

**MARYLAND OFFICE ON AGING**  
**Long Term Care Ombudsman Program**



**PROCEDURES MANUAL**



*April, 1990*

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# MARYLAND LONG TERM CARE OMBUDSMAN PROGRAM MANUAL

## PROGRAM PURPOSE

The purpose of the Maryland Long Term Care Ombudsman Program is to improve the quality of care and quality of life for all long term care residents in the state. The minimum requirements for the Ombudsman Program are stipulated by the Older Americans Act as follows:

- ★ investigate and resolve complaints made by or on behalf of older individuals who are residents of long term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents;
- ★ monitor the development and implementation of Federal, State and local laws, regulations, and policies with respect to long term care facilities;
- ★ provide information as appropriate to public agencies regarding the problems of older individuals residing in long term care facilities.
- ★ provide for the training of staff and volunteers and promote the development of citizen organizations to participate in the Ombudsman Program;
- ★ carry out such other duties as the Commissioner deems appropriate.

## **PROGRAM SCOPE**

The Maryland Long Term Care Ombudsman Program shall provide services to residents of licensed long term care facilities, which include:

1. Skilled nursing facilities as defined in § 1861 of the Social Security Act (42 U.S.C. § 1395X);
2. Intermediate care facilities as defined in § 1905c of the Social Security Act (42 U.S.C. § 1396d);
3. Domiciliary care homes as defined in Maryland law and COMAR 10.07.03;
4. Group Sheltered Housing for the Elderly as defined in Maryland law and COMAR 14.11.07;
5. Other facilities as required by local law and providing personal, nursing, or custodial care for 3 or more unrelated individuals which is licensed or subject to licensure by DHMH.

The Maryland Long Term Care Ombudsman Program is responsible for receiving, investigating and attempting to resolve complaints received from residents of long term care facilities or individuals acting on their behalf

On request the Maryland Long Term Care Ombudsman Program provides the public with information about long term care facilities.

NOTE: Legislation to change the scope of the program to make it consistent with federal law is proposed for the 1991 session of the General Assembly.

## **PROGRAM ELIGIBILITY**

The Maryland Long Term Care Ombudsman Program shall respond to complaints, problems or inquiries received from or on behalf of residents of long term care facilities as described in the Older Americans Act of 1967 and amended in 1987. The program shall also respond to complaints, problems, concerns or inquiries made on behalf of long term care residents that are registered by family members, friends, facility staff, other professional staff, concerned individuals, public or private agencies, community, church or civic groups.

There are no fees collected for the services of the Ombudsman Program. There is no means test for receipt of services.

The Ombudsman Program shall respond to complaints, problems, or inquiries from or on behalf of individuals seeking admission to a long term care facility on matters involving admission procedures, entitlement, or other related issues.

## **DELEGATION OF AUTHORITY**

Article 70B of the Annotated Code of Maryland authorizes the Director on Aging to delegate his authority to receive, investigate and seek to resolve complaints regarding the operation of related institutions, and the authority to make on-site visits, on his own motion to determine if these facilities are in compliance with applicable, laws, rules or regulations.

This authority may be delegated by the Director to a local Agency on Aging who demonstrates the capacity to fulfill, develop and implement program standards.

## LONG TERM CARE OMBUDSMAN RELATED LAWS

The Long Term Care Ombudsman Program is established in federal and state law and has regulations that define the responsibilities and parameters of the program. Because an ombudsman receives, investigates and attempts to resolve problems or complaints made by or on behalf of residents of long term care facilities; the ombudsman must also be knowledgeable of regulations governing these facilities, the Medicare and Medicaid reimbursement system, and the various agencies, state and local, that interface with these facilities.

The following are APPLICABLE LAWS (complete copies or relevant sections of these laws are in Appendix A).

### FEDERAL LAWS:

- 1) Older Americans Act of 1965(42 U.S.C. § 3001 et seq.)

This Act sets up the national Ombudsman Program by mandating the States to provide a program that will receive, investigate and resolve complaints from or on behalf of residents of long term care facilities, as well as monitor the development and implementation of laws concerning long term care, provide information regarding long term care issues, provide training for volunteers, establish policies and procedures for access to long term care facilities and residents' records, establish a uniform reporting system, establish procedures to conserve confidentiality of patients' files.

- 2) Older Americans Act Amendments of 1987 (42 U.S.C. §3001 et seq.)

The 1987 revisions to the Older Americans Act expanded the duties of the State Ombudsman. The law grants the State Ombudsman authority to designate any ombudsman, paid or volunteer as their representative. The law also requires that a conflict of interest not exist, that legal counsel is available to the ombudsman; that no representative of the program will be liable for good faith performance of their duties; that the State Ombudsman will provide training for all ombudsmen; that there will be coordination between ombudsman and services offered for the developmentally disabled; that willful interference with the performance of the duties of ombudsmen is unlawful; that the ombudsmen have access to long term care facilities and residents' records with permission of the resident or the resident's agent.

## **STATE REGULATIONS:**

- 1) Code of Maryland Regulations 14.11.05 Nursing Home Ombudsman Program.

These regulations set out program guidelines and include delegation of authority, training of ombudsman representatives, complaint investigation procedures, complaint resolution procedure, record keeping, access to medical records, program monitoring and cooperation with the Department of Health and Mental Hygiene.

- 2) Code of Maryland Regulations 10.07.09 Patients' Bill of Rights: Comprehensive Care Facilities and Extended Care Facilities.

These regulations were taken directly from the Annotated Code of Maryland, Health General, 19.03.06 (Rights of Individuals) §19-343 through §19-350 and layout the basic rights of individuals along with the duties of facilities. Lawful conditions of transfer and discharge, rights and responsibilities regarding property of residents, the prohibition of abuse, the required offer of examination for cervical cancer, required notice of increase in charges, and requested itemized financial statements are covered by this regulation.

- 3) Code of Maryland Regulations 10.07.02 Comprehensive Care Facilities and Extended Care Facilities.

These regulations provide the minimal standards under which an applicable facility may operate and be licensed by the Department of Health and Mental Hygiene, Division of Licensing and Certification. The needed policies and procedures, the required services, maintenance and protection of records, infection control, disaster plan preparedness, physical plant requirements, patient care management and training of nursing assistants are covered in these regulations.

- 4) Code of Maryland Regulations 10.07.03 Domiciliary Care Homes.

These regulations provide minimal standards of operation and maintenance of licensed domiciliary care facilities and include resident care, admission and discharge, physician services, medication, and necessary reports regarding communicable disease or suspected mental disturbances.

- 5) Code of Maryland Regulations 14.11.07 Group Sheltered Housing for the Elderly.

These regulations provide minimal standards for the operation and maintenance of certified group homes for the elderly. It includes certification requirements, residents rights, provider-resident agreements, resident eligibility for group sheltered housing and the subsidy program as well as procedures regarding violations of regulations, the suspension of admissions, and denial, revocation, or non-renewal of a certificate.

## STATE LAWS

- 1) Annotated Code of Maryland, Article 70B -Office on Aging, §5, Nursing Homes - Duties of the Director.

The Director on Aging is required to receive, investigate and seek to resolve complaints concerning the operations of related institutions and where regulations are being violated, develop a process to report and request that the appropriate State agency bring the institution into compliance. The law also allows the Director on Aging to delegate his authority, establish regulations, policies and procedures to govern the program, develop a cooperative relationship with the Department of Health and Mental Hygiene, and develop a system of record keeping that assures confidentiality.

- 2) Annotated Code of Maryland, Article 70B - Office on Aging, §5(e)and(f).(1988 Replacement Volume and 1988 Supplement).

The law states that representatives of the long term care ombudsman program may not be held liable for the good faith performance of their official duties. The law also makes willful interference with representatives of the ombudsman program and makes retaliation or reprisals against a complainant or informant a misdemeanor that is subject to a fine of not more than \$1,500.

- 3) Annotated Code of Maryland, Article 27 - Crimes and Punishment, §35B (1987 Replacement Volume and 1988 Supplement).

This law prohibits a contractual care giver from abusing or neglecting a vulnerable adult and makes the violation of this law a misdemeanor subject to a fine of not more than \$5,000 or imprisonment for not more than five years, or both.

- 4) Annotated Code of Maryland, Health General Â§ 19-343 through Â§ 19-350.

This law defines and elaborates on the rights of individuals in related institutions. It covers Resident's Rights, procedures for compliance, transfer and discharge of residents, property of residents, prohibition of abuse, examination for cervical cancer, notice of increase in charges and itemized financial statement.

- 5) Annotate Code of Maryland, Health General A§ 19-347.

This law defines abuse, sets out the reporting requirements for abuse, specifies responsibilities of investigation and reporting of findings. The law also includes individuals immune from civil liability. The requirement of related institutions to post reporting requirements is also stated.

## **AREA AGENCY ON AGING STAFFING STANDARDS**

The Area Agency shall provide sufficient staffing to perform Ombudsman Program responsibilities.

At a minimum, the Area Agency on Aging shall designate a staff person to serve as Ombudsman. In addition the Area Agency on Aging shall designate a staff person to receive complaints when the Ombudsman is not available, and in the case of abuse report the complaint immediately to the Department of Health and Mental Hygiene and the Police.

NOTE: Staffing standards are currently being developed.

## FACILITY VISITATION STANDARDS

The Ombudsman Program shall develop a plan to ensure regular visits to each long term care facility. Regular presence in the facilities is a pre-requisite for building the trust and knowledge necessary to provide effective Ombudsman services.

The Area Agency on Aging shall provide a plan for facility visitation in the Area Plan. The Area Plan shall also provide the resources necessary to accomplish the visitation plan.

The Ombudsman or Certified Resident Advocate shall visit a facility for purposes that include but are not limited to the following:

1. To receive, investigate, and attempt to resolve complaints.
2. To observe conditions in a facility.
3. To establish rapport with residents and staff.
4. To meet with family and resident councils.
5. To provide in-service training to staff.
6. To publicize; the Ombudsman Program to residents or staff.

The Office on Aging has established the following standards for facility visits.

<u>Number of Facilities</u>	<u>Frequency of Visits to Each Facility</u>
ALL Nursing Homes	At least QUARTERLY
Domiciliary Care Homes	QUARTERLY when possible

Facilities that the Department of Health and Mental Hygiene or the Ombudsman have identified as having serious problems shall be visited at least monthly until the situation improves and stabilizes.

Each program staff person (including resident advocates) shall complete the Facility Visitation Log.

## **RESPONSE TIME STANDARDS**

The Ombudsman Program is responsible for receiving, investigating and seeking to resolve complaints made by or on behalf of long term care residents. The complaints may be received from a number of sources and involve a number of issues. The Ombudsman, whenever possible, shall make every effort to assist the complainant/resident to resolve the problem through self-advocacy.

### Guidelines for Response Time to Complaints

It is important that an Ombudsman or Certified Resident Advocate respond to complaints and requests for assistance in a timely manner.

#### **A. Non-Emergency Complaints -**

Complaints involving situations which are not of a serious or life threatening nature shall be responded to within five (5) working days (i.e. In situations where the resident is not at significant risk due to problems with care, nutrition, health or safety.)

#### **B. Serious or Life Threatening Complaints -**

Complaints received which are of a serious or life threatening condition (s) shall be responded to immediately whenever possible or with 24 hours of receipt of the complaint.

#### **C. Cases of Suspected Abuse -**

Cases of alleged abuse shall be responded to immediately upon receipt of the complaint by the Ombudsman Program. (Refer to Alleged Abuse Procedure)

## **LOCAL LONG TERM CARE OMBUDSMAN**

### **JOB QUALIFICATIONS**

#### A. Competency Required:

1. Organizing and administering services.
2. Coordinating with related services.
3. Supervising and training staff and volunteers.
4. Community organizing.
5. Effective oral and written communication.
6. Issue identification and analysis skills.
7. Techniques of interviewing, negotiation and client representation.

#### B. Knowledge Required:

1. The needs and problems of the institutionalized elderly and their families.
2. The State and local long-term care system.
3. Social Service, and public benefit programs related to the institutionalized elderly.
4. Medical and social processes of aging.

#### C. Education and experience:

1. A Bachelor's Degree in Social Work, Sociology, Gerontology, Administration or related field, AND two years of experience in advocacy, aging or a related field

OR

2. A License as a Registered or Practical Nurse AND two years experience in long term care, gerontology, or a related field,

OR

3. A Certificate in Paralegal Studies AND 2 years experience in aging services or a related field.

#### D. All Ombudsmen will be certified as a Long Term Care Ombudsman by meeting the State Certification requirements.

## **LOCAL LONG TERM CARE OMBUDSMAN**

### **JOB DESCRIPTION**

1. Receive, investigate, and seek to resolve complaints made by and on behalf of, residents of long term care facilities.
2. Visit local long term care facilities to monitor conditions and speak with residents.
3. Acquire a thorough knowledge of state and federal laws and regulations relating to long term care facilities.
4. Provide assistance to individuals seeking nursing home placement (how to select a nursing home, what's available in the area, etc.).
5. Respond to requests from the public on the nature of complaints received from local long term care facilities.
6. Recruit and train volunteer Resident Advocates.
7. Maintain confidential files on all complaints received.
8. Provide in-service training to nursing home staff on such topics as the Residents' Bill of Rights, procedures for reporting abuse, etc.
9. Maintain statistics on the number and type of complaints received and other information required by the OoA. Report statistics to the OoA on a quarterly basis.
10. Work with/assist in establishing nursing home residents' councils.
11. Provide community education on matters relating to long term care facilities.
12. Maintain a working relationship with local law enforcement regarding the investigation of abuse complaints.
13. Immediately report to the State OoA every instance of abuse, financial abuse and life threatening conditions existing in a long term care facility.
14. Keep abreast of state and national changes and trends in matters relating to long term care facilities.

15. Attend State OoA Ombudsman training sessions.
16. Upon request, assist residents in filing for Residents' Bill of Rights hearings with the Department of Health and Mental Hygiene.
17. Develop all necessary local program policies and procedures, consistent with state regulations and guidelines.
18. Publicize the program.
19. Coordinate activities with State/local Public Guardianship and Senior Life Enrichment/Pets on Wheels Programs.
20. Generate agreements, establish working relationships and provide technical assistance to Area Agencies on Aging, legal service programs, community groups, other agencies, organizations and individuals to assist them in effectively serving long term care residents.

## **MARYLAND STATE LONG TERM CARE OMBUDSMAN**

### **JOB DESCRIPTION**

1. Develop, implement and administer the state Long Term Care Ombudsman Program in accordance with the Federal Older Americans' Act and Maryland law and applicable regulations.
2. Provide technical assistance, consultation, information, education, and training to local programs, Area Agencies on Aging, public agencies, service providers and the public on all areas of program operation.
3. Develop and review area plan guidelines regarding requirements for the operation of local Ombudsman Programs.
4. Review and comment on all area plans submitted by local agencies on aging regarding all areas of operation of the Ombudsman Program.
5. Develop an allocation formula to determine allocation of State funds for local program operations.
6. Review program budgets, including those submitted in the area plans to determine cost effectiveness, and compliance with program guidelines.
7. Develop program publicity including a program brochure.
8. Establish and maintain a statewide uniform monitoring system and procedure to collect and analyze data relating to complaints and conditions in long term care facilities.
9. Promote the development of citizen organizations to participate in the long term care ombudsman program.
10. Coordinate and, when appropriate, conduct orientation for new staff, monthly inservice training for all staff, and annual training for all local staff and other interested staff.
11. Provide information and consultation to Federal/State/local agencies, service providers, community groups, the client population, and the public regarding all areas of program operations and problems of older individuals in long term care facilities.
12. Provide case management activities including documentation,

investigation, referral and follow-up.

13. Develop and maintain a record keeping system for client files, program information, and nursing home survey reports.
14. Develop monitoring instruments to determine program compliance, assess strengths and weaknesses, and insure cost effectiveness of the program.
15. Conduct an annual review of all local programs including the use of the monitoring instrument.
16. Develop memorandums of understanding and working agreements with appropriate agencies to ensure cooperation with the program.
17. Develop or assist in the development of Federal and State legislation.
18. Prepare and present testimony to the legislature regarding Federal, State and local laws, rules, or regulations which may affect the program or client population.
19. Review and analyze Federal, State and local laws, regulations and policies which impact on the program or client population.
20. Establish procedures to ensure that files maintained by the program shall protect client confidentiality and be in compliance with the law.
21. Prepare annual and other program reports for the program as required or necessary.
22. Monitor conditions in long term care facilities as needed through on site visits, identifying problems within the facility and/or residents concerns.
23. Secondary responsibility for burial of unclaimed deceased nursing home residents by:
  - a. Providing consultation to nursing home staff and funeral directors regarding requirements of the regulations.
  - b. Prepare and submit necessary documentation authorizing the burial of residents.
  - c. Coordination with the State Anatomy Board to promote cooperation and coordination between programs.

- d. Maintain files containing the documentation submitted on each case.
- e. Give authorization to carry out burial or funeral arrangements in accordance with the law .

## **ADMINISTRATIVE CONFERENCE NOTIFICATION**

The State Office on Aging will provide information to the local Ombudsman on any administrative conference or hearing held by the Office of Administrative Hearings. The State Office may request that the local Ombudsman attend the conference or the local Ombudsman may choose to attend the conference.

When attending a conference/hearing the ombudsman should assist the resident to advocate for themselves whenever possible. In any case the ombudsman should be sure that the resident's position/situation is represented accurately and that the parties involved understand the resident. In addition, the Ombudsman may be utilized in the Administrative Conference as a valuable source of information. Any Ombudsman participating in this process shall follow the procedures established in this manual regarding confidentiality and release of information.

## DEFICIENCY REPORTS

The Maryland Department of Health and Mental Hygiene's Office of Licensing and Certification Programs conduct an annual survey of all comprehensive care facilities and domiciliary care homes. The survey determines the renewal of state licensure and renewal of participation in the Medicare and Medicaid programs.

Deficiencies are cited on HCFA (Health Care Financing Administration) Form OMB No. 0938-0391 "Statement of Deficiencies and Plan of Correction". Copies of lists of deficiencies are provided to the Maryland Office on Aging Ombudsman Program where a master file is maintained. The State Office forwards a copy of the deficiencies to the local ombudsman and to the main branch of the library in the county that the nursing home is located.

It is recommended that the local programs and libraries maintain deficiencies lists for three year intervals. Prior reports may be discarded since the Department of Health and Mental Hygiene keeps extensive facility files which can be accessed by the public on request. Usually the people interested in a long term track record are prospective buyers and they can be referred to Licensing and Certification for the information that they need.

Deficiency reports afford local programs an opportunity to identify problem areas in each facility for monitoring purposes. In addition, lists may be utilized for public information both to assist with background information for nursing home placement or as a public awareness/education tool.

## **REPORTING REQUIREMENTS**

### **LOCAL OMBUDSMAN**

The reporting responsibilities of the local ombudsman shall include but not be limited to the following:

1. To report abuse or alleged abuse of a long term care resident immediately to the Office on Aging, Licensing and Certification, the Police and unless the Administrator is the abuser, the Administrator of the long term care facility where the abuse or suspected abuse occurred.
2. To report immediately to the Office on Aging any situation that may result in a substantial risk to the health, welfare or safety of a resident or residents of a long term care facility. This may include but is not limited to, resident care, physical plant environment, or fire safety.
3. Upon receiving and verifying a life threatening or serious complaint (which can include a chronic, unresolved complaint), the ombudsman should refer the complaint to Licensing and Certification either by phone and/or in writing. When a phone referral is made to Licensing and Certification, it should be followed by a written referral. A copy of the written referral shall sent to the State Office.  
(See Appendix D - Forms)
4. To submit quarterly reports of complaint activity and categorical case information on the required form using the appropriate codes and form.  
(See Appendix C - Codes and Appendix D - Forms).
5. To submit requested information about the Ombudsman Program for the annual Area Plan and program monitoring. (See Appendix D - Forms).
6. To provide requested information that will support advocacy efforts by the State Office on Aging.

### **STATE OMBUDSMAN**

The reporting responsibilities of the State Ombudsman shall include but not be limited to the following:

1. To submit annually the State Long Term Care Ombudsman Report as required by Title III, Older Americans Act.

2. To participate in surveys and the gathering of information and statistics that will support advocacy for long term care residents or potential residents as well as aid in the resolution of problems in long term care facilities.
3. To ensure notification of the Office of Licensing and Certification, the local Ombudsman, and the Police in any instance of abuse or suspected abuse involving a long term care resident.
4. To inform the Director of the Office on Aging of long term care situations and issues and provide supporting information/data as required.
5. To develop and maintain a uniform statewide reporting system in order to collect and analyze data regarding long term care facilities and complaints.

## FORMS USED IN THE OMBUDSMAN PROGRAM

### I. COMPLAINT INVESTIGATION INTAKE FORM

When a complaint is reported and a request for investigation is made there are certain basic facts that the ombudsman shall obtain before beginning the investigation. In gathering the following information the complainant may refuse to divulge essential facts. In such instances the ombudsman shall gather as much information as possible and advise the complainant that either investigating a complaint anonymously or without all the facts reduces the chances of a successful resolution. In any case the complaint shall be handled to the extent possible with the information that is given. ALL CASE FILES ARE LEGAL DOCUMENTS and could be subpoenaed by the court. Information must be as complete as possible and

#### A. Intake forms used must contain:

1. Name, address and phone number of the complainant (if the complainant refuses to identify himself or the resident this should be noted on the record as anonymous) .
2. Name of resident
3. Relationship of the complainant to the resident
4. Name of the facility
5. Nature of the complaint

#### B. Necessary information for the case record, but optional on the intake form includes:

1. Steps taken to investigate the complaint (Dates of activities, names of people contacted, how contacted (letter, phone or interview) and the facts found.
2. The resolution/out come obtained
3. The follow-up findings
4. Date of closure

(See Appendix,D - Forms for sample)

### II. PROGRESS NOTES

Progress notes contain information gathered regarding the case and are a continuation of the intake sheet. ALL CASE FILES ARE LEGAL DOCUMENTS and could be subpoenaed by the

courts. All entries must be signed and in ink.

(See Appendix - Forms for sample)

### III. CASE LOG

The case log provides the ombudsman with an easy reference to the cases in his/her files.

1. A Case Number is assigned when a complaint is made. Case files must be identified and filed by case number. The case number consists of the county code, followed by the year and month of the complaint and ending with the actual complaint number for the current fiscal year. ie. 12-89-12-23 (Harford County - Year '89 - December - 23rd case in FY '90)

#### COUNTY CODES

01	Allegany County
02	Anne Arundel County
03	Baltimore County
04	Calvert County
05	Caroline County
06	Carroll County
07	Cecil County
08	Charles County
09	Dorchester County
10	Frederick County
11	Garrett County
12	Harford County
13	Howard County
14	Kent County
15	Montgomery County
16	Prince George's County
17	Queen Anne's County
18	St. Mary's County
19	Somerset County
20	Talbot County
21	Washington County
22	Wicomico County
23	Worcester County
30	Baltimore City

2. Resident Name allows for easy referencing.
3. Facility Name identification provides an easy reference.
4. Complaint Code provides a quick assessment of the kinds

of complaints received.

5. The Complaint Received date provides specific identifying information.
6. Resolution/Follow-up provides status information on the case.

#### IV. REFERRAL TO LICENSING AND CERTIFICATION

Referrals to Licensing and Certification can be made by telephone. It is important to follow-up verbal complaints with a written referral. Licensing and Certification responds to a written referral with a written response.

Since the referral form contains the basic information needed to open a case, it can be used as the intake sheet.

When referring a case/complaint to Licensing and Certification it is important to present all of the facts that are available in a clear and concise manner. Ombudsman concerns can be stated as such. However, it is important not to suggest outcomes or to state personal opinions in the report/referral. Licensing and Certification will conduct an independent investigation, draw their own conclusions, and make appropriate citations requiring the necessary corrective action.

#### V. REFERRAL TO LOCAL OMBUDSMAN

Ombudsmen can receive reports from anyone and occasionally families or friends call their local Ombudsman to complain about a facility in another county. Referrals to other Ombudsman are made when the complaint involves a nursing home outside the county jurisdiction of the ombudsman receiving the complaint.

All complaints are entered on the log and included on the quarterly report even though they are referred to another Ombudsman for investigation, resolution and follow-up.

(A list of Nursing Home Identification Codes is included in Appendix C - Codes.)

#### VI. QUARTERLY REPORT (REQUIRED FORM)

The Ombudsman Quarterly Report is designed to comply with

the Administration on Aging guidelines.

Report statistics must reflect CLOSED CASES ONLY. A case is considered closed when the problem/complaint has been resolved (no further action is needed or will be taken by the Ombudsman) OR the problem/complaint has been withdrawn.

The quarterly report is due in the Office on Aging no later than 15 DAYS after the close of each quarter. Reports are due by October 15/ January 15, April 15/ and July 15.

Submit as many pages of the report as necessary. Provide the totals for each page on that page.

Instructions for completing the Quarterly Report Form

AGENCY - Indicate the Ombudsman Program name or the county submitting the report.

QUARTER - Indicate the quarter for which the report is being submitted.

i.e.	October 1	- December 31	= 1st Quarter
	January 1	- March 31	= 2nd Quarter
	April 1	- June 30 June 30	= 3rd Quarter
	July 1	- September 30	= 4th Quarter

'FY - Indicates the fiscal year of the report. The fiscal year is on the Federal Budget year and runs from October 1 to September 30.

PREPARED BY - Identify by name the report preparer.

TELEPHONE NUMBER - Indicate the telephone number of the agency or the preparer of the report.

CASE NUMBER - Case numbers are in-house codes used to identify clients and maintain confidentiality of records. Do not submit the names of residents or complainants.

Refer to FORMS USED IN THE OMBUDSMAN PROGRAM - CASE LOG for the creation of a case number.

THE CASE NUMBER MUST ONLY BE LISTED ONCE REGARDLESS OF THE NUMBER OF COMPLAINTS.

COMPLAINT CODE - Indicate the type of complaint. Each complaint code shall be listed on a separate line. (Refer to Appendix C - Codes for the list of Complaint Codes).

FACILITY CODE - Identify the code number of the facility from or about which the case is received.  
The facility code shall be recorded once for each case.

The five digit system used for nursing homes and Domiciliary Care facilities by the Department of Health and Mental Hygiene, Licensing and Certification Division is found Appendix C - Codes.

The codes for Group Senior Assisted Housing are found in Appendix C - Codes.

If the facility is a board and care, senior apartment or other type of facility which does not have a code number listed, use your county code number followed by 000. i.e. 30-000 = Baltimore City - unlicensed facility.

TYPE OF FACILITY - Indicate the type of facility, if a facility provides more than one level of care, indicate the highest level of care provided. Please use a check mark ( ) in the appropriate column. The type of facility shall be listed once for each case.

(A) Skilled Nursing Facility (SNF) (COMAR 10.07.09.02. ( f ) ).

SNF is defined as an organization with an organized medical staff that provides sub-acute care services to patients who require inpatient care but do not require continuous hospital services. The facility shall provide high level medical care, maximal nursing care, and psychological supportive care. Nursing services are under the supervision of a full-time registered nurse, 24 hours a day, 7 days per week. This facility admits patients who require convalescent care, restorative services or patients with terminal disease requiring maximal nursing care.

(B) Intermediate Care Facility (ICF) (COMAR 10.07.09.02 (D)).

ICF is defined as a facility which admits residents suffering from diseases or disabilities or advanced age, requiring medical services and nursing services provided by or under the supervision of a licensed nurse. Supportive, restorative, and preventative health services are provided in conjunction with a socially oriented program as the patient's condition

requires. These 24 hour services comprise the resident's individual's plan of care, prescribed by the attending physician and carried out by appropriate personnel in order to assist the resident to obtain his maximal functioning capabilities.

- (C) Domiciliary Care Home (COMAR 10.07.03.01(D)).  
A Domiciliary Care Facility is an institution which admits unemployed aged or disabled persons and provides a protective institutional or home-like environment with 24 hour supervision and personal services that are needed.
- (D) Group Senior Assisted Housing (COMAR 14.11.07.03(18))  
(formerly Group Sheltered Housing) Group Senior Assisted Housing is a form of residential environment that provides independent living assisted by congregate meals, housekeeping, and personal services to elderly persons.

INVESTIGATION STATUS - Indicate using a check mark ( ) FOR EACH COMPLAINT, the agency primarily responsible for the investigation of the complaint.

- (A) Ombudsman - The complaint was investigated by a representative of the Ombudsman Program. (The Ombudsman is the primary investigator until a case is completely turned over to another agency for investigation and no further action is needed by the Ombudsman.)
- (B) DHMH - The complaint was referred to the Health Department for investigation.
- (C) Other - The complaint was referred to an agency or organization other than the Health Department for investigation.

Give the sum of each column in the row marked "Total".

VERIFICATION - Indicate with a check-mark ( ) FOR EACH COMPLAINT investigated whether the complaint was:

- (A) Verified or Partially Verified - Substantiated or partially substantiated through interviews, inspection of records, observation, etc.
- (B) Undetermined - The investigation did not provide sufficient evidence to reliably determine the validity or invalidity of the complaint.

- (C) Not Justified - The complaint was shown through interviews, inspections of records, observation etc. to be invalid or inaccurate.

CHECK ONLY THE ONE COLUMN which applies to EACH complaint.

Give the sum of each column in the row marked "Total".

COMPLAINT STATUS - For EACH closed complaint, indicate with a check-mark ( ) if the complaint was:

- (A) Resolved/Partially Resolved - The complaint/problem reported was corrected or partially corrected to the satisfaction of the complainant and/or the Ombudsman, and a change has occurred.
- (B) Not Resolved - The problem identified by the investigation has not been corrected, and no change has occurred.
- (C) Explained - The findings of the investigation did not indicate a need for change or warrant an Ombudsman investigation. The complaint was resolved by an explanation.
- (D) Withdrawn - The complaint was discontinued at the option of the Ombudsman, or the complaint was withdrawn by the complainant or resident.

Give the sum of each column in the row marked "Total".

UNITS OF SERVICE -Indicate the total of all Ombudsman/Patient contacts needed to resolve the case. One telephone call, one interview, one visitation, one case conference, or a case documentation time is one unit of service. In instances of multiple resident complaints and all facility complaints, the number of residents served are ADDED to the number of units of service.

i.e.

2 facility visits  
4 telephone calls  
1 conference  
147 residents  
-----  
154 units of service

Put the sum of all units of service in the "Total" column.

COMPLAINT REFERRED FROM - Indicate with a check-mark ( ) the source of the complaint referral:

- (A) RESIDENT initiated the complaint.
- (B) FAMILY/FRIEND initiated the complaint.
- (C) NURSING HOME STAFF - Any staff person of the nursing home, domiciliary care home, sheltered housing unit or other facility, who initiates a complaint.
- (D) OTHER AGENCY referred the complaint to the Ombudsman. (i.e. DHMH, Legal Aid, Social Services)
- (E) STATE/OTHER OMBUDSMAN referred the complaint.
- (F) OTHER - A complaint was referred from a source not identified previously.

Give the: sum of each column on the "Total" line.

CASES OPENED THIS QUARTER indicates the total number of cases during the reporting period (even if they have been closed).

CASES CLOSED THIS QUARTER indicates the number of cases closed this quarter regardless of when they were opened. This number should correspond with the number of cases in column #1.

CASES STILL ACTIVE AT END OF QUARTER indicates the number of cases open or active at the end of the reporting period.

NUMBER OF INQUIRIES indicates the total number of informational calls or non-case related inquiries received during the reporting period.

NUMBER OF COMMUNITY CONTACTS indicates the total number of contacts made with the public relating to the Ombudsman Program; i.e. speaking engagements, non-case related facility or agency related visitation, inservices, etc.

## VII. PRE-MONITORING FORM

The pre-monitoring form provides information on the functioning of the program and how it meets various requirements of the Older Americans' Act as reflected in the regulations. (See Appendix D - Forms for the FY '90 Pre-monitoring Form)

## VIII. MONITORING FORM

The monitoring form is a tool for the State Ombudsman to evaluate local programs and how they are changing and developing. This form in conjunction with the pre-monitoring form provides an in depth assessment of the ombudsman program. (See Appendix D - Forms for the FY '90 Monitoring Form)

## IX. AREA PLAN

The area plan is a contractual agreement that explains program activity, expansion/out reach and the services to be rendered as well as how the program obligations will be met. (See Appendix D - Forms for the FY '90 Area Plan)

## **ETHICAL PRINCIPLES FOR LONG TERM CARE OMBUDSMAN**

1. Ombudsman services are provided with respect for human dignity and the individuality of the resident.
2. The resident's right to self-determination is respected and supported.
3. Every reasonable effort is made to ascertain and act in accordance with the resident's wishes.
4. The resident's right to privacy is upheld by protecting confidential information.
5. The standards and practices of the Long Term Care Ombudsman Program are followed in the performance of ombudsman responsibilities.
6. Knowledge of applicable state and federal laws provides further guidance for the conduct of ombudsman activities.

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## RESIDENTS RIGHTS

The Ombudsman is mandated to ensure residents rights and the understanding of those rights. This can be accomplished in several ways.

1. Provision of inservice training on residents' rights for nursing home staff.
2. Monitoring each facility on a regular basis.
  - \* Visits should be unannounced and should not include complaint investigation.
  - \* A walk through of the facility using
    - observation for infractions/problems
    - random conversation with residents

should provide a good profile of the facility and an opportunity to develop rapport with the residents.

  - \* Visits in "off" hours or on weekends are useful for checking on low staffing and/or neglect.
3. Provision of educational sessions on long term care residents' rights can be very informative for the community:
  - \* Many people (including long term care residents) do not know that residents have rights.
  - \* Visitors to long term care facilities can act as advocates or report problems if they understand residents' rights.
  - \* Members of the community may want to volunteer to advocate for long term care residents' rights.

The BASIC RIGHTS OF A LONG TERM CARE RESIDENT include:

1. EVERY RESIDENT SHALL BE TREATED WITH CONSIDERATION, RESPECT, AND FULL RECOGNITION OF THEIR DIGNITY AND INDIVIDUALITY;
2. EVERY RESIDENT SHALL RECEIVE CARE, TREATMENT, AND SERVICES which are adequate, appropriate and in compliance with relevant Federal and State Laws and Regulations;

3. EVERY RESIDENT, PRIOR TO OR AT THE TIME OF ADMISSION AND DURING STAY, SHALL RECEIVE A WRITTEN STATEMENT OF THE SERVICES PROVIDED BY THE FACILITY, including those required to be offered on an as-needed basis, and related charges including any charges for services not covered under Medicare or Medicaid, or not covered by the facility's basic per diem rate. Upon receiving such statement, the patient shall sign a written receipt which must be retained by the facility in its files;
5. EVERY RESIDENT SHALL HAVE PLACED AT HIS BEDSIDE by the facility the name, address, and telephone number of the physician responsible for his care;
6. EVERY RESIDENT SHALL RECEIVE RESPECT AND PRIVACY IN HIS MEDICAL CARE PROGRAM. Case discussion, consultation, examination and treatment are confidential and should be conducted discreetly. Those not directly involved in the resident's care must have permission of the resident to be present. Personal and Medical records shall be treated confidentially and the consent of the resident or resident shall be obtained for their release to any individual outside the facility, except as needed in case of the resident's transfer to another health care institution or as required by law or third party payment contract, or to any individual inside the facility who has no demonstrable need for such record;
7. EVERY RESIDENT HAS THE RIGHT TO BE FREE FROM MENTAL AND PHYSICAL ABUSE and free from chemical and physical restraints except as authorized by a physician according to clear and indicated medical need;
8. EVERY RESIDENT SHALL RECEIVE from the Administration or staff of the facility a reasonable response to his requests;
9. EVERY RESIDENT SHALL BE PROVIDED WITH INFORMATION as to any relationship of the facility to other health care and related institutions insofar as the patient's care is concerned;
10. EVERY RESIDENT SHALL RECEIVE A REASONABLE CONTINUITY OF CARE which shall include, but not be limited to what appointment times and physicians are available;

11. EVERY RESIDENT MAY ASSOCIATE AND COMMUNICATE PRIVATELY and without restriction with persons and groups of his choice on his own or their initiative at any reasonable hour. May send and shall receive mail promptly and unopened; shall have access at any reasonable hour to a telephone where he may speak privately; and shall have access to writing instruments, stationary, and postage;
12. EVERY RESIDENT HAS THE RIGHT TO MANAGE HIS OWN FINANCIAL AFFAIRS. If at the resident's written request, the facility manages the resident's financial affairs, it shall have available for inspection a monthly accounting and shall furnish the resident with a quarterly statement of the resident's account. The resident shall have unrestricted access to such account at reasonable hours
13. IF MARRIED EVERY RESIDENT SHALL ENJOY PRIVACY IN VISITS by his/her spouse and if both are inpatients of the facility, they shall be afforded the opportunity where feasible to share a room, unless medically contraindicated;
14. EVERY RESIDENT SHALL ENJOY PRIVACY IN HIS OR HER ROOM and facility personnel shall respect this right by knocking on the door before entering a resident's room except when the resident is asleep;
15. EVERY RESIDENT HAS THE RIGHT, personally, or through other persons or in combination with others, to present grievances and recommend changes in policies and services on behalf of himself or others to the facility's staff of Administrator, the State Office on Aging, or other persons or groups without fear of reprisal, restraints, interference, coercion, or discrimination;
16. A RESIDENT MAY NOT BE REQUIRED TO PERFORM SERVICES FOR THE FACILITY without his consent and the written approval of the attending physician;
17. EVERY RESIDENT HAS THE RIGHT TO RETAIN AND USE HIS OR HER PERSONAL CLOTHING and possessions where reasonable, and the right to security in their storage and use;
18. A RESIDENT MAY NOT BE TRANSFERRED OR DISCHARGED from a skilled nursing facility or intermediate care facility/ except for medical reasons, the resident's own or other resident's welfare, or non-payment for the stay. If such cause is reasonably believed to exist, the resident shall be given at least thirty (30) days advance notice of the

proposed action together with the reasons for the decision and an opportunity for an impartial hearing to challenge such decision if the resident so wishes. In emergencies such notice need not be given.

For an expanded version of the residents' rights, refer to Code of Maryland Regulations 10.07.09 Patients' Bill of Rights: Comprehensive Care Facilities and Extended Care Facilities or the Annotated Code of Maryland, Health-General Article, 19.03.06 § 19-343 through §19~350.

## DOCUMENTATION

### I. OMBUDSMAN AUTHORIZATION TO REPRESENT A RESIDENT

One of the most important things that an Ombudsman does is to TALK TO THE RESIDENT and to RECEIVE THE RESIDENT'S AUTHORIZATION TO INVESTIGATE HIS COMPLAINT AND ACT ON HIS BEHALF.

There are TWO kinds of authorization:

#### A. COMPLAINT INVESTIGATION AUTHORIZATION

Complaint investigation authorization requests complaint investigation and authorizes the Ombudsman to investigate the complaint and act on behalf of the resident.  
(See Appendix C - Forms)

- \* Competent residents must sign the form themselves.
- \* Confused residents can request assistance and the Ombudsman can act on that request.
- \* In assisting residents who cannot communicate their wishes:
  - If adjudicated incompetent the legal representative must be consulted regarding the case.
  - If the resident has not been adjudicated incompetent the Ombudsman shall discuss the case with the next of kin, sponsoring agency or representative payee.
  - If the resident has no involved parties or agencies, the Ombudsman can act on behalf of the resident at the Ombudsman's discretion.
- \* The Ombudsman shall always attempt to have the resident sign a Complaint Investigation Authorization Form.
  - If the resident cannot sign the form a legal representative, next of kin or sponsoring agency should sign the form.

- If the resident gives the Ombudsman authorization to represent him/her but cannot sign the form the Ombudsman must document verbal authorization along with the time date and signature of any witnesses.
- The Ombudsman shall consult with the resident throughout the investigation to discuss developments in the case and the options for resolution.

## B. AUTHORIZATION TO REVIEW MEDICAL RECORDS

At times the Ombudsman may have to review a resident's medical records during the course of the investigation. PRIOR to reviewing the record the Ombudsman should have a signed AUTHORIZATION TO REVIEW MEDICAL RECORDS.

- \* The Authorization should be signed by the RESIDENT, if possible.
- \* If the resident can not sign but gives a verbal authorization for the Ombudsman to review his/her medical records, it should be documented as such with date and time and witnessed.
- \* If the resident understands the request for authorization to review medical records and refuses to consent to the Ombudsman examining the records, the case may be pursued with the resident's approval and the understanding that the information available to the Ombudsman is limited without the medical records review and the outcome may be affected.
- \* If the resident can not express his/her wishes regarding review of his/her medical records by the Ombudsman, the case should be discussed with and the authorization signed by the resident's
  - Legal representative or
  - Next of kin or
  - The sponsoring agency or
  - Representative Payee

(See Appendix D - Forms)  
 (Refer to MEDICAL RECORDS ACCESS PROCEDURE)

## II. COMPLAINT/CASE RECORDS

- A. ALL INFORMATION IN OMBUDSMAN RECORDS MUST BE KEPT STRICTLY CONFIDENTIAL unless the complainant resident or resident's legal representative authorizes the release of information regarding the complaint.  
(Refer to the Policy on Confidentiality for further explanation)
- B. ALL RECORDS ARE TO BE KEPT IN A LOCKED FILE unless they are being used.
- C. ALL RECORDS ARE LEGAL DOCUMENTS and could possibly be subpoenaed by the court as evidence in prosecution resulting from a complaint.
- \* Supportive evidence obtained in the investigation process is crucial and should be documented in a logical, dated sequence.
  - \* If documentation is not done immediately important information may be lost or jumbled.
  - \* A well documented complaint can make complaint resolution at any level easier.
- D. All records must state in clear concise language the nature of the complaint. The records should include:
- \* Dates
  - \* Time
  - \* Individuals contacted
  - \* Information obtained

The results of the investigation and resolution process must be documented along with the findings of a follow-up visit.

- E. The follow-up visit shall occur within 30 days of the resolution and in the case of a serious complaint or a tenuous outcome may consist of any number of visits that seem appropriate and necessary in order to close the case with reasonable confidence of resolution.
- F. A case may be closed when the Ombudsman has made at least one follow-up visit and the resident is satisfied with the outcome whether or not there is resolution.

- G. The resident may at any time during the investigation and resolution process request that the case be closed and the Ombudsman will honor that request.
- H. If after case closure, the same resident registers a complaint (the same or a different complaint) , a new case must be opened.
- I. If in making "rounds" in a nursing home an Ombudsman receives complaints from several residents, they will be treated as:
  - \* Individual cases if each resident gives permission for the Ombudsman to investigate and act on his/her behalf.
  - \* Anonymous or facility complaint if the resident(s) wish to remain anonymous.
  - \* Ombudsman complaint if the residents do not wish to have the complaint perused on their behalf AND the Ombudsman can verify the complaint through personal observation.

### III. CODES FOR REPORTING

There are two sets of codes used in reporting Ombudsman cases to the state:

- 1. COMPLAINT CODES describe the general category that a complaint falls into and are defined by the federal reporting system. The general categories are:
  - A. Resident Care
  - B. Physician Services
  - C. Medications
  - D. Financial
  - E. Food/nutrition
  - F. Administrative
  - G. Residents Rights
  - H. Building/Sanitation/ Laundry
  - I. Not Against Facility

(See Appendix C - Codes for the complete list of Complaint Codes)

2. Facility Codes are assigned to each licensed and/or certified facility in Maryland. The Office on Aging assigns facility codes for Senior Assisted Sheltered Housing. The Department of Health and Mental Hygiene, Division of Licensing and Certification, assigns facility codes to the facilities that are regulated by DHMH.

(See Appendix C- Codes for the complete list of Facility Codes)

## MEDICAL RECORDS ACCESS PROCEDURE

Code of Maryland Regulations 14.11.05.08

### ".08 Access to Medical Records

"A. A related institution shall grant access to a resident's medical record or provide a copy of a medical record to a patient advocate if:

" ( 1 ) If the advocate presents written authorization from the resident on whom the record is kept;

"(2) In the event that the resident has been adjudicated a disabled person, the patient advocate presents written authorization from the court appointed guardian; or

"(3) In the event that the resident has not been adjudicated disabled but is unable to communicate with others or is found to be medically incompetent by the attending physician of the resident, the patient advocate presents written authorization from the next of kin of the resident, the sponsoring agency of the resident, or, unless the facility is representative payee, the representative payee that the Social Security Administration designates for the resident."

Code of Maryland, Health General Subtitle 3 Personal Medical Records § 4-301 . Disclosure of Medical Records.

"(a) Authorized disclosures. - Any provider of medical care who has custody of medical records may reveal specific medical information contained in those records:

"(1) To the individual on whom the record is kept or the individual's agent or representative; or

"(2) As authorized in Article 48A, Subtitle 20 of the Code.

"(b) Prohibited disclosures. - Any provider of medical care who has custody of medical records may not reveal specific medical information contained in those records to any person unless authorized by the individual on whom the record is kept.

"(c) Inapplicability of section. - Subsection (b) of this section does not apply to a provider of medical care who has custody of medical records if the provider is:

" (1) Performing medical services or allied support services for or on behalf of a patient; ...

" (4) Providing information to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress;"

### MEDICAL RECORDS

The Ombudsman may have to review a resident's medical record during the course of an investigation. PRIOR to receiving the record, the Ombudsman should have an AUTHORIZATION TO REVIEW MEDICAL RECORDS that is signed by the

1. RESIDENT if competent or
2. Guardian or
3. Next of kin if the resident's doctor declares the resident medically incompetent and adjudication has not occurred or
4. Sponsoring agency if there is no kin or
5. Representative payee, if none of the above exist.

(See Documentation - Authorization to Represent the Resident and Appendix D - Forms)

The information required from medical records may vary according to the nature of the complaint. It may be helpful to consider the following questions:

- \* What kind of information are you looking for?

Charts are divided into sections with specific kinds of information in each section.

- COVER PAGE contains the resident's name, prior address, age and next of kin, etc.
- NURSES NOTES contain the observations and condition changes that the nurses observe. It may be a daily record or it may only be a record of significant events or changes.
- MONTHLY RESIDENT EVALUATION (MAPP) is a systematic review of the resident physically and functionally. Any abnormalities are discussed on the back of the page.

- DOCTOR'S ORDERS list all the medications, treatments and doctor prescribed care or services. The orders must be reviewed and signed by the doctor at least every 30 days. Often a designated nursing home staff person copies the orders from month to month for the doctor. Telephone orders must be signed on the next physician visit.

- DOCTOR'S NOTES provide information about the resident's condition at the time of the doctor's visit. A resident should be seen at least monthly and changes in his condition noted.

- LAB TESTS provide the results of any tests done on the resident. Blood work is usually on pink slips and urinalysis are often on yellow slips. X-ray reports are usually on a full sheet of white paper.

It should be noted that residents charts are thinned periodically when they become too bulky. The "thinned" portion of the chart is stored in Medical Records along with the charts of discharged and deceased residents. Old or "thinned" records should be available on request since they are legally a part of the chart.

Try to determine what you are going to look for in the record and what sections of the record would contain the needed documentation.

- \* Does the complaint-involve medication?

- What medication(s) was prescribed?

- Who administered the medication?

- Was the medication given as prescribed (amount, time, method of administration)?

- Is there proper documentation?

- \* Does the complaint involve chemical or physical restraints?

- Is the need for restraints clearly documented AND ordered by the physician?

- Are the restraints properly applied? and released? Is it documented?

- Is the resident being toiletted and cared for at least every two hours?

- What effect are the restraints having on the resident?
- \* Does the complaint involve competency?
  - Has the physician determined incompetency?
  - Are the reasons and explanations documented?
- \* Does the complaint involve resident condition and/or care?
  - What do the nurses notes say?
  - Are the nurses notes a complete and accurate description of the resident's condition and or the incident?
  - Who was notified of the condition change/incident? Was it in a timely fashion?
  - Were the doctor's orders carried out, as indicated by nurses' notes, lab reports, therapy progress notes, etc.?
  - If the resident requires positioning and turning is this being done every two hours? Is it documented?
  - Are all the treatments done and recorded? Do the dates on dressings, etc. correlate with the record?
  - Does the record reflect or include past medical and social histories, including discharge summaries from other institutions?
  - Does the care plan reflect the resident's needs?
  - Is there a plan of care?

INCIDENT REPORTS are facility records and are not considered a part of the resident's chart. Facilities must keep incident reports that relate the specifics of all accidents and "unusual" incidents/ occurrences. Incidents that involve a resident, especially ones that result in injury should be documented on the "nurses notes".

- \* What does the incident report say?
- \* Who was involved?

- \* Is the information consistent?
- \* Is there indication of abuse or neglect?

If the medical record raises concerns that you, as Ombudsman, can not resolve or that you feel are serious, the case should be referred to Licensing and Certification's Complaint Division.

If you do not understand the information in the medical record and the staff can not provide a satisfactory explanation, you can refer the case to Licensing and Certification for the investigation.

## INTAKE/RECORD PROCEDURE

### OMBUDSMAN CALLS/CONTACTS:

#### 1. REQUEST FOR INFORMATION:

- A. Not all calls about nursing homes are complaints. There are times that people have questions about:
  - \* A nursing home or deficiencies it may have received.
  - \* Nursing home routines and regulations.
  - \* How to work with the "system" from nursing home admissions to Medicare and Medicaid.
- B. A record of all inquiries and requests for information must be kept. These requests for information are reported at the bottom of the page on the quarterly report.

#### 2. REQUEST FOR PUBLIC SPEAKING:

- A. Occasionally Residents Councils, local organizations, churches or groups request the Ombudsman to speak on a topic of concern to them (i.e. Ombudsman Program, residents' rights, nursing home life, abuse, etc.).
- B. Whenever possible the Ombudsman should respond to the request.
- C. Keep a record of all requests for public speaking and any other public contact (including health fairs and other promotional activities) that does not constitute an inquiry or a complaint. The number of public contacts is reported at the bottom of the page on the quarterly report.

#### 3. PROBLEM/COMPLAINT IS REPORTED:

##### OPEN A CASE -

- 1. Complete the INTAKE SHEET with as much information as is possible.
  - \* Date complaint received
  - \* Facility Name
  - \* Resident Name

- \* Resident age
- \* Date of incident
- \* Complainant Name
- \* Complainant's Title or Complainant's relationship to the resident
- \* Complainant's phone number

A clear and complete (as is possible) description of the problem/complaint is essential. Include:

- \* Date(s), time and details of the incident(s)
- \* Names of involved individuals and or witnesses.
- \* The nature and extent of the injuries or losses, if applicable.
- \* Action that has been taken and the result.

The Area Agency may require additional information.

2. Enter the case information into the OMBUDSMAN CASE LOG and assign a CASE NUMBER.

- \* Case numbers should contain:
  - County number assigned by DHMH  
(See Appendix C - Codes)
  - Year of the complaint
  - Month of the complaint
  - Case number of the complaint in the current fiscal year.  
i.e. 02-90-01-36 (02=Anne Arundel County,  
90= Year, 01= January, 36=the thirty-sixth case in FY'90)
- \* The residents name should be entered in the log.
  - If the resident wishes to keep their identity confidential, a large circled "C" should be placed next to the name.
- \* The name of the facility or the facility code, which ever is the easier reference for the Ombudsman.
- \* The applicable complaint code(s) shall be indicated.
- \* Date complaint was received shall be indicated.

- \* Whether the case has been resolved, had followup or is closed should be indicated by:
  - R = Resolved
  - F = Follow-up completed
  - C = Case closed

The OMBUDSMAN CASE LOG is a tool that provides the Ombudsman with an easy access to information without having to root through files. It should, however, be kept in a locked drawer or file cabinet when not in use because it contains confidential information.

### 3. **VISIT THE RESIDENT**

- \* To verify the complaint.
- \* To receive authorization to represent the resident and investigate the problem/complaint. (See Documentation - Complaint Investigation Authorization).

## **ADULT CARE FACILITY COMPLAINTS**

Ombudsmen may receive complaints from licensed or registered and unlicensed facilities. Licensed or certified facilities include: Department of Human Resources certified residential homes (Project Home) Department of Health and Mental Hygiene's Domiciliary Care Homes and Maryland Office on Aging's Group Senior Assisted Housing. Permit - Registered' Domiciliary Care Homes provide housing and personal care services for 2, 3 or 4 unrelated residents. Unlicensed, illegal board and care homes provide room and personal care for 2 or more unrelated individuals.

While the investigation method is similar to that outlined in nursing homes, there are some differences.

1. The Ombudsmen do not have authority to investigate complaints in unlicensed board and care homes or in Department of Human Resources licensed homes. See COMPLAINT REFERRAL.
2. The local Ombudsman should to identify the adult care facilities in their area using agencies or community groups involved with making referrals, benefit determinations, visitation, or providing services in the community.
3. The local Ombudsman should schedule meetings with the management of the Domiciliary Care Homes in their jurisdiction, in order to introduce him/herself to the operator, staff and residents and to explain the Ombudsman Program.
4. The local Ombudsman should identify' and recommend potential community resources that might assist residents, such as public or private agencies and programs, senior centers, churches, medical services, etc.
5. The local Ombudsman shall be knowledgeable of local laws or policies regarding board and care homes and various long term care facilities.
6. Ombudsmen should keep in mind that confidentiality may be more difficult to maintain in adult care homes than in nursing homes. All Ombudsmen should be very careful when assisting residents so as not to put these vulnerable individuals at risk of reprisal.
7. Local Ombudsmen can receive complaints from Senior Group Assisted housing. However, the local ombudsman will refer the complaint to the State Ombudsman will conduct the investigation and complaint resolution.

## COMPLAINT REFERRALS

The Ombudsman Program does NOT HAVE JURISDICTION in certain types of facilities. The Ombudsman should refer such complaints to the appropriate agency.

### DEPARTMENT OF HUMAN RESOURCES CERTIFIED HOME -

All complaints from a Department of Human Resources Certified Home should be referred to the local Department of Social Services for investigation.

### RESIDENTIAL CARE FACILITY FOR THE MENTALLY RETARDED -

All complaints received from a residential care facility for the mentally retarded should be referred to the Department of Health and Mental Hygiene, Department of Licensing and Certification, Developmental Disabilities Unit.

### STATE FACILITIES FOR THE MENTALLY RETARDED -

Complaints received from state facilities for the mentally retarded should be referred to Department of Health and Mental Hygiene, Department of Licensing and Certification, Complaint Unit.

### UNLICENSED BOARD AND CARES--

All complaints received regarding an unlicensed board and care should be referred to the Department of Health and Mental Hygiene, Domiciliary Care Unit for investigation.

Complaints received from an unlicensed board and care (2 or more unrelated residents) where the identity of the resident at risk can be provided should be referred to Adult Protective Services or Geriatric Evaluation Services.

### SENIOR HOUSING -

Complaints involving abuse, a need for services or increased vulnerability of the resident (ie.- no food, no medication, illness) should be referred to Adult Protective Services.

Complaints involving neighbors or building conditions should be referred to the manager. Other referrals may be done as appropriate, Senior Information and Assistance is often very helpful with services that may be needed.

#### COMMUNITY COMPLAINTS -

If the complaint is regarding or on behalf of a vulnerable adult, Adult Protective Services should be notified and the referral made.

#### HOSPITAL COMPLAINTS -

Complaints regarding the care received or the conditions encountered in a hospital should be referred to the Department of Health and Mental Hygiene, Licensing and Certification, Complaint Unit.

Complaints that involve hospital billing or equipment should be referred to Office of the Attorney General, Consumer Protection Division.

#### STATE PSYCHIATRIC HOSPITAL -

Complaints regarding difficulties accessing care or problems with the care and services received in state psychiatric hospitals should be referred to the Department of Health and Mental Hygiene Regional Ombudsman.

## ALLEGED ABUSE PROCEDURE

In accordance with §19-347 of the Health General Article and Code of Maryland Regulations 10.07.09. which applies to a resident of a related institution (Domiciliary Care Home or Nursing Home).

1. Complaints of alleged abuse may be received by law enforcement agencies, the Department of Health and Mental Hygiene or the State/Local Ombudsman Program.
2. The Local Ombudsman upon receiving a report of alleged abuse shall obtain as much information as available from the person filing the complaint, including but not limited to:
  - a. Name of the facility,
  - b. Name of the resident who was allegedly abused,
  - c. Name, address and telephone number of the person reporting the abuse as well as their relationship to the allegedly abused,
  - d. Name or identifying information regarding the alleged abuser,
  - e. The date, time, location, and circumstances of the incident (Include any resulting injuries),
  - f. The names of any witnesses,
  - g. Other information if available.
3. If the Local Ombudsman is the recipient of the report he/she shall immediately notify:
  - a. The Office of Licensing and Certification Programs  
and
  - b. The appropriate law enforcement agency.
4. When the Local Ombudsman is aware of alleged abuse he/she shall notify within a reasonable period of time:
  - a. The nursing home Administrator where the alleged abuse occurred unless the Administrator is the abuser.

- b. The State Office on Aging (in accordance with the Reporting Requirements) .
5. The initial reporting of an abuse to Licensing and Certification may be done over the phone to speed the response time. The verbal report should then be followed by a written report and a copy of the written report should be sent to the State Office.
  6. It is the responsibility of the law enforcement agency with the assistance of Licensing and Certification to investigate a complaint of alleged abuse.
  7. The Ombudsman may assist with or conduct independently an investigation of alleged abuse. The investigation may include but is not limited to:
    - a. Interviewing the staff or other appropriate staff.
    - b. Working with the facility to protect the safety and well being of the resident.
    - c. Monitoring the resident during facility visitation.
    - d. Providing information and referral services to the resident or his representative regarding legal resources, residents' rights or investigation procedure.
    - e. Assisting the resident to secure appropriate and desired services.
    - f. Providing testimony in a court case involving suspected abuse. In such cases the Local Ombudsman shall notify the State Office.
  8. The Ombudsman shall provide requested information to the law enforcement agency and Licensing and Certification.

## COMPLAINT INVESTIGATION PROCEDURE

Code of Maryland Regulations 14.11.05

### ".04 Complaint Investigation Procedures.

"A. The Ombudsman Program is responsible for investigating complaints made by or on behalf of residents of related institutions concerning the provision of services to residents.

"B. Investigation responsibilities shall include but not be limited to:

"(1) Personal contact with the resident who has made the complaint or on whose behalf the complaint was made;

"(2) Interviews with appropriate officials and staff of the related institution and other appropriate resource people;

"(3) Visits with residents other than the resident who has complained or on whose behalf the complaint has been made if it is necessary to verify the complaint or to protect the confidentiality of the complaint or resident;

"(4) Documentation of the complaint and investigation;

"(5) Periodic communication with the complainant and resident to keep them informed of the status of the investigation.

"C. The Patient Advocate [Ombudsman] shall visit related institutions between 9 a.m. and 5 p.m. and during regular visiting hours except when the nature of the complaint requires visitation at other hours.

"D. Upon entering a related institution, the patient advocate shall comply with any reasonable policy of the facility with regard to the identification of visitors and shall carry an identification card.

"E. The patient advocate shall knock on a resident's room door before entering and identify himself/herself and the program immediately. A resident shall have the right to refuse to communicate with the patient advocate. Any refusal shall be made directly to the patient advocate and not through an intermediary."

### PROCEDURE:

The investigation is the most critical aspect of processing complaints and problems for residents in nursing homes. While the investigation process may vary depending on the type of complaint, a careful and systematic approach usually produces the best results.

Although the Ombudsman is responsible for acting on behalf of long term care residents, during the investigation process an objective analysis and review of the facts is essential.

1. Begin with a CLEAR STATEMENT OF THE PROBLEM. Use simple language, a detailed description and confirm the information with the resident or complainant to ensure accuracy and completeness.

There are often multiple issues, which should be separated and prioritized by deciding the urgency and resolution potential of each issue.

A SYSTEMATIC OUTLINE CLARIFIES the problem:

WHAT was/is the problem?

WHERE did it happen?

WHO was involved?

WHEN did it start/occur?

HOW did it occur?

WHY did it occur?

2. COLLECT the FACTS:

A. WHO is the actual complainant?

\* DO YOU HAVE THE RESIDENT'S PERMISSION TO REPRESENT HIM/HER AND TRY TO RESOLVE THE PROBLEM?

\* CAN YOU REPRESENT THE COMPLAINANT AND ADVOCATE FOR THE RESIDENT TOO? The resident always receives priority and his/her rights need to be protected.

\* When the case involves two or more residents, the solution probably needs mediation and negotiation.

B. What type of complaint is it?

Refer to the complaint codes.

C. Is this an appropriate problem for Ombudsman intervention or should it be referred?

\* What agencies are appropriate referrals?

D. Where are the GAPS IN INFORMATION?

- \* Who do you need to talk to get a complete picture of the problem?
- \* Have you asked all of the questions needed to get a complete picture?

3. VERIFICATION OF THE PROBLEM. - Is the complainant's grievance valid or invalid?

A. What are the possible causes of the complaint?

- \* Is it a matter of faulty communication, simple misunderstanding, a disagreement about procedure, a difference of perception, different values?
- \* IS THERE A REAL PROBLEM?

B. This can only be determined by gathering all the facts and relevant information from various sources. This requires suspending judgement during the data collection phase.

C. METHODS OF VERIFICATION:

1. Observation - Direct observation is the easiest method of verifying a complaint. (Sight, sound, touch and/or smell)

2. Research-

- \* What do the regulations and the law say?
- \* Review resident records, where appropriate.
- \* Gather facts through interview.

- Remember the complainant's account is only one perspective. Family, physician and/or staff interviews may also be needed.

- Interviewing skills are listening and questioning. Be sure to listen carefully. Have questions that are as open ended as possible (avoid questions with yes/no answers). Try to keep the questioning non-judgemental and nondirective, which allows the speaker the freedom to express himself. ie. "Could you tell me about . . . ?"

"What have you done to try to correct. . . ? ", "What have your experiences been regarding. . . ?"

3. Reconstruct Events.

- \* This is especially important when the resident is confused and there is no reliable historian that witnessed the incident.
  - \* Try to determine who was on duty and who might have been in the area of the problem. Who might have seen or heard the incident or about the incident.
  - \* Review the resident's records, with the resident's permission, and review any incident reports. What was reported and recorded?
  - \* Talk to other residents. Were there any witnesses? If the resident with the problem does not give the Ombudsman permission to represent him, the Ombudsman may:
    - Register an all floor/facility (anonymous) complaint, if other residents have experienced similar problems?
- OR
- Register an Ombudsman complaint, if the Ombudsman can verify the problem through personal observation.
- 
- \* Walk through the facility, what observations can you make about nursing care, routines, staff relationships with the residents and with each other as well as facility layout and conditions that might have impacted the resident or the situation.

D. PROGRESS NOTES:

1. Information compiled during the investigation, resolution and follow-up process must be documented in Progress Notes.
2. All interactions on behalf of the resident must be entered in the progress notes and

shall include but not be limited to:

- \* The date
- \* The kind of action (interview, phone call, letter)
- \* Who was involved
- \* The subject/topic and outcome (action or information).

E. CONFIDENTIALITY:

1. The need to maintain confidentiality cannot be stressed enough. Often nursing home residents are afraid to complain for fear of reprisals. And the only way they feel that they can register their legitimate complaints is to do so anonymously.

Anonymous complaints pose several problems:

- \* The problem may be so case or individual specific that to present the complaint will identify the complainant/resident. If the resident can be identified by the circumstances of the complaint, **THE RESIDENT MUST GIVE PERMISSION TO PROCEED WITH INVESTIGATION AND RESOLUTION.**
- \* Anonymous complaints often do not/can not present enough specifics to get the problem resolved.

It is important to remember that residents LIVE in a facility and are very vulnerable. As an Ombudsman you visit a nursing home for brief periods and are not able to be there, to "protect" the resident 24 hours a day 7 days a week. If the resident wishes to remain anonymous, a legitimate complaint may have to go unresolved. **THE RESIDENT HAS THE RIGHT TO DECIDE WHETHER OR NOT TO PURSUE A COMPLAINT.**

2. **THE RESIDENT/COMPLAINANT HAS THE, RIGHT TO REFUSE THE SERVICES OF THE OMBUDSMAN AT ANY TIME.** This refusal shall be made directly to the Ombudsman or his designee and not through an intermediary.
3. **ALL RECORDS OF THE OMBUDSMAN PROGRAM ARE CONFIDENTIAL.** (Refer to the POLICY ON CONFIDENTIALITY.)

## COMPLAINT RESOLUTION PROCEDURE

Code of Maryland Regulations 14.11.05.05

### ".05 Complaint Resolution.

"A. After an investigation, if the patient advocate and the local ombudsman determine that the complaint has no merit, the patient advocate shall explain the situation fully to the complainant, and educate the complainant as to his rights and responsibilities.

"B. After an investigation, if the complaint is fully or partially verified, the patient advocate shall seek to resolve the problem.

"C. Complaint resolution responsibilities shall include but not be limited to:

"(1) Development of a plan for corrective action through discussions with the complainant, resident, and appropriate officials and staff of the related institution;

"(2) Establishment of a timetable for resolution;"

### COMPLAINT RESOLUTION PROCEDURE:

Once the complaint has been verified or partially verified and the investigation is complete, the facts of the case need to be reviewed and assessed.

1. When a complaint is made on behalf of a resident it is most important to discuss the investigation findings with the resident to be sure that the resident sees the problem and resolution in the same light as the complainant.
  - \* The resident may not view the problem and resolution the same way that the complainant does.
  - \* The RESIDENT'S WISHES ARE TO BE HONORED AT ALL TIMES.
2. The options for complaint resolution should be determined and whenever possible presented to the resident.

- \* Try to keep the best interest of the resident and the facility in mind because what might benefit one resident may not benefit the other residents in the facility.
3. The Ombudsman and the resident should then develop a plan of corrective action.
    - \* Try to involve the individual (s) responsible for implementing the resolution and involve them in the resolution process.
    - \* If the complaint is widespread try to develop a solution that will address the entire problem.
  4. Determine what role or combination of roles the Ombudsman will play in the resolution process, i. e. mediator, negotiator, advocate or educator.
  5. The complainant should be encouraged to advocate for himself. The Ombudsman should intervene when the resident requests assistance or can not advocate for himself.
  6. The plan of corrective action should be discussed and agreed upon by the relevant parties. If necessary a written statement reviewing the details of the plan may be sent to the parties involved, including time tables for correction.
  7. It is important to obtain a definite commitment about the resolution and when implementation will occur.
    - \* The importance of this commitment should be reenforced with a date that the Ombudsman will check on the progress of the resolution and the results.
  8. Inquire about what will be done to prevent this situation in the future.
    - \* Determine who will inform the staff of policy or procedure changes.
  9. Try to obtain the support of the Administrator and the nursing staff.
  10. When appropriate involve community resources and/or Senior Life Enrichment. Involvement of a concerned party often reduces the vulnerability and isolation of the resident.

When the complaint is not justified the Ombudsman shall work with the resident/complainant so that more realistic expectations and a clearer understanding of the nursing home's policies, procedures, and routines can be achieved.

## COMPLAINT FOLLOW-UP PROCEDURE

Code of Maryland Regulations 14.11.05.05

“.05 Complaint Resolution.

“C. Complaint resolution responsibilities shall include but not be limited to:

“(3) Follow-up within 30 days to determine if the problem giving rise to the complaint has been resolved.

“D. Complaints of conditions adversely affecting residents that can not be resolved shall be referred by the State or local ombudsman to the appropriate governmental agency.”

### PURPOSES OF FOLLOW-UP:

- \* To verify that the complaint was actually resolved.
- \* To assure the complainant of your concern and that everything possible has been done, if in fact it has.
- \* To monitor the effectiveness of the program.
- \* To determine if there are any deficiencies in the facility standards.

### PROCEDURE FOR FOLLOW-UP:

Once a resolution has been agreed upon and an implementation schedule established, the ombudsman needs to follow-up to assure that the problem was in fact resolved or that it stayed resolved and that there were no reprisals against the complainant and/or the resident.

1. The resident/complainant should be contacted to determine the effectiveness of the resolution.
2. The follow-up shall occur within 30 days.
  - \* If the problem is a patient care issue 30 days may be too long to wait and several follow-up visits may be required.
  - \* If the resolution is tenuous or the facility has a history of not following through, several follow-up visits may be needed.

3. There is no limit on the number of follow-up visits. It is up to the resident to decide that the problem has been adequately resolved and the ombudsman to determine that the facility can be relied on to do their part in preventing a recurrence of the problem.
4. The follow-up shall determine if any person who filed a complaint with or provided information to a representative of the long term care ombudsman program suffered retaliation. If retaliation occurs it is against the law and the violator is guilty of a misdemeanor and is subject to a fine of not more than \$1500.  
(See Appendix A - Laws)
5. ALL FOLLOW-UP MUST BE DOCUMENTED ON PROGRESS NOTES.
6. When the follow-up is completed and the ombudsman is satisfied that maximum resolution has occurred, the case shall be reviewed and closed. The date closed must be noted and the ombudsman must sign the file.
7. If the complainant calls with the same complaint after the case has been closed, a new case will be opened and a new case number assigned. Across reference should be made to the closed case if it is relevant.

## **RELEASE OF INFORMATION TO THE PUBLIC**

### **INFORMATION THAT CAN BE RELEASED TO THE PUBLIC**

1. OMBUDSMAN PROGRAM INFORMATION.

Information about the Ombudsman Program can always be shared. The Ombudsman can share information about the location, role, structure, purpose, duties and responsibilities of the Ombudsman Program.

2. RESIDENTS' RIGHTS INFORMATION.

The Ombudsman SHALL provide information on residents' rights including: a description of each right, complaint procedures, the hearing process, etc.

3. DEFICIENCY REPORTS.

The Ombudsman may be requested to provide information about nursing home survey reports including: explanation of deficiencies, an explanation of the survey process, location of reports, enforcement procedures, etc. It should also be explained that deficiencies cited must be corrected. Any questions that the deficiencies produce should be explored with the facility to determine if the deficiencies have been corrected and if the facility can provide the care needed.

4. NURSING HOME INFORMATION.

The Ombudsman can provide information regarding nursing homes in the area. The information may include: facility location, availability of services, staffing, bed capacity, costs, etc.

5. OMBUDSMAN COMPLAINT STATISTICS.

The Ombudsman may be requested to provide information on complaint statistics such as categories of complaints, number of complaints, verification status, facility from which the complaint was received. NO RESIDENT/COMPLAINANT IDENTIFYING INFORMATION MAY BE RELEASED WITHOUT THE WRITTEN AUTHORIZATION OF THE RESIDENT OR THE RESIDENT'S LEGAL REPRESENTATIVE.

## **INFORMATION THAT SHOULD NOT BE RELEASED TO THE PUBLIC**

### **1. CLIENT INFORMATION:**

The name, diagnosis, address, telephone number, treatment, financial records or any other identifying information of a resident may not be released without the express written consent of the resident or legal representative of the resident.

### **2. COMPLAINANT INFORMATION:**

The name, address, telephone number or other identifying information about a complainant that wishes to remain anonymous may not be released.

## **MONITORING PROCEDURE**

The Ombudsman is mandated to ensure residents' rights and the understanding of those rights. One way this can be accomplished is through the monitoring of each facility on a regular basis.

- \* Monitoring visits can provide a great deal of useful information regarding the nursing home and the people in it. It is important to remember that you are not an inspector per se and have no enforcement authority. You are there to make observations and to listen to residents discuss their life in the nursing home. Where there are problems or complaints, you try to resolve them.
  
- \* Visits should be unannounced and should not always include complaint investigation so that rapport can be established with the staff.

In conducting monitoring visits and resolving problems it is important to understand the various positions and lines of authority in the nursing home. Different nursing homes have different staff positions, who handle similar problems in different ways. It is important to determine how the Administrator at each home wants problems handled. Who is the best person(s) to involve in problem resolution? The following are a list of personnel that you may find in a nursing home:

### ADMINISTRATOR:

The Administrator is responsible for the overall management and operation of the facility (fiscal, legal, medical and social). Some Administrators are very involved with the every day operation and activities in the facility and, therefore, prefer to work with the Ombudsman personally to get problems/complaints resolved. Other Administrators prefer that their Department Heads handle the complaints.

An Administrator must be licensed by the Board of Nursing Home Administrators.

### DIRECTOR OF NURSES:

The Director of Nurses (DON) is a registered nurse (RN) who oversees the entire nursing staff, including

nursing supervisors, licensed practical nurses, medicine aides, nursing assistants and orderlies. The DON is responsible for the quality and safety in patient care.

An RN is a licensed nurse with a minimum of two years of nursing school training.

#### ASSISTANT DIRECTOR OF NURSES/NURSING SUPERVISOR:

The Assistant Director of Nurses (ADON) is a registered nurse that can fill in for the DON in his/her absence. The Nursing Supervisor is responsible for the nursing care that is given either in his/her assigned area or in the nursing home. The ADON and/or Supervisor usually provide direct staff supervision and training as well as act as a resource for nursing personnel. Not all nursing homes have ADONs or Supervisors. In many smaller homes the Charge Nurse acts as the Supervisor.

#### CHARGE NURSE:

The charge nurse is a registered nurse (RN) or a licensed practical nurse (LPN), who is responsible for the direct care that is given on his/her area. The Charge nurse may also give medicines, do treatments, transcribe orders as well as perform various administrative functions for the unit.

An LPN is a licensed nurse with one year of vocational training in nursing.

#### MEDICINE AIDE:

Medicine Aides pass oral medications and assist with resident care.

Medicine Aides must take a course of study that will provide certification and they must be under the direct supervision of a licensed nurse.

#### NURSING ASSISTANT/ORDERLY

The nursing assistant provides most of the hands-on care that a resident receives.

An orientation program is required but most learning occurs on the job.

#### MEDICAL DIRECTOR:

The Medical Director is a physician who is hired by the nursing home to formulate policy and over see the medical care of all of the residents. The Medical Director is usually in

the facility only part time but he/she has full time responsibility and should be accessible in case of a problem. The Medical Director must care for any resident who does not have their own doctor.

#### ATTENDING PHYSICIAN:

The attending physician is a resident's personal doctor. Each resident must either choose his/her own doctor or have one assigned by the nursing home to provide needed medical care and treatment.

#### SOCIAL SERVICES:

Social services provides a holistic perspective by assessing the physical, emotional and social aspects of the resident's care, health and adjustment to life in a nursing home. The social worker may also assist in resolving resident and family problems as well as participate in care plan development and discharge planning. Social services are provided by a licensed social worker. In nursing homes that cannot afford and are not required to have a full time social worker, a social work designee provides these services. Because a designee does not have a degree in social work, they are under the supervision of a social worker, who must sign off on the designee's work.

#### DIETARY SERVICES:

The dietary department is responsible for planning, preparing, and serving three meals a day and snacks to the residents. Because some of the diets are doctor ordered, food from outside the facility should not be given to the residents without checking with the nurse in charge. A Registered dietician approves meal plans, plans the special diets. The cooks do the meal preparation and the dietary aides assist in the preparation and serving of the food.

#### HOUSEKEEPING/LAUNDRY:

The housekeeping staff are responsible for the basic housekeeping chores and can be seen throughout the facility dusting, cleaning and sweeping.

Most facilities have laundry services which provide clean linens and towels. Some homes are also equipped to launder the resident's personal clothing. Loss or misplacement of personal clothing is often a problem which is improved by clear identification of each item.

#### MAINTENANCE:

The maintenance department is responsible for the repair and maintenance of the facility and grounds. They may also approve, check and repair equipment. Residents' personal electrical items brought from home made have to be checked and approved by maintenance.

#### PODIATRIST:

The podiatrist specializes in the diagnosis and treatment of diseases and defects of the feet. Usually the podiatrist is a consultant physician, who sees residents in the nursing home on a regular basis.

#### PHYSICAL THERAPIST:

The physical therapist (PT) is trained in maintaining and/or restoring the function of muscles through movement, exercise and/or treatment. Large facilities may have a physical therapy department, but most homes have a contractual agreement with a therapist to provide these services to residents when the doctor orders them.

#### OCCUPATIONAL THERAPY:

An occupational therapist (OT) is trained in maintaining and/or restoring the individual's ability to care for himself. Large nursing homes and chronic hospitals may have an occupational therapy department, but most homes provide these services contractually when a doctor orders them.

A tour of the facility is very important. A walk through of the facility using:

- observation for conditions and atmosphere
- random conversation with residents

should provide a good profile of the facility. During your rounds you should:

#### Look at the residents:

Do they seem well cared for?

Are they dressed and involved in activities?

Are their clothes clean? Their hair combed?

Are the staff interacting with the residents? Is there a warmth and interest expressed? Are the residents responsive?

Are the residents left in a room with only a TV for stimulation? Is the activity room filled with busy residents?

Do the residents smell objectionable? Are there urine puddles under their chairs?

Look at the staff:

Are the staff respectful of the residents? Is there caring interaction?

Are the residents treated as adults?

Is the staffing adequate?

How do the staff appear? Neat? Clean? Pleasant?

How does the staff treat you? Administrator? Nurses? Aides? etc.

Look at the residents' rooms:

Are they clean and pleasant?

Is there space for the resident's personal items? Are residents allowed to have their own things?

Is there adequate closet space?

IS there a curtain for privacy?

Is there fresh drinking water within reach?

Is the room comfortable? Well lighted? Good temperature? Adequately ventilated?

Look at the resident's safety:

Does each resident in bed have a call button within reach?

Is the lighting adequate?

Is the home free of obvious hazards? Are there obstacles to residents? Hazards underfoot? Unsteady chairs? Unprotected stairwells? Medicine carts left unattended?

Are there wheel chair ramps?

Are emergency doors well marked and unobstructed?

Are fire and evacuation plans posted?

Are there hand rails in the halls?

Are there grab bars on the toilets and tubs?

Do the bathtubs and showers have non skid surfaces?

Are certain areas available for smoking? Is supervision provided?

Look at the food:

Is the food served promptly and courteously?

Is the food appealing? Adequate in amount?

Are the residents eating?

What is the atmosphere in the dining areas?

Are the residents in need of help receiving it?

Look at the facility:

Is it neat and clean generally? In good repair?

Is the home free of unpleasant odors?

Can the residents access bathrooms easily?

Is there a lounge for relaxing and watching T.V. Is there private space for visiting?

Are there activity areas? Are they used for activities? Are the residents participating in activities?

Is there a Resident's Council?

Is it active? When does it meet?

Can you meet with the Council?

## SURVEY AND EXIT INTERVIEW PROCEDURE

### SURVEY PARTICIPATION BY OMBUDSMEN.

On October 25, 1989 the Department of Health and Mental Hygiene issued a memorandum to all Long Term Care Surveyors saying that on the first day of a survey, the survey team leader should contact the appropriate Ombudsman so that information could be shared with the survey team. It is often helpful for the survey team to have the impressions of the Ombudsman so that special attention can be made to areas of concern.

It is important for the Ombudsman to remember the sensitive position that he/she is in. The survey is an excellent time for the Ombudsman to share his/her observations with the surveyors so that they can look more closely at perceived problem areas. It is helpful to have:

- \* Specific situation or incidents to share, particularly the frequent, unresolved or unsolvable situations.
- \* Serious problems should also be discussed even though they have been referred to Licensing and Certification.

It is important that early in the survey process the Ombudsman provides the pertinent information to the survey team leader in a confidential and professional manner. The Ombudsman must be careful not to discuss problems in a manner that or in a place where the facility staff or residents can overhear.

A simple statement of the problems will be sufficient to guide the surveyors to areas of concern without distorting their assessment.

"I am concerned about these areas ... because ... "

"On numerous occasions I have observed ... "

"I have reason to believe that there are problems in this area ... "

The survey team will take your information into account and try to verify your concerns. They will decide whether or not the problems you have noted warrant citation or only needs to be monitored.

## EXIT INTERVIEW PROCEDURE

Ombudsmen may be invited to attend an exit interview or the Ombudsman may ask to attend the exit interview. However, when an Ombudsman does attend the "exit interview", the role of the Ombudsman is that of observer.

It is often helpful and at times important for the Ombudsman to be aware of the problems that the survey team found and to hear the nursing home's response. The Ombudsman's presence at the interview also allows the Ombudsman to note possible areas where advocacy is needed as well as areas that need to be monitored.

The Ombudsman may also be of assistance to the resident observer at the exit conference. The Ombudsman may need to followup with the resident in order to clarify the citations or assist the attending resident to convey the results of the survey to the Residents' Council or other interested parties.

Despite the sharing of information and the Ombudsman presence at the time of survey, it is important that the Ombudsman see themselves as and continue to be an advocate for the resident and not an extension of Licensing and Certification.

JOB DESCRIPTION  
RESIDENT ADVOCATE

JOB DESCRIPTION:

Under the direct supervision of the Local Ombudsman, the Resident Advocate shall promote the well-being, and quality of care and life for long term care residents by:

- Receiving, investigating, and seeking to resolve complaints.
- Documenting complaints, concerns, or inquiries.
- Providing information to residents on the Ombudsman Program.
- Identifying and referring issues, problems, and trends to the local Ombudsman.

MAJOR RESPONSIBILITIES:

1. Receive, investigate, and seek to resolve complaints
2. Consult with the Local Ombudsman on complaint resolution strategies.
3. Follow-up to ensure that the complaint is resolved.
4. Document cases and submit documentation to Local Ombudsman
5. Comply with program policies and procedures.
6. Provide information to residents/family members about the Ombudsman Program.
7. Identify issues, problems, and trends which may affect long term care residents and refer them to the Local Ombudsman.
8. Participate in training sessions as provided by the Local Ombudsman.

MINIMUM QUALIFICATIONS:

1. Knowledge of and concern for the aged.
2. Able to identify/investigate/document complaints.
3. Able to interview and obtain needed information.
4. Knowledge of the long term care and regulatory system.
5. Able to carry out facility monitoring visits.
6. Skill in writing clearly and concisely.

EDUCATION AD EXPERIENCE:

- A minimum of a high school degree or equivalency.
- Two years of experience in gerontology, long term care, or related area, or
- Equivalent life experience.

## DISCHARGE HEARING PROCEDURE

Annotated Code of Maryland, § 19-345. Transfer or Discharge of resident.

"(a) Transfer or discharge restricted. - A resident of a facility may not be transferred or discharged from the facility involuntarily except for the following reasons:

"(1) A medical reason;

"(2) The welfare of the resident or other residents;

"(3) Knowingly transferring personal assets in violation of a contract provision and only to become eligible for Medicaid benefits; or

"(4) A nonpayment of stay.

"(b) Notice; hearing. - (1) Unless an emergency exists, at least 30 days before a facility transfers or discharges a resident involuntarily, the facility should give written notice to the resident and the next of kin or guardian of the person of the resident.

"(2) The notice shall state each reason for the transfer or discharge.

"(3) The facility shall give the resident an opportunity for a hearing on the proposed transfer or discharge.

" (c) Medicaid benefits recipient. - (1) A medicaid certified facility may not:

" (i) Include in the admissions contract of a resident any requirement that, to stay at the facility , the resident continue as a private pay resident for more than 1 year, if the resident becomes eligible for Medicaid benefits; or

" (ii) Transfer or discharge a resident involuntarily because the resident is a Medicaid benefits recipient.

"(2) A Medicaid certified facility is presumed to be transferring or discharging a resident in violation of this subsection, if the resident is or becomes eligible for Medicaid benefits."

### PROCEDURE:

When a resident receives a discharge notification letter, he/she has the right to appeal the facility decision at an administrative hearing. The resident often finds it helpful when the Ombudsman offers assistance. Whenever possible the Ombudsman' should contact the resident and inform the residents of his/her rights to appeal in the form of a hearing. If the resident needs additional assistance the Ombudsman shall open a case file and provide the needed assistance.

Upon receiving notification of discharge the resident or the resident's representative should contact the Office of Administrative Hearings in writing at 201 W. Preston Street, Suite L-9, Baltimore, Maryland 21201 or by phone at (301) 225-6961. The resident does not have to present any information regarding the circumstances of the discharge when he/she requests the hearing. The hearing is usually scheduled within two weeks of the request. There is often little time for notice of the hearing. So do not wait for the hearing notice to prepare for the hearing.

If the discharge is due to nonpayment, the Ombudsman should encourage the resident/responsible party to talk to the Administrator and try to resolve the problem. At times the resident, responsible party or the Administrator asks the Ombudsman to be present for these discussions in the capacity of mediator and negotiator.

The Ombudsman is not a bill collector for the facility. It is important to determine what the facility has done to try to collect the monies due as well as to learn what the resident/responsible party has done to try and meet his/her obligation. Often it is a complicated case of misunderstanding and a lack of communication by one or both parties. Understanding the history of the problem will clarify the issues. Through case familiarization the Ombudsman can assist and advocate for the resident by making sure the parties involved understand each other and that the responsibilities of all parties are understood.

When working as a negotiator it is important to reach an agreement on:

- \* The sum to be paid.
- \* How the payment(s) will be made.
- \* A time schedule for payment.

When functioning as a mediator it is important to assist the parties involved to explore and agree upon an acceptable solution to the problem. Often this means that one or both parties will have to make concessions in order to reach a solution.

If an agreement can be reached before the hearing is held, the Office of Administrative Hearings should be called and the hearing cancelled.

It is always in the residents best interest to come to an agreement before a hearing for nonpayment. Nonpayment is a legal cause for discharge.

In ANY HEARING the Ombudsman should:

- \* Assist the resident to advocate for themselves. If the resident cannot present their case the Ombudsman can do so for him/her.
- \* Have the case well documented with dates, times, people and situations.
- \* Know the facts of the case thoroughly, so that referral to notes will be minimal.
- \* PRESENT ONLY THE FACTS. The Ombudsman should not editorialize, offer personal opinions or make judgments.
- \* Represent the resident even if what the resident wants is not what the Ombudsman would want as a solution.
- \* Stay calm and professional at all times.

If an agreement cannot be reached, or if the issue is other than nonpayment a hearing will be held as requested.

Hearings are held in the nursing home so that the resident can attend if they desire. The Administrative and legal staff from the nursing home may attend depending on the reason for discharge. People who may attend the hearing are:

- \* Hearing Officer - Will listen to the facts regarding the discharge as related by the facility and the resident. After hearing the facts the Hearing Officer will make a determination that will be binding.
- \* Administrator - represents the facility.
- \* Director of Nursing - may present information on resident care and management.
- \* Physician - may present information on the resident's medical management.
- \* Facility Lawyer - acts as a consultant for the nursing home and may be present in complex cases.
- \* Resident - may be present if able and interested.
- \* Responsible Party - should be present if the issue is nonpayment.

- \* Resident's Lawyer - may be present or may represent the resident if the resident wishes.
- \* Ombudsman - may be present and participate in the hearing if the resident or responsible party requests it.
- \* Physician - May be present to provide medical care information that will support the residents case.
- \* Any witness or person that the resident wishes - may be present to participate in or observe the proceedings.

## VOLUNTEER RECRUITMENT AND TRAINING

### Code of Maryland Regulations 14.11.05.03

"B. The local ombudsman shall provide, and the patient advocates shall participate in, the following training for patient advocates:

"(1) At least 20 hours of initial training to provide a working knowledge of the long-term care system and the Statewide Ombudsman Program;

"(2) At least quarterly in-service meetings, each at least 3 hours in duration;

"(3) Technical assistance on a continuing, as need basis.

"C. Training shall cover at least the following subjects:

"(1) Physical, mental and emotional aspects of aging;

"(2) History, purpose, objectives of local ombudsman program, and relationship to State ombudsman program;

"(3) Volunteer policies, procedures, and skills for handling complaints;

"(4) Confidentiality;

"(5) Overview of nursing home system;

"(6) Patients' Bill of Rights - State and Federal

"(7) Regulatory system - federal/State/ local laws and regulations;

"(8) Health care system profile and interrelationships between agencies;

"(9) Family/resident councils;

"(10) Reading and Understanding medical records."

### ".04 Complaint Investigation Procedures.

"A. The Ombudsman Program is responsible for investigating complaints made by or on behalf of residents of related institutions concerning the provision of services to residents.

"C. The Patient Advocate shall visit related institutions between 9 a.m. and 5 p.m. and during regular visiting hours except when the nature of the complaint requires visitation at other hours.

"D. Upon entering a related institution, the patient advocate shall comply with any reasonable policy of the facility with regard to the identification of visitors and shall carry an identification card.

"E. The patient advocate shall knock on a resident's room door before entering and identifying himself/herself and the program immediately. A resident shall have the right to refuse to communicate with the patient advocate. Any refusal

shall be made directly to the patient advocate and not through an intermediary.

"F. The patient advocate may not disclose the identity of any complainant or resident unless:

"(1) The complainant or resident, or a legal representative of either, consents in writing to the disclosure and specifies to whom the identity may be disclosed; or

"(2) A court orders the disclosure.

"G If the resident's room does not permit private consultation between the patient advocate and the resident or if the consultation infringes on the rights of the roommates, the facility shall provide a private place for a consultation.

#### ".05 Complaint Resolution

"A. After an investigation, if the patient advocate and the local ombudsman determine that the complaint has no merit, the patient advocate shall explain the situation fully to the complainant, and educate the complainant as to his rights and responsibilities.

"B. After an investigation, if the complaint is fully or partially verified, the patient advocate shall seek to resolve the problem.

#### ".07 Recordkeeping System

"C. The local and State ombudsman shall store complaint records in file cabinets which are locked when not in use. Access to these file cabinets shall be limited to the patient advocates and project staff authorized by the local or State ombudsman.

#### ".08 Access to Medical Records.

"A. A related institution shall grant access to a resident's medical record or provide a copy of a medical record to a patient advocate if:

"(1) The patient advocate presents written authorization from the resident on whom the record is kept;

"(2) In the event that the resident has been adjudicated a disabled person, the patient advocate presents written authorization from the court appointed guardian; or

"(3) In the event that the resident has not been adjudicated disabled but is unable to communicate with others or is found to be medically incompetent by the attending physician of the resident, the patient advocate presents written authorization from the next of kin of the resident, the sponsoring agency of the resident, or unless the facility is the representative payee, the representative payee that the Social Security Administration designates for the resident."

## VOLUNTEERS:

Volunteers can be a valuable resource. Volunteers can assist the Ombudsman Program by increasing program visibility, monitoring conditions in a facility, and resolving complaints. Because a Volunteer Ombudsman (Resident Advocate) is an unpaid staff person, a great deal of care needs to be given to the selection, training and support of the volunteer.

## RECRUITMENT:

The Local Ombudsman should identify a potential pool of resident advocates through contacts with community groups, civic organizations, or church groups. The State Office will assist with program publicity and recruitment efforts.

## SCREENING:

Advocates having prior experiences in aging or long term care are desirable. Those volunteers seeking to act as a friendly visitor should be referred to the Senior Life Enrichment Program. Advocates should be screened to minimize possible conflict of interest situations. (See Conflict of Interest Policy)

## INTERVIEWING:

The job interviewing process should include the following:

1. Role of the Advocate.
2. Number of hours of facility visitation expected of the volunteer
3. Program policies and procedures
4. Other responsibilities and requirements as described in the job description.
5. A screening for conflict of interest.

## TRAINING:

Resident Advocates are required to receive 20 hours of orientation training as described in COMAR 14.11.05

## POLICIES

