OMBUDSMEN IN ASSISTED LIVING FACILITIES
Questions & Answers

PURPOSE

Q: Why do ombudsmen visit assisted living facilities (ALFs)?

A: By federal law, ombudsmen are instructed to protect the health, safety, welfare, and rights of residents of nursing and assisted living facilities. Ombudsmen identify, investigate, and resolve problems affecting residents. Ombudsmen represent the interests of residents to facilities and agencies.

Q: Why do we need ombudsmen in ALFs if we have DADS regulatory?

A: Ombudsmen are advocates for residents’ rights and quality care. The ombudsman program is intended to be an avenue for informal resolution of complaints. Ombudsmen do not regulate. Compare our approach to that of any regulatory agency, and the informal nature of our visits should distinguish us. Many assisted living managers find that ombudsmen offer a great deal of support to the operations of their facility, including interpretation of regulations, training, and problem-solving expertise. If an ombudsman cannot resolve a complaint and feel there is a possible regulatory violation, a complaint may be filed with DADS regulatory.

Q: How are staff ombudsmen and volunteer ombudsmen different?

A: All staff and volunteer ombudsmen receive the same training and are certified by the Office of the State Long-term Care Ombudsman. Volunteer ombudsmen are usually assigned to one facility. Staff ombudsmen are assigned to multiple facilities and also supervise volunteer ombudsmen.

Q: How can I find my local ombudsman?

A: Call the statewide ombudsman toll-free number at 1-800-252-2412, enter your zip code, and you will be connected with your county’s local ombudsman program. To reach the Office of the State Long-Term Care Ombudsman, call 1-512-438-4265.

VISITS

Q: How will I know when an ombudsman visits my facility?

A: Ombudsmen are required to wear a badge to make it easy for residents and staff to identify them. Badges are issued by the Office of the State Long-term Care Ombudsman and indicate that the person is certified to conduct official ombudsman duties.

Q: When will the ombudsmen visit my facility?

A: Ombudsmen are expected to visit ALFs 4 to 10 times a year, depending on the size and type of facility. An ombudsman may visit an ALF more often depending on the needs of residents and the facility. Unless ombudsmen are invited to a service plan meeting or resident council, their visit will be unannounced.
Q: Why are ombudsman visits unannounced?

A: Visits are unannounced so the ombudsman can observe the facility and visit residents on a typical operating day. In accordance with Texas Administrative Code (TAC) §92.801, an ombudsman has private and unimpeded access to a facility and a resident. Privacy means we can talk to a resident outside of the hearing or view of others and without interference or obstruction from facility employees. Access should be given without delay.

Q: Who does an ombudsman visit?

A: Ombudsmen visit nursing home and assisted living facility residents of all ages. This is described in the Older American’s Act §711(6).

Q: Why does an ombudsman want to attend a resident or family council meeting?

A: A member of a resident or family council can request an ombudsman to share information at their meetings about the role of the ombudsman and other information, problem-solving techniques, and residents’ rights. An ombudsman may ask to attend a meeting but will only attend with an invitation from the resident or family council.

Q: Why would an ombudsman request a meeting with the ALF manager or staff members?

A: An ombudsman may request to meet with the manager or staff members to discuss concerns and complaints. Sometimes the meeting will include a resident and a resident’s family members. Talking with staff can help us work out a solution that is beneficial to everyone involved.

Q: Can facility staff ask an ombudsman to help a resident or family member?

A: Yes. Ombudsmen are available as a resource to answer questions, discuss policies or regulations, and address other general concerns. If you would like the ombudsman to be involved with a specific issue, the ombudsman will need to discuss the issue with the resident or resident’s representative prior to involvement. Ombudsmen are advocates for the resident and therefore only take action with the resident’s direction. Facility staff is encouraged to have the resident or resident representative contact the ombudsman directly regarding a concern.

Q: Why would an ombudsman ask about the appropriateness of a resident’s placement?

A: An ombudsman may ask questions about a resident’s abilities to ensure they are appropriately placed and receiving the care needed. Residents may age in place if the change in their condition does not compromise their ability to evacuate independently. If the person’s condition compromises their ability to evacuate independently and the facility is willing to retain the resident, the facility or a surveyor must identify and then the facility must submit forms to DADS within 10 days. This includes applying for a waiver, meeting appropriate staffing and structure requirements, and submitting all
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documentation. If the facility decides not to apply for a waiver, it must give a 30-day discharge notice to the resident.

DADS allows providers to use “other services”, including hospice (HCSSA), to deliver “temporary skilled nursing services” to residents whose condition is unstable up to 30 days. If the resident needs long-term skilled nursing, they must be discharged, generally to a nursing facility. §92.41 (f) in the Licensing Standards for Assisted Living Facilities Handbook titled, “Inappropriately Placed Residents”, describes these requirements.

ACCESS

Q: Why do ombudsmen ask for privacy to meet with a resident?

A: Ombudsmen must privacy so residents feel comfortable discussing their complaints and concerns. This is required by state and federal law.

Q: Why would an ombudsman request a copy of the admission agreement, contract or disclosure statement from the facility?

A: A copy of these documents may be requested so ombudsmen have service descriptions in a standard format. This helps inform ombudsmen when questions arise, such as a person looking for assisted living or in addressing a complaint. In accordance with TAC §92.801, an ombudsman has access to administrative records, policies, and documents of the facility to which the facility residents or general public have access.

Q: How does an ombudsman get consent?

A: Residents have a right to decide if they want an ombudsman to help them. Consent may be given orally or in writing. If a resident lacks capacity to consent to an ombudsman’s help, the resident’s representative or the State Ombudsman can give an ombudsman permission to work a complaint on behalf of a resident.

Q: Why would an ombudsman ask for a roster of residents?

A: If an ombudsman encounters a resident who is not in his or her room and can’t get a full name, they can reference the roster to identify the resident and his or her room number. Also, ombudsmen visit multiple ALFs and a roster helps to remember residents.

Q: Can ombudsmen view resident records?

A: Yes. With permission from the resident or resident’s representative, ombudsmen review records to investigate a complaint or respond to a request for information about the resident’s health, safety, welfare, or rights. TAC, §92.801, and the Licensing Standards for Assisted Living Facilities Handbook, states that a facility must allow a certified ombudsman access to the medical and social records of a resident with consent of the resident or the legally authorized representative of the resident. Consent may be given orally or in writing.