

Ombudsman Certification Training

APPENDIX 2: Answer Guides

Chapter Questions and Exercises

and

Getting Acquainted with Policies and Procedures & Ombudsman Policies and Procedures

Answers

Chapter 1: Long-term Care Ombudsman Programs

The Managing Local Ombudsman is:

_____.

Phone Number:

_____.

My supervising staff ombudsman is

_____.

Phone Number:

_____.

The Texas Long-term Care Ombudsman Program advocates for quality of life and quality of care for people who live in nursing homes and assisted living facilities.

Long-term care ombudsman responsibilities: Using the table, determine whether each statement is True or False.

True Certified volunteer and staff ombudsmen, and the state office, have a role in ensuring residents have regular and timely access to an ombudsman.

True When acting as an ombudsman, volunteers and staff may comment on proposed laws in coordination with the Texas State Long-term Care Ombudsman.

True All staff and volunteers in the ombudsman program help to protect resident rights.

True Ombudsmen protect the confidentiality of all residents.

True Ombudsmen interns do not identify, investigate, and resolve complaints made by, or on behalf, residents.

Video: Advocates for Resident Rights: The Older Americans Act Long-term Care Ombudsman Program

Describe what you learn below.

1. How does Older Americans Act describe the long-term care ombudsman role?
An ombudsman serves as an advocate to people in nursing homes and assisted living facilities and helps residents resolve a wide range of problems.
2. What is the purpose of the long-term care ombudsman program? The program provides a vital link between people in nursing homes and assisted living facilities and their rights.
3. What are some functions of a long-term care ombudsman?
 - Advocate
 - Educator
 - Investigator
 - Complaint resolver
 - Mediator

4. What are some complaints ombudsmen work to resolve? Inadequate care, improper restraints, cold food, family matters, disagreement over medications, lack of privacy, billing problems, and improper discharge.

Questions I have about being an ombudsman:

Each trainee asks different questions and trainer responds.

How many people live in a nursing home or assisted living facility in Texas? 134,000

How many nursing homes are in Texas? 1232

How many assisted living facilities are there in Texas? 1821

What is advocacy? Advocacy is action by, or on the behalf of, individuals and groups. This action ensures benefits and services are received, rights are protected, and laws are enforced.

Why do you think people who live in nursing homes and assisted livings need advocates? Personal responses will vary but generally – Lack of knowing they have rights; diminished physical and mental capacity to express their needs and wishes; difficulty in challenging others such as doctors, administrators, family members; disadvantaged by the facility and funding systems.

List two physical and personal feeling barriers to self-advocacy

- Cognitive impairment
- Effects of medications
- Loss of hearing, speech, sight
- Loss of physical strength

Two personal feelings that are barriers to self-advocacy are:

- Belief that this is the best it can be
- Fear of being labeled a “complainer”
- Fear of retaliation
- Lack of empowerment
- Loss of confidence
- Reluctance to question authority
- Sense of hopelessness or despair
- Sense of isolation

Long-term care ombudsmen are impartial and objective while investigating a complaint, but become an advocate and represent the interests of the resident when working to resolve a problem.

Answers

Chapter 2: Aging and Residents

Describe one physical change associated with aging. Refer to pages 2-3.

- Heart ...
- Immune system ...
- Arteries ...
- Lung ...
- Brain ...
- Kidney ...
- Bladder ...
- Body fat ...
- Muscle ...
- Bone ...
- Sight ...
- Hearing ...

Activity: Attitudes about Aging

True (T) or False (F):

- F 1. The majority of older adults (65+) suffer from memory loss, disorientation, or dementia.
- T 2. All five senses tend to decline in old age.
- T 3. Lung capacity tends to decline in old age.
- T 4. Physical strength tends to decline in old age.
- F 5. Older adults have no interest in sexual relations.
- T 6. Older drivers have fewer accidents per person than drivers under age 65.
- F 7. Older workers are less effective than younger workers.
- T 8. About 80% of older adults are healthy enough to carry out normal activities.
- F 9. Older adults are set in their ways and unable to change.
- T 10. Older adults usually take longer to learn something new.
- T 11. The reaction time of most older adults tends to be slower than reaction time of younger people.
- F 12. It is almost impossible for most older adults to learn new things.
- F 13. In general, most older adults are much alike.
- T 14. Older workers have fewer accidents than younger workers do.
- F 15. The majority of older adults are socially isolated and lonely.
- T 16. Over 20% of the U.S. population is now aged 65 or over.
- T 17. Most medical practitioners tend to give low priority to older adults.
- F 18. The majority of older adults have incomes below the poverty level.
- T 19. The majority of older adults is working or would like to have some kind of work to do (including volunteer work).
- T 20. In the U.S., families provide about 80% of care for older family members.
- F 21. People tend to become more religious as they age.
- F 22. Most American workers receive private pensions, as well as Social Security, when they retire.

Exercise: Choice or Restriction

List three morning activities you routinely do. Responses will vary.

How might you feel if someone changed your routine? Responses will vary but may include anger, frustration, withdrawal, depression.

True (T) or False (F):

- T 1. Nursing home staff must provide services and care in ways that help each resident live to his or her fullest potential physically, mentally, and emotionally.
- T 2. Supporting individuality for each resident is an important standard of care.
- T 3. Residents may experience disconnection and loss of identity.
- T 4. Staff should support each resident's life patterns.
- F 5. Facilities need rules that determine everyone's routines, such as when to go to bed, when to turn the TV off, when to take baths, and when visitors can come and go.
- T 6. A major loss to a resident might be the loss of his or her daily routine.
- T 7. All residents are entitled to participate in planning their own care.

Give an example of what you believe privacy means in a facility setting. *Responses may include* having the bedroom door closed, being bathed in private, having a place to be alone.

Why should residents be able to control their lives after moving to an assisted living facility or nursing home? *Responses may include* the right to be adults and to have a dignified existence.

What percentage of adults age 65+ live in nursing homes? 3.4%

Why might older adults disengage from their community?

- Limited opportunities
- Physical disabilities
- Lack of transportation
- Lack of alternatives
- Death of a spouse or close friends
- Other people have stayed away

What is at risk if an older adult has someone do everyday tasks for them? Older adults can gradually become dependent on others because they received unnecessary help.

One reason decline in a person's health might be unavoidable is if:

- new disease or condition
- disease progression
- choosing to decline treatment or care

Another term for "bed sore" is pressure ulcer.

Using a restraint on a person puts them at risk of serious injury and death.

Exercise: Your Perfect Long-term Care Home

If you became unable to care for yourself in your private home, describe the home in which you would want to live and how staff will care for you. Responses will vary.

Video: Answer the following questions about CMS Hand in Hand Module 1, Understanding the World of Dementia: The Person and the Disease

1. Define dementia:

It is a term that describes a wide range of disorders and symptoms associated with a decline in memory and at least one other thinking skill such as concentration, orientation, language, judgment, visuospatial skills, or sequencing. Dementia is an 'umbrella term' and Alzheimer's disease is one of the types of dementia under this umbrella.

2. Who gets dementia?

Most are older but not all older people get dementia. More common after age 65. 2/3 of people with dementia are women (women live long).

3. Identify the three (3) of the seven symptoms of dementia:

1. Memory loss
2. Decline in ability to concentrate
3. Lack of orientation (who, when, where, time and dates)
4. Decline in language (Difficulty with speech such as saying 'cat' for 'chair')
5. Decline in judgment
6. Problems with visuospatial skills
7. Sequencing, not able to do things in a certain logical order

4. Identify two (2) irreversible types of dementia:

1. Alzheimer's disease
2. Vascular dementia
3. Lewy body dementia

5. Identify two (2) other conditions that might present with symptoms that can look like dementia:

1. Frontotemporal dementia
2. Huntington's disease
3. Wernicke-Korsakoff
4. Creutzfeldt-Jakob disease
5. AIDS related dementia

6. List three (3) conditions that might worsen symptoms of dementia:

1. Constipation
2. Acute or chronic pain
3. Lack of sleep
4. Sudden change medical condition
5. New medication
6. Dehydration
7. Pneumonia
8. Urinary track infection

Answers

Chapter 3: Communication and Consent

Active listening requires concentration and sincerity. One goal is to hear what the person says by listening for the intent and feeling of what is being said as well as the words.

Empathy Video: Watch the RSA Short – *The Power of Empathy* and answer the following questions.

1. What is the difference between empathy and sympathy? Empathy fuels connection. Sympathy drives disconnection. Other answers might vary.
2. What are three qualities of empathy?
 - a) Ability to recognize the individual's perspective as his or her truth
 - b) Staying out of judgment
 - c) Recognizing emotions in other people and then communicating that

Exercise: Rate Your Listening Skills

Below are a number of poor listening habits. Some behaviors seem unconscious, some purposeful, some trivial, some important, some remediable, and some deeply rooted in the personality of the person.

Think about how you listen and rank your behaviors in the list with a 1, 2, 3, 4, or 5 (1 - you rarely do, 3 - neutral, and 5 - you often do). Total the numbers for a score. Personal responses will vary and total scores will be unique to each person. A higher score can indicate the need to improve listening skills.

It is always a good idea to approach any resident from the front or within the line of vision.

In general, let a resident tell you if they need any help with their physical impairment. And, respect assistive devices as personal property.

Video: Answer the following questions about **CMS Hand in Hand Module 3.**

1. Because communication can be difficult for an individual with dementia, we have to learn to look for the meaning in their verbal and nonverbal communication.
2. Identify three (3) ways memory loss affects how an individual with dementia communicates:
 1. Not able to find the right words
 2. Use inappropriate words to explain what they mean
 3. Not understand the words you are saying

4. Need to express what they are trying to say in other ways (gesturing, yelling, making sounds, etc.) because the words aren't there.
 5. Be frustrated and maybe not talk at all
3. In *Good Morning Video Clip 1*, what did you notice about Mrs. Caputo's communication?
1. Not using the right words
 2. Said same thing many times
 3. Forgot what she was saying
 4. Body language showed she was confused and frustrated & didn't understand Jane
4. In *Good Morning Video Clip 1*, what did you notice about how Jane communicated with Mrs. Caputo?
1. Talked too fast
 2. Didn't get to Mrs. C's eye level
 3. Didn't make eye contact
 4. Body language and facial expressions didn't match her words
 5. Body language showed she wasn't interested
 6. Bad attitude
 7. Approached resident from behind
 8. Became impatient
 9. Gave several instructions at the same time
 10. Used abstract nouns and pronouns
5. In *Good Morning Video Clip 2*, what did you notice about Mrs. Caputo's communication? How was she communicating?
1. Not using the right words
 2. Said same thing many times
 3. Forgot what she was saying
 4. Body language showed she was confused and frustrated & didn't understand Heather
6. In *Good Morning Video Clip 2*, what did you notice about how Heather communicated with Mrs. Caputo? How did Mrs. Caputo respond?

1. Got to Ms. C's eye level
2. Spoke more slowly
3. Spoke in shorter, simpler sentences
4. Reassured Ms. C through her words, tone, touch

Exercise: Demonstrating an Ombudsman Introduction to a Resident

Role Play Exercise: Introduction to a Resident - Ombudsman's first visit with a resident

Questions for role play observers. Responses will vary based on observation.

1. How did the ombudsman describe the role of the ombudsman?
2. What listening techniques were used?
3. What will you say when you introduce yourself to residents and staff?

Consent is required for an ombudsman to work on a resident's behalf, reveal a resident's or complainant's name, or access a resident's record or other confidential information.

Unless a court determines a resident is incapacitated, a resident speaks for him or herself.

If an ombudsman determines a problem affects other residents but the resident does not consent, the ombudsman can take action with the ombudsman as the complainant, but must notify the resident of this decision and inform the resident that his or her identity will not be revealed.

Ask the trainer. Discuss the following situations with your instructor.

1. Several younger residents engage in activities that intimidate the older residents. The younger residents say they are exercising their choices and preferences. The older residents ask the ombudsmen to represent them in making the younger residents change their behavior.
 - How does the ombudsman decide whom to represent? Ombudsmen represent all resident interests.
 - What are some strategies to consider when residents have problems with other residents? Determine what resources are available in the facility, such as a social worker or trusted staff person in the facility; encourage residents to talk directly to one another; act as a referee in their discussions; use shuttle diplomacy if residents cannot be in the same room together.
2. A resident with dementia has no legal representative. Some of her behaviors and statements lead the ombudsman to wonder if she needs changes in her plan of care.
 - What is the role of the ombudsman? The ombudsman is an advocate and may be able to bring a problem to the attention of care staff.

- What authority, if any, does the ombudsman have to seek changes for the resident? First, ask residents if they want help and talk with the person when their cognitive functioning is best. Second, ombudsmen can represent the interests of a resident and seek input and insight from any friends or family of the resident.
 - What if there are negative outcomes to the resident based on the ombudsman's actions? This situation requires a cautious approach. Do not allow the facility to put the responsibility of decision-making on the ombudsman. Instead, provide
3. A facility calls the ombudsman asking what to do with a resident who is being discharged.
- What is appropriate for the ombudsman to say and do? Explain role as resident advocate and inform facility of the facility's responsibilities to the resident.
 - What should the ombudsman avoid doing in this case? Avoid giving approval or agreeing a resident should be discharged.
 - How does the facility's request for help affect the ombudsman's actions? The request should not affect ombudsman action. The ombudsman should make contact with the resident as soon as possible to explain rights and offer assistance to file an appeal.
 - Will the ombudsman instill trust in other residents if he helps facility staff in discharging the resident? No, and this action could result in the decertification of an ombudsman.
4. A resident tells the ombudsman that her breakfast is always served with coffee and not hot tea which she has requested multiple times. The ombudsman visits with the administrator about the resident's breakfast drink preferences and will watch meal service several times during the next month. Does the ombudsman have consent to work the complaint? Yes or No? **No, the ombudsman must ask if he or she has consent.**

Information acquired within a record or disclosed orally is essential the same. It is confidential
 HIPAA applies to facilities

Older Americans Act applies to long-term care ombudsmen

Answers

Chapter 4: Abuse, Neglect, and Exploitation

Ombudsmen do not determine whether abuse, neglect, or exploitation happened. We act as an advocate for the resident by helping report, and ensuring the resident and other residents are protected from further harm.

Neglect is the failure to care for a person in a manner which would avoid physical or emotional harm or pain, or the failure to react to a situation which may be harmful. Neglect may or may not be intentional.

Exploitation is defined as the “illegal or improper act or process of a caregiver using the resources, such as money, assets or property, of an elderly or disabled person for monetary or personal benefit.”

Video: Watch CMS *Hand in Hand* Module 2. Answer the following questions.

1. List three types of abuse:

Sexual

Physical

Verbal

Mental or psychological

Neglect

Involuntary seclusion

Misappropriation of resident property

2. An example of verbal abuse would be: answers will vary

Calling names, threatening, humiliation

3. An example of physical abuse would be:

Answers will vary: hitting, kicking, biting, slapping, pinching

4. An example of involuntary seclusion would be:

Seclusion is separation of a resident including:

- from his or her room,
- confinement to his or her room (with or without roommates)
- for the separation to be considered involuntary seclusion it should be imposed against the resident's will or the will of the resident's legal representative.

5. Misappropriation of property is commonly called theft but also includes deliberately misplacing a resident's belongings or money and using a resident's belongings without his or her permission.

6. List several signs of abuse:
 - Bruises, scratches, pain
 - Fear, trembling, cowering, submissive
 - Hesitating to talk or talking less
 - Changes in behavior or mood
 - Withdrawing, being defiant, hostile, loss of interest, etc.

Case Examples

Case 1: A resident tells you he was injured by someone who works at the assisted living facility where he lives. He tells you he didn't want to shower and the shower aide tried to force him. He does not give you consent to report the ANE nor to disclose any identifying information.

Ask the trainer. What other advocacy options might be used?

Explore with the resident why he is reluctant to pursue the allegation. Interview other residents and discuss their shower experiences. Determine if other resident may be affected.

Case 2: A facility staff person shares an allegation of abuse with you.

Answer in manual --- Ombudsman Response: Remind the staff person that employees of long-term care facilities are mandatory reporters and are obligated to report their suspicions, whether or not they can prove them. Contact Regulatory Services to inquire whether an allegation of abuse from the facility staff was received. Do not reveal confidential information or information that might be used to identify the resident or complainant.

Ask the trainer. You personally witness abuse. What should you do?

During a facility visit, you see and hear an altercation between a nurse and a resident during a birthday party. The resident is crying and holding her arms up in front of her face as if to protect herself. Four residents and two aides are also in the room where the verbal confrontation is occurring. What should you do?

1. Redirect staff actions by asking the resident or nurse if she needs assistance.
2. Remind staff they are mandatory reporters and ask one employee to bring the abuse coordinator to the room.

3. Talk to the resident in private to find out how the incident made her feel and if she will communicate consent for you to report the incident. Follow the resident direction. If no consent is provided, do not report. Work to determine whether other residents are affected by this incident or if other residents report problems with staff.
4. If the resident is incapable of consenting, write down all details you can recall and immediately contact your MLO. Do not release written description without approval from the MLO.

Video: Watch CMS *Hand-in-Hand Training - Module 5*: Fill in the blanks below.

1. Abuse sometimes results from a series of actions and reactions that could have been prevented.

2. Identify ways to respond to a resident's actions that might prevent a negative series of actions and actions that can lead to abuse.

- Better understand the resident's response
- Approach a person from a place of empathy
- "Be with him or her" not "do to him or her"
- Wait, approach again later
- Tag out, take a breath

3. True True (T) or False (F)?

A nursing home is required by federal regulation to report alleged violations of mistreatment, neglect or abuse to the survey agency immediately.

4. Facility staff must report suspicion of a crime within 2 hours, if the events result in serious bodily injury to a resident.

Answers

Chapter 5: Residents Rights

How might individual routines impact resident rights? Responses will vary but generally consider - Preferences and schedules would vary. Staff may tend to follow facility routines for efficiency rather than respect each resident's rights.

Describe Empowerment. Taking power for oneself or give your power to another.

Once disempowered, a person may feel powerless, disoriented, or despondent.

What are some reasons residents might not complain when their rights are violated?

- Feel intimidated by the idea of appearing critical
- Lack information about rights or not think about concerns as rights
- Prefer to choose battles and put up with daily limitations of dignity and individuality
- Accept their rights are limited as a part of the daily routine and stop seeing limits as a problem (institutionalization)
- Have physical, emotional, psychological, social, and cognitive disabilities that make it difficult to voice concerns
- Fear they may be discharged if they speak up with no place to go

Video: Voices Speak Out Against Retaliation

Five people tell stories about their lives, the changes when they moved into a nursing home and their fears. Then they share how they found their voices and became empowered to live life to its fullest. Listen to Helen, Kramer, Mary, Rich, and Ronnie speak in their own words.

When speaking about fear of retaliation, what did the residents tell you?

- Residents felt losses such as identity, independence, control, freedom, choice, and known or unknown consequences.
- Retaliation has many forms, including call bells not answered, dinner tray coming last, difficulty getting medications when needed, bathroom usage, withholding food and water, general lack of attentiveness, and sometimes it is like bullying
- Residents identified actions they could take: speak out, attend resident council and bring issues, identify supportive staff, and contact the ombudsman.

What can you do as an ombudsman to reduce fear of retaliation?

Listen to the individuals talk about their care, get to know residents for who they are, acknowledge losses, create an atmosphere of open communication, and tell the residents who you are at every opportunity.

Resident direction is the key to an ombudsman helping to empower residents because ... This helps residents maintain control over their own lives.

How can short staffing negatively affect resident rights? Short staffing prevents staff from taking the time to

- treat residents respectfully
- deliver direct care correctly
- respond timely
- recognize a problem or change in a person's condition

Ask the Trainer: Meal Times

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.

1. Do residents have a say in this policy? Facilities set policies, but they must also comply with NF Requirements and Standards for ALFs. Residents do have a say.
2. How would you approach this problem as the ombudsman? Ask management how they will comply with §19.701 Quality of Life (2) Self-determination and participation. The resident has the right to choose schedules and make choices about aspects of the resident's life in the facilities that are significant to the resident. Encourage management to include residents in decisions that impact their lives and offer suggestions on how they can do it.

Ask the Trainer: Late Night Television

A resident wants to watch television in the living room of his assisted living facility in the late hours of the evening. The manager said the TV must be off at 8:00 p.m. because it keeps other residents awake.

1. Whose rights need to be protected, the complainant or those who go to bed at 8:00? The rights of all need to be considered, but the ombudsman will work on the complainant's behalf for a resolution.
2. Are there differences in resident rights in an assisted living facility as opposed to a similar situation in a nursing home? Not in rights related to this issue, but might try different approach or have a different solution based on the setting.

Residents can leave their nursing home for visits and can stay overnight. True

Residents have the right to determine their personal care schedule, such as activities, bathing, and bedtime. True

Residents have the right to keep money in their room. True

Ask the Trainer: Love and Marriage

A nursing home administrator told marriage-bound residents, "You can get married, as long as your children give permission. I'm not sure you'll be able to share a room."

1. Do residents need permission to marry? No
2. Will the newlyweds be entitled to their own room? What if a couple is not married, can they room together? Yes, §19.417 Married couples. The resident has the right to

share a room with his spouse when married residents live in the same facility and both spouses consent to the arrangement. Unmarried couples are not restricted from sharing a room.

Residents have the right to receive their mail unopened, including government benefit checks that will pay for their care at the facility. True

Facility staff may monitor resident visits with a long-term care ombudsman. False

Residents do not have the right to communicate in their native language to get or receive treatment, care, or services. False (F)

Residents have the right to refuse food, medicine, therapy, and other services. True

Residents should receive a 30 day notice of a home's intent to discharge them. It must be in writing. The resident has 10 days to appeal. (NOTE: the resident may be able to remain in the facility until a decision is rendered. They have up to 90 days to otherwise appeal)

Exercise: Residents Have Rights

Residents have a right to complain only about situations that directly affect them. False

Only approved residents have the right to attend and participate in resident council meetings. False

Exercise: Residents Have Rights

Use Supplement A or B to choose the resident right to help resolve the complaint. *The answers list NH before the rights for nursing home residents and ALF before assisted living facility rights.*

1. My doctor won't listen to me. He is always in a rush. I want to see another doctor.
 - NH - choose your own physician at your own expense or through a health care plan
 - ALF - choose and retain a personal physician
2. No one will tell me why I have to take so many pills every day.
 - NH - participate in developing a plan of care, to refuse treatment, and to refuse to participate in experimental research
 - NH - receive information about prescribed psychoactive medication from the person who prescribes the medication or that person's designee
 - ALF - participate in developing an individual service plan that describes your medical and psychological needs and how the needs will be met
 - ALF - be fully informed in advance about treatment or care that may affect the resident's well-being
3. Tomorrow they are moving me to another hallway. I don't want to move.

- NH - not be relocated within the facility, except in accordance with nursing facility regulations
4. My mother is very frail and I don't want her to fall. Yet they won't put side rails up on her bed at night.
 - NH - be free from any physical or chemical restraints used for discipline or convenience and not required to treat your medical symptoms
 - ALF - be free from physical and mental abuse, including punishment or physical and chemical restraints not required to treat medical symptoms
 5. My friend is very critical of staff when she comes. The administrator says if she doesn't stop, she cannot visit any more.
 - NH - receive visitors
 - ALF - unrestricted communication, including visits with family members, representatives of advocacy groups and community service organizations, and other visitors at any reasonable hour
 6. The staff who feed my Dad shoves food into his mouth without care or attention.
 - NH - be treated with dignity, courtesy, consideration, and respect
 - ALF - be treated with respect, consideration, and recognition of dignity and individuality
 7. My sister stopped eating and is losing weight. The doctor wants to insert a feeding tube, but my sister always said she didn't want one.
 - NH - refuse treatment, care, or services
 - ALF - refuse medical treatment or services after being advised by the person providing services of the possible consequences of refusing treatment or services and acknowledging that you understand the consequences of refusing treatment or services
 8. The activities are boring here ... TV, bingo, or playing with paint like children!
 - NH - make your own choices regarding personal affairs, care, benefits, and services
 - NH - participate in activities inside and outside the facility
 - achieve the highest level of independence, autonomy, and interaction with the community
 - ALF - participate in activities of social, religious, or community groups and practice religion of your choice
 9. My hearing aid is lost. They won't get me another.
 - NH - receive all care necessary to have the highest possible level of health
 - NH - access money and property you have deposited with the facility
 - NH - be informed of Medicare or Medicaid benefits
 - ALF - manage financial affairs
 - ALF - be informed by the provider ... whether resident is entitled to benefits under Medicare or Medicaid and which items and services are covered by these benefits, including items or services for which the resident may not be charged
 10. Someone is spying on me. My mail is opened before I get it.

- NH - send and receive unopened mail and to receive help in reading or writing correspondence
 - ALF - receive and send unopened mail, and have mail sent and delivered promptly
11. I told the nurse last week there's a sore on my leg. No one has checked it yet.
- NH - receive all care necessary to have the highest possible level of health
 - ALF - participate in developing an individual service plan that describes your medical and psychological needs and how the needs will be met
12. This place is like a prison. I want to go home and they won't let me.
- NH - discharge yourself from the facility unless you have been adjudicated mentally incompetent
 - ALF - leave the facility temporarily or permanently, subject to contractual or financial obligations
13. The housekeeping staff always barges in when I'm undressed. No one ever knocks before they come into my room.
- NH - privacy, including privacy during visits, phone calls and while attending to personal needs
 - ALF - privacy while attending to personal needs and receiving medical treatment
14. When I visit Dad, he's usually sitting in a soiled brief. When I tell the nurse, she says, "I'm busy now. I'll come as soon as I can," and then comes an hour later.
- NH - receive all care necessary to have the highest possible level of health
 - ALF - participate in developing an individual service plan that describes your medical and psychological needs and how the needs will be met

Family has a right to be notified within 24 hours of an injury or a significant change in condition.

Family also has a right to participate in the care planning process.

For a resident in a nursing home, family has a right to be notified within 24 hours of an injury or a significant change in the resident's physical, mental, or psychosocial status. Family also has a right to participate in the care planning process

Answers

Chapter 6: Facilities

1. Most assisted living staff is not certified or licensed.
2. In Texas, assisted living emerged in what decade? 1990s
3. Assisted living can only be paid for with private funds (not Medicaid). False, but relatively few Medicaid slots are available.
4. Since residents can require help to evacuate, the highest level of care available is in a Type B.

Exercise: Introduction to a Nursing Home Administrator

A staff ombudsman goes with an ombudsman intern to a nursing home. After the staff ombudsman introduces the intern, the administrator says, "You know we haven't needed an ombudsman for a long time. DADS Regulatory Services surveys us and thinks we're doing a great job. You probably won't have much to do here."

Questions for role play observers:

1. Why do you think the administrator made the statement above? *Responses will vary but generally consider -* "he doesn't want the ombudsman to listen to and speak for the residents, he doesn't know residents' right to an ombudsman, and he believes he's doing a great job."
2. What are some positive aspects of the program you would stress to the administrator? The ombudsman can identify minor issues before they become major problems. Residents need a trusted, independent advocate and the certified ombudsman can be a helpful participant in the long-term care system.

Exercise: Help! – Identify the Right Person

1. Mrs. Ortiz speaks Spanish, and you need an interpreter to communicate with her. Social worker
2. You notice that Mr. Smith's drinking water container is empty. Dietary staff or CNA
3. Mrs. McMillan reports that she lost a sweater. Housekeeping staff
4. Mr. Jones appears to be uncharacteristically depressed. Director of nursing
5. There is something extremely sticky on the floor of the main entrance. Housekeeping staff
6. Several call bells are answered slowly and some not at all. Charge nurse
7. Mr. Jenkins is worried about his bills. Business office staff
8. A resident tells you the aide named "Mary" hit her. Administrator
9. Mrs. Nelson tells you she does not get her personal needs allowance. Administrator or Business office staff
10. A number of residents tell you they have not seen the doctor this month. Medical director
11. The social worker asks if you can help with a resident's Power of Attorney who is not paying the nursing home bill. Business office staff

12. After speaking several times with the Director of Food Services, you find that complaints are not getting resolved. Administrator
13. You notice a resident is sliding out of a chair. Certified nurse aide
14. Mr. Sims appears lonely and bored. Activities director or Social worker
15. Two roommates are arguing with each other. Social worker

On average, how many nursing home residents pay with Medicaid? 70%

A person using Medicaid to pay for nursing home care keeps \$60 each month. This is called a Personal Needs Allowance.

What is “applied income?” It is resident’s monthly income, usually a Social Security check, paid by the resident to the nursing home.

The State of Texas contracts with TMHP to determine a resident’s medical necessity.

Walking the Fine Line Presentation:

Ombudsman Role with Residents, Families, & Facility Staff.

Based on long-term care ombudsman experiences, Jana Tiefenwerth, former East Texas staff ombudsman, created “Walking the Fine Line.” This perspective helps create positive working relationships that lead to successful advocacy.

During the presentation, think about – How ombudsmen can achieve the following: Responses will vary but generally -

Walk the fine line between residents and staff in a way that increases their trust in an ombudsman? Develop appropriate relationships with administrators, staff, residents, and family members. Be careful no to become pro-facility.

Help residents see an ombudsman as a resident advocate, but not cross the line and create a dependent relationship?

- Ombudsmen are resident advocates and do not work for the facility
- Spend time with residents to establish trust, tell them their rights
- Report back on the status of complaints, validate concerns, support decisions (even when you personally do not agree with them)
- Do not break confidentiality.

Develop relationships with staff that improves quality of life and care for residents, without crossing a boundary with staff?

- Explain the ombudsman role to staff who bring concerns to the ombudsman’s attention
- Call staff by name
- Focus on resident needs
- Do not correct direct care workers but speak to their supervisors

- Offer to provide in-service training on resident rights and person-directed care
- Acknowledge the difficulties of their job, praise staff appropriately, and report good work to their supervisor and administrator

Give an example of an ombudsman being pro-facility?

- Spend more time with staff than with residents
- Seeming too friendly with staff
- Siding with staff over residents

Answers

Chapter 7: Resident and Family Councils

Ask the Trainer: Resident Council

- What is the key to success of a resident council? The residents run the council and the facility supports them.
- How do I learn when the council meets in the home where I am assigned? Ask facility staff the meeting date and time as well as the name of the council president so you can talk to him or her.

Ombudsmen attend council meetings if invited.

A facility must assign a staff person to support council needs.

Appropriate ways ombudsmen support councils (mark the ones that apply):

- Encourage residents to attend
- Explain the ombudsman program at a meeting
- Create and distribute minutes
- Attend every month

A new ombudsman should make contact with the president

Video: Strength in Numbers: The Importance of Nursing Home Family Councils

Family councils led by families benefit residents, family members, and facility staff alike. This video gives an overview of the focus, techniques, and strategies to develop effective councils. It shows how families and friends become empowered to improve the quality of care. Watch the video and answer the questions that follow.

1. On a scale from 1-10, how well do you think the administrator ___ and staff ___ would receive a family council in your assigned home? *Responses will vary.*
2. How could the council recruit more family members?
 - a. Support new families, such as participate in orientations, visit shortly after moving in, sponsor social events
 - b. Make personal contacts, such as invite family members between meetings, have greeters in the lobby
 - c. Build a network, use sign-in sheets at meetings, include permission to release family phone numbers in admission packet, provide ongoing support between meetings
 - d. Develop written materials, such as produce brochures, flyers, and newsletters, place information in the facility newsletter, include information on bulletin board

3. What guidelines might help a first meeting be successful?
 - Use structure, such as agenda, meeting length, regular meeting time
 - Make time for shared input, such as input and setting group goals and establishing a structure to capture the input
 - Focus on action and efficiency, such as next steps, business vs pleasure, formulate solutions and recommendations

4. Do you have any concerns about the family council at your assigned home?
Personal responses will vary.

5. Identify a barrier to starting a family council.
 - Family members lack of time
 - Family members lack of interest
 - Family members fear of retaliation
 - Council members get discouraged easily
 - Family members lack of information and education
 - Family council experiences resistance from the facility
 - Difficulty getting names of other family members

6. Identify a facility staff that supports a family council.
 - Activity director
 - Social worker
 - Administrator

Answers

Chapter 8: Care Planning

Exercise: Create Wilma's Care Plan

Wilma is an 88-year old woman with dementia. She has a short attention span and usually has a cheerful demeanor. Wilma likes to walk around the facility for most waking hours. She is unable to distinguish between areas she is allowed to enter and those that she should not. Her ambulation skills are excellent; she requires no assistance. Wilma disturbs some residents because she may enter their rooms against their wishes. She prefers to be with staff at all times; she does not tolerate being alone very well. She and her husband raised eleven children. They owned a hardware store and were respected business owners in town.

Exercise: Create Wilma's Care Plan *Responses will vary but generally consider -*

Needs	Goal	Approaches
<u>I need to walk</u>	<u>To remain as active and mobile as possible</u>	<ul style="list-style-type: none">• <u>I will walk about 3 hours a day.</u>• <u>I will walk outside on nice days and stay a little longer.</u>• <u>I like to walk after breakfast and dinner.</u>
<u>I need to interact with people</u>	<u>To be aware of my surroundings and to participate in activities of my choice and in my care as much as possible</u>	<ul style="list-style-type: none">• <u>I enjoy conversations with friends, family, and staff.</u>• <u>I am confused occasionally so help orient me during these times, especially if I go where I should not.</u>• <u>I want you to tell me who you are and what you are going to do when you provide my care.</u>• <u>I am reassured by your soft voice and gentle touch; otherwise, I might strike out in confusion and fear.</u>

Video: Answer the following questions about CMS *Hand in Hand Module 6*.

1. In the *Mrs. Johnson, Part 1 Video Clip*, how does Gloria meet Mrs. Johnson where she is in her dementia?
 - Greets her by name
 - Knocks on door to let her know she is there
 - Guides Ms. J to bathroom
 - Let's her know she will be back
 - Let's her do as many things as she can for herself
2. In the *Mrs. Johnson, Part 2 Video Clip*, how does Gloria meet Mrs. Johnson where she is in her dementia?
 - Calls her by name
 - Knocks
 - Let's her know it is bedtime & cues her to brush her teeth

- Prepares items Mrs. J will need
 - Takes more time communicating
3. In the *Mrs. Johnson, Part 3 Video Clip*, how does Gloria meet Mrs. Johnson where she is in her dementia?
 - Greets her by name
 - Lets her know it is bedtime
 - Reminds her to brush her teeth
 - Leads her in the right direction to bathroom
 - Goes into bathroom with Mrs. Johnson
 - Gives visual cues
 4. In the *Mrs. Johnson, Part 4 Video Clip*, how does Gloria meet Mrs. Johnson where she is in her dementia?
 - Calls her by name
 - Uses her hand to guide Mrs. J's hand in brushing her teeth
 - Watches Mrs. J in mirror and gently encourages her as she brushes
 - Smiles at her
 - Hands Mrs. J cup of water & reminds her to spit
 - Guides her out
 5. In the *Mrs. Johnson, Part 5 Video Clip*, how does Gloria meet Mrs. Johnson where she is in her dementia?
 - Greets her by name
 - Let's her know it is bedtime
 - Approaches Mrs. Johnson from the side while brushing her teeth
 - Guides her to drink water & spit
 - Assures
 - Involves her as much as possible
 6. Good dementia care involves fulfilling these basic human needs:
 - Comfort – providing warmth & strength
 - Attachment –forming bonds
 - Inclusion – being part of a group
 - Occupation – purpose & meaning

The person named in a Medical Power of Attorney to make decisions is called the agent.

Ask the Trainer: Family Members Disagree

The doctor told a resident there are no more treatments to improve her health and he recommends hospice care. One daughter agrees but the other wants aggressive treatments continued.

1. Whose wishes do you advocate for? Follow the resident's wishes, including anything in an advance care planning document or previously shared with others.
2. What should an ombudsman do when family members disagree? Bring the resident's wishes to the foreground and assert her wishes to family. Emphasize the facility's requirement to follow the resident's direction and allow family time to talk about their feelings.

Name one person who can be a surrogate decision maker?

- patient's spouse;
- adult child of the patient who has the waiver and consent of all other qualified adult children of the patient to act as the sole decision-maker;
- majority of the patient's reasonably available adult children;
- patient's parents; and
- individual clearly identified to act for the patient by the patient before the patient became incapacitated, patient's nearest living relative, or a member of the clergy

Unless specifically authorized by a court, or named by a resident as an agent in advance directives, family members and professional caregivers *do not* have legal authority to make decisions for residents.

True True (T) or False (F)

Answers

Chapter 9: Recognizing, Receiving and Investigating Complaints

When receiving a complaint from anyone other than a resident, let that person know you take action according to the resident's wishes.

Video: Watch the YouTube video *The Monkey Business Illusion* (**DEMONSTRATES SELECTIVE OBSERVATION & RELATES TO INFORMATION ON PAGE 250 – TIPS FOR OBSERVATION.**)

Follow this link: http://www.youtube.com/watch?v=IGQmdoK_ZfY

In the video people are passing basketballs. One group is wearing white shirts; the other group is wearing black shirts. Count the number of times the team in white shirts passes the basketball. After watching the video, answer the following questions.

How many times did the team in the white shirts pass the basketball? 16

Did you see anything strange? Yes Yes (Y) or No (N)

What did you see? Gorilla walks through the game,

Did the curtain change color? Yes Yes (Y) or No (N) - (red to gold)

Did any players leave the game? Yes Yes (Y) or No (N) - Yes, one, black shirt

VIDEO: Long-term Care Ombudsman Casework: Advocacy and Communication Skills

Scenario #1: Anne Walker

Complaint Investigation and Resolution Strategies

An ombudsman investigation should be timely _____,
thorough _____ and objective _____.

How did Gloria use her senses to gather evidence during her visit and complaint investigation related to Ms. Walker's concerns?

She looked in the showers for evidence of use and observed residents and staff during her early morning visit.

Why did Gloria visit during the morning shower time?

She visited during the morning shower time in order to observe the shower process. Visiting at that time of day can show the ombudsman the early morning experience, including staffing, from a resident's perspective.

What challenges might an ombudsman encounter when visiting early mornings, nights or weekends?

Staff may pay more attention to Gloria during her visit to see where she goes and which residents she visits and ask questions about why she is visiting at that time. Or the facility may be short staffed making it difficult to enter the facility if the front door is locked or to find staff to respond to questions. Finding managerial staff outside of weekday, daytime shifts may be a challenge or delay the problem-solving process. Communication with facility decision-makers may not occur face-to-face unless the ombudsman also visits during weekday, daytime hours.

Identify other ways Gloria could approach the investigation of this complaint.
Gloria could have interviewed other residents about their showering experience and reviewed the shower schedule first then visited during the morning shower time if necessary.

When Ms. Walker expressed her concern about not wanting to be identified with the complaint and said residents have been discharged due to sharing their concerns, what else could Gloria have said in response to her statement? Gloria assured Ms. Walker that she wouldn't reveal her name without her consent. Additionally, Gloria could have informed Ms. Walker that she has the right to make a complaint, is protected from retaliation and has rights related to discharge.

What does Gloria do to protect Ms. Walker's confidentiality, and what are some other things she could do to ensure Ms. Walker isn't identified as the complainant unless she is ready?

Gloria visits with residents other than Ms. Walker and when asking them about the bathing schedule and their experience, she does not disclose that a complaint was made or by whom. Gloria does not look at Ms. Walker's medical records.

What concerns did you hear Ms. Walker expressing in this scenario? Were all of them addressed?

Her shower time is too early in the morning. She feels the staff are not listening to her and respecting her preferences. She said staff rush her out of bed in the morning and rushed her during and after her shower. Staff have not answered her questions about the shower schedule and one aide treats her like a child. Yes, her concerns were resolved to her satisfaction.

Why didn't Gloria review Ms. Walker's care plan to check her preferences about showers?

In addition to the fact that Ms. Walker's identity would be revealed if Gloria asked for her records, Gloria would need Ms. Walker's permission prior to reviewing her care plan and other records. Since Ms. Walker did not want Gloria to disclose her identity during the initial investigation, she used other strategies such as interviewing other residents and reviewing the shower schedule to gather information.

TRAINER TIP: Highlight how Gloria focused her advocacy on Ms. Walker's preferences and empowered Ms. Walker to share her experience as she facilitated the meeting between Ms. Walker and Ms. Lee. Gloria's decision to advocate for the changes Ms. Walker wanted instead of focusing on the written care plan is an effective strategy as it may be less threatening to staff to hear directly from the resident. Gloria focused on what was most important in this situation: the current shower situation, Ms. Walker's wishes, how the aides interact with Ms. Walker and how to ensure that her bathing preferences are upheld in the future.

Effective Communication Skills

Gloria used both open-ended and closed-ended questions during her complaint intake, investigation and resolution process. Use the chart below to identify some of the open-ended and closed-ended questions you heard Gloria ask during both scenarios and describe what information she was trying to obtain with those questions.

QUESTION	TYPE OF QUESTION (OPEN-ENDED OR CLOSED-ENDED)	INFORMATION GAINED
What time do they come to your room?	Closed-ended	What time the aides arrive to take Ms. Walker to the shower.
Why do you think they started coming so early?	Open-ended	Gather more information about the changes in shower time and Ms. Walker's understanding of the changes
When you're in the showers is there anyone else in the area?	Closed-ended	To see if anyone else is in the shower and if so, identify other potential residents to speak with regarding the shower schedule.
I don't see how this situation warrants discharge, do you?	Closed-ended	Demonstrate that Gloria feels threatening a discharge in this situation is not appropriate and seek a yes or no answer from the Administrator.

Ask the Trainer: Brainstorm appropriate and inappropriate responses to an emotional or uncooperative witness. In the table, list an *appropriate* approach for each emotional or uncooperative response

Witness's Response	Ombudsman Approach (Possible Answers)
Crying	Empathize, offer a glass of water or tissues
Pacing	Remember some actions and reactions are related to cognitive behavior. Offer to reschedule or acknowledge the witness's pacing and ask if there is anything you can do for him or her.
Slamming things	Remain calm. Remain seated. Ask if the witness would like to take a break. Empathize and discuss.
Pointing fingers	Ignore if possible. If very disruptive, acknowledge the finger pointing and discuss.
Eye rolling	Ignore if possible. If very disruptive, acknowledge the eye rolling and discuss.

Lack of eye contact	Remember some actions or reactions are related to cognitive behavior. Try reestablishing rapport. Acknowledge the lack of eye contact and discuss.
Screaming or yelling	Remain calm. Remain seated. See if the witness would like to take a break. Acknowledge the yelling and offer to discuss.
Folder arms or other body language	Try reestablishing rapport.
Excessive talking	Listen and wait for an opening. Redirect.
Giving the same response to every question	Ask the person if they can shed any more light on the subject. Say that you need their help.
Sarcasm	Ignore. Listen and wait for an opening. Redirect to facts.
Cursing	Ignore if possible. If necessary, explain how the cursing affects you or others in the room. Acknowledge and suggest discussing possible feelings or frustration or anger.
Blaming	<i>Redirect to facts.</i> Acknowledge and offer to discuss. It sounds like you feel....”
Avoiding	Use open ended questions, especially at the beginning of the interview. Try to get the witness to open up. For example, “Tell me about...” “When did you see...” “How did it come about that you were in the building on...” Avoid compound questions that combine two or three issues in a single question. Give the person more time to allow them to develop an answer. If witness refuses to speak, accept it and document situation. Re-ask the question.
Other:	

Answers

Chapter 10: Resolving Complaints

The difference between a position and an interest is: A position is something you have decided upon and an Interest is what caused you to decide.

When negotiating with management, separate the people from the problem.

VIDEO: Long-term Care Ombudsman Casework: Advocacy and Communication Skills

INSTRUCTIONS: Watch the video and answer the following questions. Be prepared to discuss your responses with your trainer.

Note: Some questions seek specific examples from the scenarios so it may be helpful to review the questions before watching the video to understand what you will be asked to identify.

Scenario #2: Brian Brashear

Complaint Investigation and Resolution Strategies

What concerns did you hear Mr. Brashear's expressing in this scenario? Were all of them addressed?

Mr. Brashear wants his friends to be able to visit him at any time and he feared being discharged from the facility since the Administrator, Jack Cook, told him he may want to consider moving. He also said that some nurses were ignoring him.

What is the PEP method? Point _____, Evidence _____, Repeat Point _____.

How did Gloria address Mr. Brashear's concerns in relation to his rights and the other residents' rights when speaking with Mr. Cook? Was that effective? Explain your answer.

Gloria was very clear about Mr. Brashear's right to visitors and asserted that Mr. Brasher and his guests understood that they should not interfere with his roommate and other residents' rights. She also recognized, however, that Mr. Brashear's roommate indicated that he also enjoyed the visits by Mr. Brashear's friends. Yes, it was effective as she demonstrated that Mr. Brashear and his visitors were respecting the rights of others, yet Mr. Brashear's rights to visitors was not supported by the staff.

How did Gloria ensure her complaint investigation was resident-directed while reminding Mr. Cook of the need for resident-directed care and quality of life? How did this impact her credibility with Mr. Brashear? With Mr. Cook? Gloria informed Mr. Brashear of how she wanted to proceed and asked for his permission before speaking with the Administrator. She invited Mr. Brashear to come with her to talk to Mr. Cook. She encouraged Mr. Cook to speak directly with Mr. Brashear to assure him he wasn't being discharged. Her ability to remain objective and resident-directed enhanced her credibility with both Mr. Brashear and Mr. Cook.

As it states in the video, the ombudsman need to remain “calm, objective and in control” at all times, especially when a situation has escalated. When speaking with Mr. Cook, what techniques did Gloria use, both verbal and nonverbal, to maintain her professionalism and remain calm, but assertive?

Gloria kept her hands in her lap and looked relaxed. She did not raise her voice or interrupt the Administrator. She was professional and courteous, but directly stated Mr. Brashear’s concerns, his rights and her concerns with the facility response. She acknowledged the challenges Mr. Cook deals with in running a long-term care facility and that they both have the same goal, to meet the needs of residents.

In the follow-up conversation with Mr. Brashear and Mr. Cook, how did Gloria demonstrate her support of Mr. Brashear when facilitating that conversation? Why was that important?

To open the follow-up conversation, Gloria clearly stated Mr. Brashear’s concerns and paraphrased her previous conversation with Mr. Cook. After Mr. Brashear shared his perspective, Gloria reiterated that she shared his concern about Mr. Cook’s suggestion about moving out and persisted until Mr. Cook assured him that he would not be discharged and his rights to visitors would be supported. Gloria’s obvious support was important since the LTCO is the resident advocate and her support encouraged Mr. Brashear to share his perspective.

Resident-directed advocacy means the ombudsman should first consult with the resident who was identified prior to taking any actions and maximizes and supports the resident’s participation in the complaint resolution process.

Exercise: Consider possible solutions, obstacles, and ways to overcome obstacles
Ms. Garcia wants to stay up late at night. The charge nurse knows her preference and will accommodate, but how will a lasting solution be reached? *Responses will vary but generally -*

Possible Solutions: Communicate through the resident’s care plan

Potential Obstacles: Staff don’t access and read the care plan

Suggestions to Overcome Obstacles: Involve direct care staff in care planning and write the plan in plain English. Train staff to look at plans and ask for help when a part of the plan is not clear.

Possible Solutions: Consistently brief staff when a shift changes

Potential Obstacles: Staff turnover

Suggestions to Overcome Obstacles: Implement culture change; create and use an established shift change communication procedure; assign the same caregivers to the same residents every day.

Possible Solutions: Use visual cues, such as a picture of an owl

Potential Obstacles: Stigma could be attached to any cue

Suggestions to Overcome Obstacles: Visuals for all residents – some cues; others generic; seek resident input on these cues.

Possible Solutions: Designate space for night activities, such as TV, games, snacks
Potential Obstacles: No location is available; complaints about noise late at night
Suggestions to Overcome Obstacles: Review spaces in the home and select a space that will minimize impact on sleeping residents; involve residents in planning and implementing new shared space; buy materials to reduce noise.

Before taking action to resolve, be sure you know what the resident wants.

Close a case when you have done all the work you can reasonably do.

Exercise: Case Studies

Case Discussion: “Show me the Money”

Step 1: Identify the problem and research statutory support

- Lost clothes: §19.401(b)(14) keep and use personal property, secure from theft or loss; § 92.125(S) in ALF standards
- Not wearing her clothes: §19.401(b)(19) wear your own clothes; § 92.125(S)
- Access to her money: §19.401(b)(13) access money and property you have deposited with the facility and to have an accounting of your money and property that are deposited with the facility and of all financial transactions made with or on your behalf; § 92.125(L)

Step 2: Consider causes and scope

- Management is not providing adequate training and oversight.
- Due to theft issues, management set procedures that limit rights of all residents to access their money.

Step 3: Explore ways to resolve and take action

- Conduct in-service on resident rights with special focus on trust funds.
- Invite police to speak to resident council, family council, and staff meetings to explain the criminal consequences of stealing.

Step 4: Check on progress and outcomes For Discussion (not a required question for trainees)

- Visit the resident and ask if the problem is better, worse, or the same
- Ask the resident if she feels there is more work to be done
- Ask the resident how she feels about the outcome of your efforts

Step 5: Determine satisfaction Discuss how to determine satisfaction and who determines it (in this case, the resident and also want to check with the sister)

For Discussion (not a required question for trainees)

Case Discussion: “Discharge – Unable to Meet Needs”

Step 1: Identify the problem and research statutory support

- Being discharged: §19.502 not be discharged from the facility, except as provided in the nursing facility regulations; § 92.125(X) in ALF standards
- Mrs. Dalton’s treatment: §19.401(b)(10) participate in developing a plan of care, to refuse treatment; § 92.41(c)

Step 2: Consider causes and scope

- Management chose to work with the spouse, her Power of Attorney, rather than work to meet the needs of the resident.
- The situation affects one person.

Step 3: Explore ways to resolve and take action

- Request a care plan or service meeting
- Ask the administrator to formally rescind the discharge letter
- Advise management that Mrs. Dalton makes her decisions unless adjudicated incapacitated
- Inform resident of her right to file an appeal request
- Consider whether legal representation is needed to assist in a fair hearing appeal, the ombudsman can serve as the resident’s representative, to serve as a witness during the hearing, or to attend the hearing by phone to offer support to the resident.

Step 4: Check on progress and outcomes For Discussion (not a required question for trainees)

- Ask the resident to keep you informed of any changes or concerns related to the case
- Visit the resident when in the building to monitor progress
- Visit the resident and ask if the problem is better, worse, or the same
- Ask the resident if she feels there is more work to be done
- Ask the resident how she feels about the outcome of your efforts

Step 5: Determine satisfaction Discuss how to determine satisfaction and who determines it (in this case, the resident) For Discussion (not a required question for trainees)

Case Discussion: “No Appropriate Food Choices”

Step 1: Identify the problem and research statutory support

Dietary Appropriateness: §92.41 (d) Resident policies. Before admitting a resident, facility staff must explain and provide a copy of the disclosure statement to the resident, family, or responsible party.....The facility must document receipt of the disclosure statement.

§92.41 (m) Food and nutrition services. (4) Therapeutic diets as ordered by the resident's physician must be provided according to the service plan. Therapeutic diets

that cannot customarily be prepared by a layperson must be calculated by a qualified dietician. Therapeutic diets that can customarily be prepared by a person in a family setting may be served by the assisted living facility. [*“Therapeutic diet” refers to a diet ordered by a health care practitioner as part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.*]

Step 2: Consider causes and scope

The resident possibly didn’t understand the disclosure statement. The facility may not be planning meal options appropriate for people with diabetes but the resident may not be making good choices at meal time. Does the resident need more information about the standards about meals for people with diabetes? Has the assisted living looked at costs of providing healthier food options? If the cost is higher, would this cost be passed on to residents? This problem could potentially affect more than one resident if other residents with special dietary needs reside in this assisted living.

Step 3: Explore ways to resolve and take action

- Request a service plan meeting and request the dietary manager attend.
- Review appropriateness of the menu with resident, executive director, nurse, and dietary manager; review recipes and nutritional values.
- Seek information from the Quality Monitoring Program, which promotes healthy choices that are not overly restrictive. For example, sugar-free desserts are unnecessary.
- Find out if the menus provide a balanced and nutritious diet, such as that recommended by the National Food and Nutrition Board and the American Diabetes Association (reviews facility recipe nutritional values).
- Explore this issue with other residents to determine if they have unmet dietary needs.
- Are there residents who are incapacitated and unable to pick meals appropriately? (How does the facility maintain acceptable parameters of nutritional status for these residents?)
- Explore costs of more food options with the facility. (If residents are not eating the meals, they are wasting money.)

For Discussion (not a required question for trainees) - Step 4: Check on progress and outcomes

- Ask the resident to keep you informed of any changes or concerns related to the case
- Visit the resident when in the building to monitor progress
- Visit the resident and ask if the problem is better, worse, or the same
- Ask the resident if he feels there is more work to be done
- Ask the resident how he feels about the outcome of your efforts

For Discussion (not a required question for trainees) - Step 5: Determine satisfaction
Discuss how to determine satisfaction and who determines it (in this case, the resident)

Answers

Chapter 11: Staying Connected

Every certified ombudsman is required to earn 12 hours of continuing education each year.

Staff ombudsmen report daily and volunteers report every month.

Consultation provides all ombudsmen the support they need while ensuring they follow procedures to protect residents' rights and the integrity of the ombudsman program. Consultation is required when ombudsmen are asked to disclose confidential information and consent from the resident, resident's LAR, or complainant cannot be obtained.

Exercise: Find the Best Complaint Code

Use the list of 133 complaint codes to assign the best code to describe a complaint.

Circle the complainant in each complaint.

Example: An ombudsman observed a resident with fingernails and hair that appeared dirty. The best complaint category and code is: F 45, personal hygiene.

- D 26 1. A resident tells you "a CNA is mean. I get nervous when she comes to my room."
- C 22 2. A daughter reports the nursing home is moving her Mom to make room for a special rehabilitation unit. She has lived in the same room for two years and doesn't want to move. "The social worker is harassing us."
- I 66 3. A resident says, "My roommate hollers out and keeps me up at night. I want him moved."
- J 71 4. A facility staff tells you, "Breakfast looks awful. The pancakes are rubbery, the eggs are powdered, and the coffee is cold." You ask residents and they agree.
- D 30 5. A resident reports the facility held her care plan meeting without her.
- E 38 6. The social worker reports, "Mr. Jones is going into resident rooms and stealing."
- G 58 7. A resident reports, "Rehab has stopped physical therapy because they say I am no longer improving enough, but I know I can progress with more therapy."
- K 82 8. The daughter said, "Mom called me very upset. The blouse and pants they put on her are not hers."
- K 78 9. The ombudsman observes the bathroom in a resident's room has feces, standing water, and live roaches.
- F 41 10. The ombudsman notices several call lights are not within residents' reach in bed.
- J 71 11. Daughter: "My mother is allergic to fish and she couldn't eat what was served. No one told her she could order something else so she went to bed hungry."
- D 25 or P 128 12. The facility calls for ombudsman intervention. A resident wants to go home but the nursing home does not think he can live safely at home.

- H 62 13. Ombudsman is aware a resident is diagnosed with an anxiety disorder. Son was not informed that his father's doctor order two psychotropic drugs and is concerned after reading about serious side effects.
- K 77 14. Ombudsman notices the living room smells of smoke. The smoking area is off the living room and has a large ashtray full of cigarette butts in the corner.
- I 64 15. Daughter: "Every time I visit my mother, she is sitting in the wheelchair in the hall staring at the walls."
- F 41 or J69 16. Ombudsman observes a resident looks very thin and does not eat lunch. The resident calls out for milk, but no one gets it for her.
- G 55 17. A resident reports, "My dentures got lost three months ago. I am still waiting for them to be replaced."
- B 14 18. Ombudsman learns a resident is Spanish speaking, but no one who provides her care understands or speaks Spanish.
- F 48 19. Resident: "I'm in terrible pain. The nurse is giving me Tylenol but it doesn't help. I told her but no one pays attention."
- A 3 or D 26 20. Resident: "Last evening I called the CNA to use the bathroom. CNA told me, "I'm busy now. Go in your diaper."
- MC 100135 21. A resident tells you she has left messages for her MCO service coordinator, but none of her calls are returned.
- MC 100137 22. A resident tells you his customized power wheelchair is broken and the facility says the MCO will not agree to get it fixed.

Exercise: Practice Completing a Monthly Report

Use the ombudsman's notes provided below to complete a May 2012 Ombudsman Activity Report.

May 1, 2012 (2.5 hours)

- Ms. Green reports it is too noisy at night and she can't sleep. Reported to administrator and discussed changes in nighttime supervision.
- Mr. White says his roommate keeps his light on until midnight and it keeps him awake. His sheets have not been changed in a week. Housekeeping changes sheets while I am there. Visited 29 residents.

May 10 (2 hours)

- Mr. Mustard tells me, "I don't know why I am here, I want to go home." We speak with the social worker who calls the relocation contractor for an assessment.
- Ms. Scarlet reports never having a water pitcher and says she is thirsty. Three other rooms do not have water available and two hallways have only one CNA working.
- Attended Family Council meeting in p.m. Visited with 9 family members.

May 13 (1 hour)

- Ms. Brown wants to get outdoors but says everyone is too busy. Activities assistant helps her outside while I am there.
- Mr. White and I discuss his relationship with his roommate who was sent to the hospital last night. He reports several housekeeping staff quit. Trash cans are full and the restroom needs attention. Requested housekeeping services.

May 14

- Called Mr. White. Housekeeping cleaned his room yesterday afternoon.

May 21 (1.5 hours)

Followed up with all residents on complaints. Visited with 10 residents and 2 families.

- Ms. Green says nights are quieter. Other residents report the same. I reported to the administrator improvements and thanked her for intervention.
- Mr. Mustard hasn't seen the relocation contractor for an assessment. Asks me to call and find out the status of his request.
- Ms. Brown reports not getting outside since last week. Calendar includes no outdoor activities. Activity director is not available to talk; left a note for administrator to call me.
- Mr. White's roommate has returned from the hospital and is sleeping more. Room has been quiet at night, but he feels it is temporary.
- Observed water pitchers being distributed to each resident. Ms. Scarlet reports she has received water every day since I reported it. Close case, but watch for how often water is replenished and if solution lasts next month.
- Housekeeping still looks behind – beds not made at noon. Trash overflowing.

Supplement 11-A – Researching Statutory Support

Use the links below to find the rule. The first one has been completed for you. To shorten you search, you can use “Ctrl F” to complete a word search.

Nursing Facility Requirements for Licensure and Medicaid Certification Handbook:

<http://www.dads.state.tx.us/handbooks/nfr-lmc/>

Licensing Standards for Assisted Living Facility Handbook:

<http://www.dads.state.tx.us/handbooks/lis-alf/>

Nursing Facility

1. Can medications be released to residents?
Reference §19. 507(a)(b)
[Hint: Find Subchapter P, Pharmacy Services, 19.507 Drug Release]
2. Who prepares the comprehensive care plan?
Reference §19. 802(b)(2)
3. What is the facility’s responsibility for enforcement of smoking policies?
Reference §19. 326(j)
4. What is the maximum time period between meals?
Reference §19. 1110 (b) (d)
5. Must the facility provide physician-ordered medical transportation to medical services outside the facility?
Reference §19. 2320 (a, b)
6. Can a resident administer his or her own medications?
Reference §19. 418
7. Name four of five types of information that must be conspicuously and prominently posted in a licensed facility?
Reference §19. 1921(e)(1-12)
[License, complaint hotline, residents rights, DADS toll-free telephone number etc.]
8. Does the resident have to be provided access to representatives of the ombudsman program?
Reference §19. 413(a)(4)
9. In 19.307, where does it discuss accessibility of resident call cords?
Reference §19. 307 (b)
10. Where can you find information about transfers and discharges?
Reference §19. 502

502

Assisted Living Facilities

1. What criteria are used to determine if a resident is placed appropriately in a Type A assisted living facility? (found in types of ALFs) Reference §92.3(b)_____
2. Does the resident service plan have to be approved and signed by the resident or resident's responsible party for making health care decisions?
Reference §92.41 (C) (2)
3. May a resident self-administer medications? Reference §92.41(j)(1-3)_____
4. In an assisted living facility, which staff can administer medications to a resident and what training does he or she need? Reference §92.41(j)(1)(A)(i-III)
5. The assisted living facility must keep supplies of staple foods for a minimum of 4 day period and perishable foods for a minimum of a 1 day period.
Reference §92.41 (m)_____
6. Does the resident have to be provided access to representatives of the ombudsman program?
Reference §92.801_____
7. Name five of the nine required postings that an assisted living facility must prominently and conspicuously post for display in a public area of the facility that is readily available to residents, employees, and visitors

License, Resident Bill of Rights; Provider Bill of Rights, 24-hour staffing patterns
Ombudsman phone number, etc. Reference 92.127(1-9)_____
8. Can a facility discharge a resident because covert electronic monitoring is being conducted by or on behalf of a resident?
Reference 92.129(i)_____
9. Does an assisted living have to give a 30-day discharge notice?
Reference 92.125(a)(3)(Y)_____
10. Can an assisted living facility provide skilled nursing services?
Reference 92. 11(a)(2)_____

Supplement 11-B - Consistency in Reporting Case Work

1. A resident tells the ombudsman she used her call light twice today. Each time, she had to wait 20 minutes before someone came to help. She asks the ombudsman for help. The ombudsman asks the resident to push the call button and checks the nurses' station. The call light works. The ombudsman asks who worked the morning shift. A new CNA started yesterday. Staff said they would focus training on call lights. During a follow up visit, the resident says she doesn't have to wait long for someone to respond to the call light. The ombudsman closes the case.

Number of complaints: 1
Complainant: Resident
Complaint(s) verified: Yes No
Complaint code(s): 41
Disposition: Resolved

2. A resident complains his home only offers one alternative meal at dinner and he would like two. He would also like to have a larger screened TV in the lounge closest to his room. He requests to remain anonymous and asks the ombudsman to investigate. The facility says the small lounge rooms are too small for a big screen TV, but there is a big screen TV in the main lounge. Staff arranges two alternative meals during the week but cannot offer two on weekends. The resident is satisfied with alternative meals during the week, because his family often brings special treats on the weekends. But, he is not happy about the TV. The ombudsman closes the case.

Number of complaints: 2
Complainant: Resident
Complaint(s) verified: Yes No
Complaint code(s): 71; 64
Disposition: 71-Partially resolved; 64-Not resolved

3. A daughter complains that her mother needs to move closer to the nurse's station. The daughter has MPoA for her mother. The resident agrees she would feel safer in one of two rooms near a nurse station. The ombudsman investigates and finds no empty beds in either room. The daughter insists that her mother needs to move. The ombudsman visits the resident twice and both times, she says she wants to forget the whole thing. Her current room is OK, and all the commotion about moving is upsetting her. The ombudsman closes the case.

Number of complaints: 1
Complainant: Relative
Complaint(s) verified: Yes No
Complaint code(s): 22
Disposition: Withdrawn

4. The ombudsman observes roaches in three resident rooms. This is the fourth complaint opened concerning roaches in the past year. Each time, the ombudsman contacts the local health department and corporate office. The facility addressed the problem temporarily, but the roaches return. This time, after contacting the health department and corporate office, the ombudsman refers the case to DADS Regulatory Services. (For this exercise, assume there is nothing more the ombudsman can do.) DADS staff doesn't find any roaches the day they inspect the facility so they do not substantiate the complaint. The ombudsman closes the case.

Number of complaints: 1
Complainant: Ombudsman
Complaint(s) verified: Yes No
Complaint code(s): 78

Disposition: Referred to another agency for resolution—not substantiated

5. A resident's son calls the ombudsman with a complaint about food. Meat is often tough to cut and chew, and his mother rarely eats most of her dinner. He visits his mother most dinner meals. The ombudsman offers to investigate by speaking with the complainant's mother on a future visit. The ombudsman visits the nursing home and discreetly visits the resident to ask about food quality, temperature and taste. The resident doesn't report any concerns. The ombudsman tells the resident about her son's call and his concern that sometimes the meat is tough. The resident says her son "worries too much" and she doesn't mind the food. The ombudsman watches the evening meal and asks eight residents about the meal. No concerns are noted. By phone, the ombudsman informs the son that as a resident advocate, she takes action based on resident interests. The son is dissatisfied to learn the ombudsman will not work the complaint further. The ombudsman closes the case.

Number of complaints: 1
Complainant: Relative
Complaint(s) verified: Yes No
Complaint code(s): 71

Disposition: No action needed or appropriate

6. A Resident Council president makes a complaint about the amount of the Personal Needs Allowance (PNA) for Medicaid residents. Invited to the next council meeting, the ombudsman explains the Texas Legislature determines the PNA. The residents ask the ombudsman's help to present this issue to an advocacy organization to lobby on behalf of residents. The ombudsman meets with an advocacy organization representative, and the organization agrees to lobby for a PNA increase during the next legislative session. The ombudsman closes the case.

Number of complaints: 1
Complainant: Resident
Complaint(s) verified: Yes No
Complaint code(s): 114

Disposition: Regulatory / Legislative action required

7. On June 1, the ombudsman observes seven call buttons out of reach of residents:
- 3 residents told the ombudsman they didn't realize the call buttons were out of reach.
 - 1 resident said he would call out if he needed anything.
 - 3 residents were unable to express their needs and didn't seem to be able to use the call button.

The ombudsman visited 25 rooms and contacted 40 residents. Some beds with call buttons out of reach were made while others were not, indicating housekeeping may have misplaced the call buttons. For the remaining rooms, the ombudsman talks with a nurse and two CNAs. The nurse reports it is a mistake and places the buttons within residents' reach. Both CNAs report they check more frequently on the residents who cannot use the call buttons. The ombudsman reports the concern to the administrator who states she will talk with the housekeeping supervisor and in-service direct-care staff on proper placement of call buttons. The ombudsman suggests more frequent checks on residents by a CNA seems a good strategy to help meet all residents' needs. The ombudsman keeps the case open.

On July 14, the ombudsman monitors the original seven residents and others who did not have access to their call buttons. Housekeeping has cleaned each room, and all buttons are

within the residents' reach. The male resident says it works to call out for help. CNAs report making frequent checks on residents who cannot use a call button. The ombudsman interviews another nurse who goes into a resident's room and asks, "Do you know how to use the call light?" The resident replies, "yes," but the ombudsman suspects the resident may not be capable. The ombudsman reports to the administrator: CNAs appear to have a good protocol; housekeeping appears to have made adjustments; but nurses appear to not recognize how to best meet the residents' needs. The administrator says she can't do more than provide another in-service. The ombudsman offers to assist, but the administrator declines. The ombudsman closes the case.

Number of complaints: 1

Complainant: Ombudsman

Complaint(s) verified: Yes No

Complaint code(s): 41

Disposition: Partially resolved

Answers

Chapter 12: Resident Records

Residents have the right to review medical and financial records pertaining to them.
True

Obtain resident consent to access a confidential record.

Exercise: Name the Medical Record Section

In which section of the medical record would you find the following?

1. What care does the morning shift need to give following the night shift? Nurses Notes
2. Who did the resident name as her Medical Power of Attorney? Administration
3. What kind of rehab does the resident need and how often? Therapy or Physician Orders
4. When was the last x-ray to check whether the hip healed? Imaging
5. When did the resident return from the hospital? History and Physical
6. What is the resident's working diagnosis? Progress Notes
7. Did the physician prescribe Ativan? Physician Orders or Medication Administration Record (MAR)
8. When does the facility plan to discharge the resident? Case Management

Answers

Chapter 13: Regulators and Resources

The purpose of a survey is to determine whether facilities meet licensing standards and whether the facility meets standards for participation in Medicare or Medicaid.

Ask the Trainer: Enforcement

Which enforcement action have you seen most commonly taken? _____

Answer based on your experience as an ombudsman. Responses vary, but administrative penalties are fairly common.

All nursing homes and assisted living facility employees must be determined employable. Operators must check what two registries?

- Nurse Aide Registry
- Employee Misconduct Registry

Exercise: Help! – Identify the Right Resource

Write the program or the best person to help solve each problem. To take action on a resident's behalf, you always need resident consent. For this exercise, assume you obtained consent from the resident.

1. Mrs. Cash moved to a new nursing home. She asks for her personal funds deposited with the home and is told no money is available. Client trust fund
2. When Mr. Rich moved in, he was private pay. Now he has spent down to a total of \$2,000 in his accounts. Where does he apply for Medicaid? Office of eligibility services
3. You notice numerous residents are restrained. Facility staff says they use physical restraints to prevent falls, but they want to learn best clinical practices to keep residents safe. Quality monitoring program
4. Mr. Brown's bill hasn't been paid for the past three months. His dementia got worse and his son started paying. The business office manager believes the son is paying his own house payments out of his dad's money. Refer the facility to call APS
5. Each time you visit Julie Morrow, she talks about moving out of the nursing home because everyone is old and she believes she could live in an apartment. Money follows the person (refer to the local contact agency for relocation)
6. The nursing home sent Alex Chang a 30-day discharge notice that they cannot meet his needs. He doesn't understand because other residents are in the same condition. He wants to stay. Request an appeal through OES; the hearing is conducted by the Fair and fraud hearings department

Answers

Chapter 14: Resident-centered Care

Exercise: Suggest how traditional words could be replaced with words that emphasize the person

1. Nursing facility: home, living center
2. Staff: person's name, Mr. or Mrs.
3. Resident: person's name, Mr. or Mrs.
4. Hallway/unit: neighborhood, village
5. Nourishment: snack, food, meal, afternoon tea, happy hour
6. Pet therapy: pet visits, time with friends
7. Activities room: den, community center, living room
8. Resident council: resident group, board
9. Therapy room: exercise room, gym, spa
10. Meal tray: place setting, table service, dinner plate, supper, meal

How can person-directed care improve quality of life in nursing homes and assisted living facilities? Residents and staff feel more in control of their lives and work. People will choose to live and to work there and will have better satisfaction with their lives.

List two differences between traditional care practices and person-directed care practices. Refer to pages 345-346. *Responses will be 2 of the 11 items*

Traditional Standard treatments based on diagnosis

Person-directed Individual care by needs and wishes

Traditional Facility-designed schedules

Person-directed Flexible schedules

Traditional Task-oriented work

Person-directed Relationship-centered work

Traditional Management decides

Person-directed Residents and others decide

Traditional Staff workplace

Person-directed Resident home

Traditional Feeling of homelessness

Person-directed Feeling of community and belonging

Traditional Resident adapts to facility

Person-directed	<u>Facility adapts to the resident</u>
Traditional	<u>Medical model</u>
Person-directed	<u>Social model with health care</u>
Traditional	<u>Impersonal work practice</u>
Person-directed	<u>Facility supports relationships</u>
Traditional	<u>Authoritarian</u>
Person-directed	<u>Team-driven</u>
Traditional	<u>Place to die</u>
Person-directed	<u>Environment to thrive and grow</u>

Activity: Mystery Game

Find clues to person-directed care.

The group answers the following: *Responses will vary -*

1. How are facility routines contributing to Mr. McNally's decline? Using sleeping pills, suppositories, incontinence briefs, and alarms to react to specific incidents rather than understanding Mr. McNally, his strengths, and choices.
2. What clues do you have about his strengths and interests? Can go to the bathroom himself, daughter and grandchildren visit, likes gardening, and interactions with nighttime staff.
3. How can staff use his strengths and interests to start a person-directed approach that may reverse his decline? He is capable of going to the bathroom when staff is patient. Give him time rather than using suppositories which will eventually weaken him. For a night owl, offer care and activities at night; for outdoor interest, arrange gardening options and bird feeder.
4. What changes in his routine need to be put in place? What changes in facility routine need to happen so his personal routines can be restored? Since he developed his own ways as a widower, allow him to do as much of his own care as possible on his schedule – probably more at night. Review reason for the fall on second night and evaluate medications, toileting, and other care. Be flexible when care and activities occur – not everything during the daytime.
5. What additional information is needed? The cause of his weight loss
6. Who else needs to be involved in the discussion? Pharmacist, dietician, activity director, family.

What can an ombudsman do to help a facility implement person-centered care-planning?

Responses will vary -

- Encourage consistent assignment of staff to residents so residents and staff know each other better.
- Encourage residents to tell staff about their choices and how they want to receive care and staff to know the residents as individuals.

- Encourage facility management to bring a direct caregivers into the care planning process.
- Encourage a resident to request his or her favorite caregiver attend the care plan or service meeting.

Video: Answer the following questions about CMS *Hand in Hand Module 4*.

1. All actions (behaviors) are a form of communication. We must try to understand their world.
2. List three possible reasons behind the actions or reactions of an individual with dementia:
 - a) Health conditions (pain, problems with vision or hearing, acute illness, chronic illness like diabetes or arthritis, dehydration, constipation, anxiety)
 - b) Medications (a new medication might cause a resident to be more confused, angry, or disoriented)
 - c) Communication (Speak slowly in short, simple sentences, be specific, ask one question at a time, one direction at a time, wandering=looking for bathroom or a family member)
 - d) Environment (Too large, over stimulating, cluttered, poorly lit, noisy, cold/hot)
 - e) The task (Not enjoyable, painful, embarrassing, too many steps, unclear)
 - f) Unmet needs (bathroom, hungry, safety or security, a sense of control, love, companionship)
 - g) The resident's life story (always got up at 4 am to go to work, nurse who wants to 'do rounds' with other residents)
 - h) You (Possible person is reacting to you! Maybe you remind them of a daughter, or someone the person doesn't like)
3. Medications can contribute to changes in a resident's actions. Any change in a resident's behavior or condition should be reported immediately.
4. In the *I Want to Go Home* video clip, why might Mrs. Caputo say she wants to go home?
 - a. She is homesick
 - b. She is bored
 - c. She is lonely
5. In coming up with ways to respond to actions and reactions, what are the three 'P's' you should think about? Define the three P's.

- a. **Prepare:** Knowing this person, are there ways I can prepare myself or the person with dementia to respond to the action? Don I need to ensure I am available to a person w/dementia at a certain time of day when his or her action occurs? Do I need to prepare others to know how to respond to this action if I am not available?
- b. **Prevent:** How could this active be prevented? How can I redirect the person?\
What seems to trigger the action? Is there a need that needs to be met?
- c. **Present:** How can I respond to the immediate need of this person? How ca I be with this person? How can I redirect? How can I remove the source of the frustration or remove the person from the source? How can I make sure everyone is safe?

Exercise: Practice Connecting Regulatory Compliance with Resident-directed Care

Directions:

Review the following regulations for nursing homes (§19, F-tags) and assisted living facilities (Texas Administrative Code, §92) then answer the correlating questions to practice promoting resident-directed care.

Trainer Tip: Connecting Regulatory Compliance with Resident-directed Care *Responses will vary in all the exercises.* Encourage trainees to share their answers and trainer reinforces responses that best signify resident-directed philosophy.

Answers

Chapter 15: Systems Advocacy

A resident council discusses their home cutting back van travel on the weekends. List an individual and a systems advocacy approach to resolve this problem.

- Individual – The council works with management to schedule travel according to the specific residents' needs for the upcoming month.
- Systems - The council works with staff to investigate options to keep ongoing weekend travel available. The council discusses with management seeking additional funds for travel, expanding the list of approved drivers, and establishes a plan for reviewing the travel calendar.

Moving out of a Nursing Home

Another activity that demonstrates the difference between individual and systems change is the process of a person moving out of a nursing home. This example also shows how individual advocacy may depend first on systems change.

How does the successful relocation of the individual described depend on a systems change? Because of the federal Olmstead decision, states changed their processes to the right to live in community settings rather than in institutions.

Find two system advocacy activities described in the example that ombudsmen can participate in:

1. Identify residents who wish to move and help residents to resolve complaints associated with relocation.
2. Monitor MDS 3.0 implementation and report identified complaints to the facility and the ombudsman program office.

Exercise: List two ways you can help the public and lawmakers understand the needs of people who live in assisted living facilities (ALF).

- Share the state long-term care ombudsman annual report, regulatory reports, news articles, and other information.
- Tell about the benefits of applying ALF Alzheimer's licensure standards for manager and staff training, staffing, and activities to all Type B ALFs. Review the standards in Texas Administrative Code Chapter 92.
- Ask for support for requiring direct care employees to be certified nurse aides. Share examples of the benefits of trained and certified caregivers on the quality of life and care for ALF residents.
- Give examples of the lack of consumer protections for ALF residents. Inform about the need to provide a fair hearing for ALF residents facing discharge.
- Identify key stakeholders who can impact change and share information.
- Respond to inquiries from the press about the quality of care and life in ALFs.
- Write letters to newspaper editors, articles for newsletters and other publications.

Exercise: Future Advocacy

Promote resident-directed care. Brainstorm ideas for systemic culture change in your assigned facility. Consider the following areas: *Responses will vary but generally -*

- Meal service:

- Buffet service
- Beverage and snack stations
- Expanded meal hours
- Deeper involvement by residents in planning and executing dining options
- Bathing and hygienic experiences:
 - Spa atmosphere, warm and comforting linens, aroma therapy, and music
 - Survey residents about their experiences with bathing in the nursing home
 - Taking volunteers from staff to be bathed and use those experiences to improve the experience for residents
- Social activities:
 - Expand options for outside community inclusive activities such as bridge and book clubs, volunteer opportunities as individual or group (RSVP program)
 - Host community events, offer space for meetings
 - Arrange trips, arrange travel story slideshow led by residents
- Intimacy:
 - Ask residents if they would like to change rooms and choose a new roommate
 - Create new private spaces and private bedrooms
 - With resident input, create privacy signs
 - Discuss intimacy needs of residents with diminished capacity and develop policies to balance autonomy and safety
 - Be aware of the needs of same sex partners and unmarried couples

In general, what is one change that could provide all residents with an opportunity to exercise more choice and control? *Responses will vary but one example is -*
In addition to my nursing home assignment, I will coordinate with my supervising staff ombudsman to visit one assisted living facility four times a year. I will share insights from the visits with staff and volunteer ombudsmen at our continuing education sessions.

Name the training material that ombudsmen can deliver to long-term care staff.
Hand in Hand

On Your Own: ***Reducing Antipsychotic Drug Use – A Story of Hope***

Name one thing Town and Country changed or implemented in their nursing home to reduce the use of antipsychotics.

Educated families

Insight from families on residents' likes and dislikes

Staff education & virtual dementia tour.

Implemented culture change

Walks for residents.

Spending time in the courtyard

Pain assessment

Listening to music

Getting Acquainted with Ombudsman Policies and Procedures

Answers

Section 100 Introduction

1. According to Section 100, what gives the Long-term Care Ombudsman Program legal authority?
Older Americans Act and Human Resources Code
2. Section 103 describes the line of communication for the ombudsman program. To whom should a volunteer ombudsman take consultations, grievances, and escalation of complaints?
Staff ombudsman or Managing Local Ombudsman

Section 200 Roles and Responsibilities

1. Section 201.2 describes staff responsibilities, some required by a Managing Local Ombudsman and others that may be executed by any certified staff ombudsman. To access confidential program information, what happens first?
The ombudsman must be certified.
2. In Section 202, what is one capacity in which an ombudsman may not serve a resident because it is a conflict of interest?
LAR or legally authorized representative
3. According to Section 204, what must an ombudsman do if participating on behalf of the ombudsman program in local activities pertaining to policy or legislation?
Contact the State Long-term Care Ombudsman.
4. Section 205.3 describes interaction between Regulatory Services and Ombudsman Program. Name 2 reasons an ombudsman contacts Regulatory Services (RS).
 - Consulting on a case or investigation
 - Communicating and coordinating during a RS inspection of a facility
 - Participating in quarterly meetings between CSO, MLO, and RS staff
 - Reporting concerns of a serious nature, such as a suspected facility closure
 - Coordinating during a facility closure, disaster or other emergency
 - Filing a formal complaint at Consumer Rights and Services, 800-458-9858
5. In Sections 207.1 and 207.2, what are suggested topics for an ombudsman to present to residents and families and facilities?
Abuse and neglect, care planning, individualized care

Section 300 Conflict of Interest

1. Section 301 states it is best to _____ rather than _____ conflicts.
Avoid, remedy
2. In Section 301.1, any person seeking employment or certification as staff or volunteer must disclose all information relevant to:
 - past employment,
 - memberships,
 - interests that may affect or could reasonably be expected to affect that person's ability to carry out the duties of a CO without conflicting interest.
3. According to Section 302, an ombudsman may not accept _____, _____, or _____ from a LTC facility, resident, or anyone other than the local LTCOP for performing ombudsman services.
gifts, gratuities, or other consideration
4. According to Section 303.1, what steps must be followed to remedy an individual conflict of interest?
 - Develop a written plan;
 - Agree, sign and date the plan.

Section 400 Consent

2. In Section 400, an ombudsman is required to obtain a resident's consent to do what?
 - Work on a resident's behalf,
 - Reveal a resident's name or identifying characteristics, or
 - Access a resident's record or other confidential information
3. According to Section 400, consent applies only to the _____ case and does not extend to _____ work.
Immediate, future
4. Section 401 states that if a complainant is not a resident, the ombudsman seeks agreement from the resident to work on an issue. What happens if the resident declines to give consent?
The wishes of the resident supersede the complainant's.
5. In Section 402, an ombudsman is required to protect the identity of _____ complainants the same as residents.
Non-resident
6. According to Section 403, an ombudsman should be prepared with applicable _____ and _____ and if facility staff denies access, consult with _____ or _____.
law, rules, MLO, CSO

Section 500 Access

1. Section 501 says ombudsman visits to a facility should be _____.
unannounced
2. In Section 501.1, ombudsmen visit during the regular visiting hours when residents are awake. For what reason would an ombudsman visit at other times and who would the ombudsman consult first?
A complaint relates to a time outside of visiting hours, local LTCOP.
3. Section 502.1 states review of facility policies may be relevant if staff refer to policy as a reason for a decision or action. When should an ombudsman consult with facility staff and the MLO regarding a policy?
If it appears to violate resident rights, other rules, or common sense
4. Section 503.1 introduces the term “responsible party”. Why should an ombudsman be careful when the facility uses this term?
The responsible party has no legal authority associated with it, but a facility may extend them decision-making power.
5. Section 503.4 discusses resident and family groups. An ombudsman attends a resident or family council meeting by _____ only.
invitation

Section 600 Consultations and Cases

1. Section 602.1 states some complaints are inappropriate for ombudsman activity. What are some examples of complaints an ombudsman should not investigate?
 - Does not directly impact nursing home or assisted living facility residents;
 - Outside the scope of the LTCOP authority or facility setting; or
 - Would place the local LTCOP in an actual or potential conflict of interest with a resident’s interest.
2. In Section 602.2, what does it say an ombudsman should explain to a complainant who wishes to remain anonymous?
It may limit the ombudsman’s ability to investigate and resolve the complaint.
3. Section 602.3 explains an ombudsman should respond to a complaint within two business days or sooner if circumstances appear urgent. What complaints take priority over others?
Cases in which a resident is the complainant.
4. In Section 602.4, what should the ombudsman discuss with the resident?
 - Determine the resident’s perception of the complaint,
 - Determine the resident’s wishes, advise the resident of his or her rights, and
 - Work with the resident to develop an approach.

5. Section 603 describes the investigative process. What questions should an ombudsman ask to determine facts about the issue?
 - What happened or is happening?
 - When did it happen and is it ongoing?
 - Where did it happen?
 - What has been the effect on resident(s)?
 - What is the reason for the situation or circumstances?
 - What, if anything, has the facility or others done in response?
6. Section 604 describes actions an ombudsman can take toward the resolution of a complaint. What is the first action?
 - Encourage the resident to advocate for him or herself.

Section 700 Reporting

1. In Section 700, what are some purposes of reporting?
 - Allocating resources, fulfilling legislative mandates, and planning
2. In Section 700, what form is used to collect information from volunteers?
 - DADS Form 8620, Long-term Care Ombudsman Activity Report
3. According to Section 701.2, to be considered active in a quarter, what criteria must an ombudsman meet?
 - Certified by the State LTC Ombudsman;
 - Visits long-term care facilities within the state quarter;
 - Provides other ombudsman services;
 - Receives, investigates, and resolves complaints; or
 - Provides training and consultation to ombudsman interns or certified volunteer ombudsmen.

Section 800 Records

1. According to Section 802.1, three signed forms must be included in all certified ombudsman records. What are they?
 - DADS Form 8623, Certified Ombudsman Application
 - DADS Form 8602, Ombudsman Code of Ethics
 - DADS Form 8607, Conflict of Interest Statement
2. Section 802.1 describes what must be included in a certified ombudsman file to document continuing education. What should the documentation of continuing education include?
 - An agenda and sign-in sheet
 - Signed documentation describing the assignment
 - May include handouts and evaluations
3. According to Section 802.3, what notes are included in ombudsman case records?

Intake, facts, actions taken, and follow-up

Section 900 Disclosure of Confidential Information

1. According to Section 902, what does confidential information include and not include?

It includes the name of the complainant and relationship of the complainant to the resident; does not include facility policies and procedures or statistical data about residents or complaints filed with a certified ombudsman.

2. In Section 903, it states confidential information may only be disclosed according to the Older Americans Act. Why is it important for an ombudsman to keep information confidential?

- Promotes trust between a representative of the Office and a resident and complainant;
- Helps maintain the role of a representative of the Office as a professional advocate for a resident;
- Helps protect a resident's right to personal privacy and confidentiality of the resident's personal and clinical records; and
- Encourages a resident to confide in a representative of the Office even if the resident does not want to file a complaint.

3. According to Section 904, what are some situations in which an ombudsman might need to orally disclose confidential information?

- A certified ombudsman investigating a complaint filed by a resident, guardian, or other person;
- A representative of the Office responding to a request for assistance from a resident, guardian, or other person; and
- A representative of the Office responding to a request to disclose confidential information from a person other than a resident or guardian.

4. Section 905.2 describes the process for disclosure when a complaint is filed on behalf of a resident who does not have a Power of Attorney. What should the ombudsman do once he or she determines it is necessary to disclose confidential information?

Determine whose consent is needed to disclose the confidential information.

5. According to Section 905.3, when responding to a request for information about a resident's health condition, what procedure should an ombudsman follow?

Comply with requirements for responding to a request for assistance described in Section 905.1 or Section 905.2, as applicable.

Section 1000 Legal Counsel

1. According to Section 1000, certified ombudsmen and ombudsman interns are provided legal counsel, free of _____ of interest, for legal representation and consultation in the performance of their official _____.
conflict, duties

2. Section 1001.2 describes under what circumstances an ombudsman consults with the SLTCO regarding legal matters. What are these circumstances?
 - If a subpoena or court order is received with their name or the ombudsman program name
 - If contacted by an attorney in relation to their duties as an ombudsman
 - If asked or if planning to attend a guardianship hearing
 - Informal requests to testify at any hearing or deposition
 - If a lawsuit is threatened against the ombudsman, ombudsman program, or sponsoring agency
 - If the ombudsman believes the facility is willfully interfering with the performance of official duties and the situation is not resolved at the local level

3. Give two examples of appropriate legal resources to provide a resident or their legal representative.
 - Texas Legal Services Center
 - Benefits Counselor
 - Disability Rights Texas
 - Texas Bar Association
 - Legal Aid

See Section 1002.1

4. Give one example of a legal resource an ombudsman should never provide to a resident.
 - A DADS attorney
 - Refer to a specific attorney in the community who is not a public service provider as it creates the potential for a conflict of interest. Refer to the Texas Bar Association or local chapters of the bar to avoid a conflict of interest.

Note: Refer residents only to legal services described in Section 1002.1

Section 1100 Volunteer Management

1. According to Section 1101.1, what is the definition of an ombudsman volunteer?
Anyone who, without compensation beyond travel reimbursement, supports the local LTCOP, including ombudsman interns, certified volunteer ombudsmen, friendly visitors, and volunteers who support program operations.
2. Section 1102.2 describes actions for which a CVO must get approval from the MLO. What are some examples of these actions?
 - Public statements to the press
 - Coalition efforts with other organizations
 - Any agreements involving contractual or other financial obligations
3. In Section 1103.1, a volunteer who doesn't wish to investigate complaints may do what?
Become a friendly visitor.
4. In Section 1103.4, what does a CO agree to by signing the CO application?
A 12-month commitment and regular visits to the assigned facility.
5. According to Section 1104.3, a CO can request alternate CE. What must happen prior to using these resources for CE credit?
The MLO must pre-approve and the CO provides documentation before credit is given.
6. Section 1105.1 describes the certification process upon completion of certification training. What are the steps after the MLO recommends the volunteer to the SLTCO for certification?
 - Review, discuss, and sign DADS Form 8623 Certified Ombudsman Application;
 - Mail original CO Application to the Office. The SLTCO signs and enters the date that becomes the official certification date. If the local LTCOP faxes the form and the SLTCO dates it, that date will be entered on the original as the official certification date and the application will be processed when the original application is received.
 - The Office updates CO data in OmbudsManager.
 - A certificate and badge is presented to the volunteer who is introduced to the assigned facility as a CO.
7. According to 1105.2, the LTCOP may recommend decertification on what grounds?
 - Gross misconduct or insubordination
 - Being under the influence of alcohol or drugs while serving as a CO
 - Theft of property or misuse of agency equipment or materials
 - Abuse of, mistreatment to, or inappropriate conduct with residents or complainants

- Failure to abide by agency policies and procedures
- Failure to meet physical or mental standards of performance
- Failure to satisfactorily perform assigned duties

8. Section 1106.3 describes the evaluation process for each CVO. What is one purpose of the annual evaluation of a CVO?
- review performance
 - suggest changes to the volunteer's methods
 - plan CE for the coming year
 - convey appreciation
 - determine continued interest in serving

Section 1200 Program Awareness

1. Section 1201.2 provides examples of settings in which LTCOP can provide community education to specific audiences. List two examples:
- presentations to community groups
 - students
 - churches
 - civic organizations
2. According to Section 1202.3, who should be contacted prior to participating in press conferences or other media activities?
- the state office
3. Section 1203.3 identified “best practices” while working on social media. List these “best practices”.
- be transparent
 - be thoughtful
 - be yourself
 - play nice
 - correct errors
 - work together
 - remember you are part of the brand

Section 1300 Other Required Documents

- [Program Agreement between the LTC Ombudsman Program and Regulatory Services – Signed](#)
- [Memorandum of Understanding with DFPS Adult Protective Services – Signed](#)