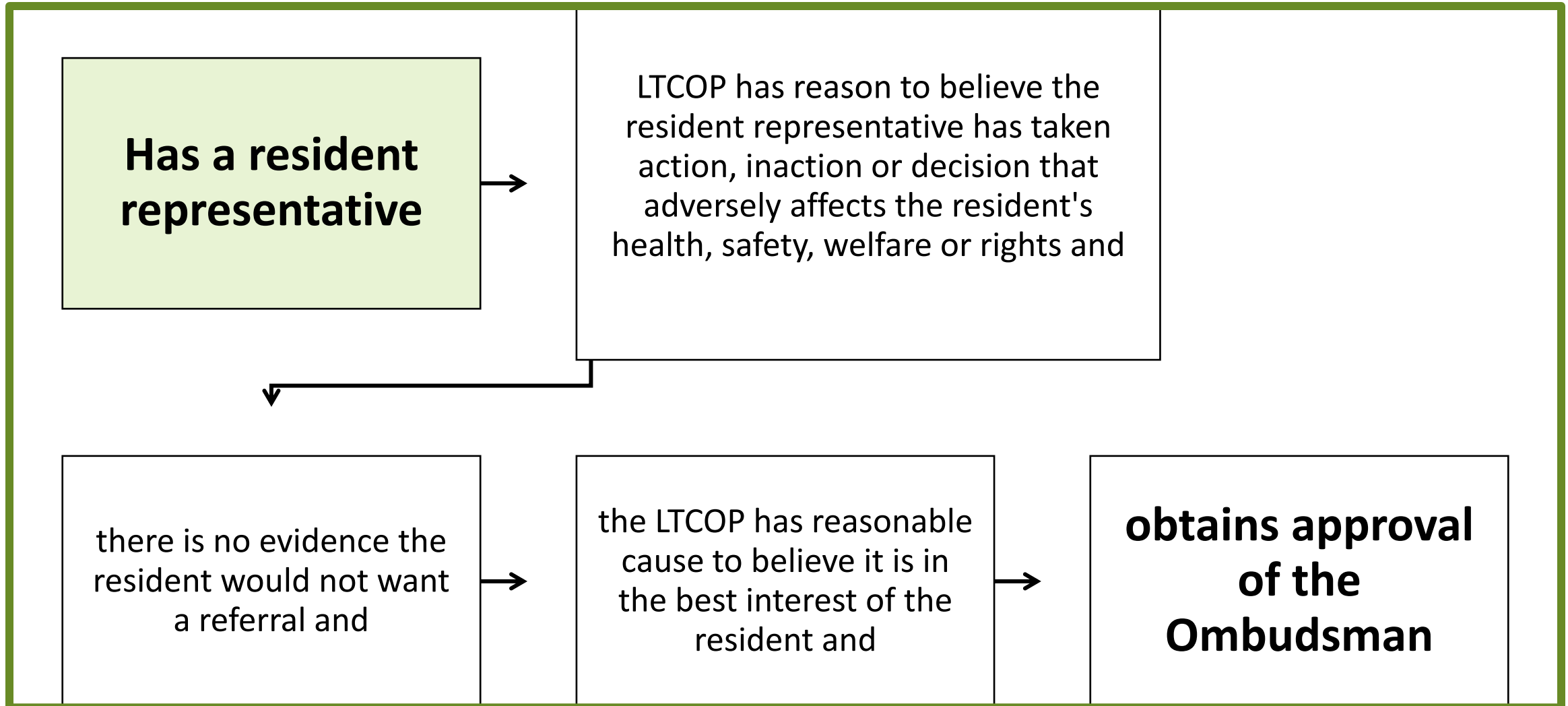


# **When a Resident is Unable to Communicate Informed Consent to Reporting Alleged Abuse, Neglect, or Exploitation**

# Residents who cannot communicate informed consent and DO NOT have a resident representative.



# Resident who cannot communicate informed consent and has a resident representative.



# Bernice



- What's the first thing you do in this situation?
- What information have you gathered?
- What do you do next?

# Who Investigates Allegations of Abuse, Neglect, and Exploitation?

- The facility
- State survey agencies
- Adult Protective Services
- Law enforcement



# The Facility

- Internal investigation
- Designated staff person
- Policies and procedures
- Inform state survey agency
  - Adult Protective Services
  - Law enforcement





## → **RCC ANE Reporting Requirements**

→ **State Survey Agencies**

→ **Adult Protective Services**

→ **Law Enforcement**

# ADDITIONAL REFERRAL AGENCIES

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Section 3

# Referrals

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Another agency has resources that benefit the resident.

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Actions to be taken are outside of the expertise or scope of the LTCOP.

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The representative needs outside assistance for complaint resolution.

# Samantha



# Outside the Scope of Work





# Legal Services





- Legal Services for Older Americans Program
- Protection and Advocacy Systems

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**“I’m looking for a fierce negotiator to protect my interests against a formidable adversary. My kid wants a raise in his allowance.”**

# Legal Services for Older Americans Program

-  Draft advance directives
-  Assist with issues related to guardianship
-  Access public benefits
-  Discharge proceedings

**→ Add State-Specific Information on Legal Services**

# Protection and Advocacy (P&A)

- Protects and advocates for the rights of individuals with developmental disabilities
- Ensures those residents
  - Exercise their rights to make choices
  - Contribute to society
  - Live independently

→ **Add State-Specific Information on P&As**

# Guardianship and Conservatorship Resources

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Seek  
information  
when...

You receive a complaint about a resident with a guardian/conservator

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A resident has a complaint against the guardian/conservator

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A resident wants to remove or change a guardian/conservator

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The guardian/conservator is not acting in the best interest of the resident

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**→ Add State-Specific Information on  
Guardianship/Conservatorship**

# **Aging and Disability Resource Centers (ADRCs)**

- A single point of entry for older adults and individuals with disabilities and their caregivers seeking long-term services and supports (LTSS) options
- Provides information and counseling to all individuals looking to obtain LTSS in the most appropriate setting



→ **Add State-Specific Information on ADRCs**

# Money Follows the Person (MFP)

- Helps Medicaid eligible nursing facility residents move back into the community
- Supports and services may include
  - Adult day center services
  - Emergency response systems
  - Home health care
  - Home modifications
  - Personal care assistance

**→ Add state-specific information about the Money  
Follows the Person program**

# Medicaid Home and Community-Based Services (HCBS)

- Provides Medicaid recipients the opportunity to receive services in their own home or community rather than long-term care facilities.
- Serves people with intellectual or developmental disabilities, physical disabilities, and/or mental illnesses.



→ **Add State-Specific Information about HCBS**

# Centers for Independent Living (CILs)

- Provide independent living services for people with all types of disabilities.
- Provide tools, resources, and supports to promote equal opportunities, self-determination, and respect.



→ **Add State-Specific Information about CLs**

# State Health Insurance Assistance Program (SHIP)

- Provides free, in-depth, unbiased, one-on-one health insurance counseling and assistance to Medicare beneficiaries, their families, and caregivers



→ **Add State-Specific Information about SHIP**

# Senior Medicare Patrol Program (SMP)

- Empower and assist Medicare beneficiaries, their families, and caregivers to prevent, detect, and report health care fraud, errors, and abuse through outreach, counseling, and education.

→ **Add State-Specific Information about SMP**

# CONCLUSION

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Section 4

# Module 9 Questions

1. True or False? The LTCOP is the finder of fact, meaning the LTCOP investigation is for the purposes of determining if ANE occurred.

FALSE

## 2. Which of the following statements are true? Ombudsman program advocacy during an ANE investigation can include:

- a. Assisting a resident with reporting abuse, neglect, and exploitation
- b. Meeting with residents, including Resident Council members
- c. Meeting with family members, including Family Council members
- d. Working with the facility to ensure residents feel safe
- e. Ensuring the facility makes efforts to protect residents from further harm
- f. Following up with the facility to determine if proper reporting of ANE has been completed
- g. Researching the facility's abuse, neglect, and exploitation history

All are TRUE

3. What agency(ies) could you make a referral to if the resident experienced abuse in a nursing facility by a staff member?

- a. The survey agency
- b. Adult Protective Services
- c. Medicaid Fraud Control Unit
- d. Local law enforcement
- e. SHIP

4. What agency(ies) could you make a referral to if the resident experienced abuse in an RCC by a staff member?

- a. The survey agency
- b. Adult Protective Services
- c. Medicaid Fraud Control Unit
- d. Local law enforcement
- e. MFP
- f. Other



5. What agency/entity could you make a referral to if the resident wants to move outside of long-term care?

- a. Money Follows the Person
- b. Centers for Independent Living
- c. Home and Community Based Services
- d. Aging and Disability Resource Centers

**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

*Connect with us:*

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

[ombudcenter@theconsumervoice.org](mailto:ombudcenter@theconsumervoice.org)



The National LTC Ombudsman Resource Center



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*This project was supported, in part, by grant number 90OMRC0001-01-00, from the U.S. Administration for Community Living, Department of Health and Human Services, Washington, D.C. 20201. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration for Community Living policy.*