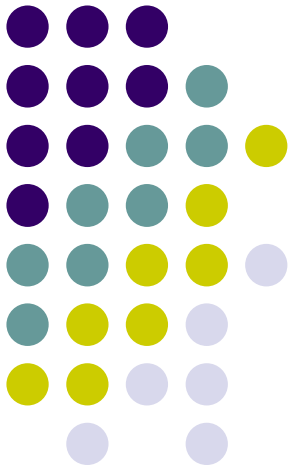
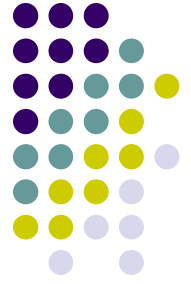


n4a Conference 2009

**Ombudsmen on the Case:
Keeping Long-Term Care
Residents Safe and Secure**





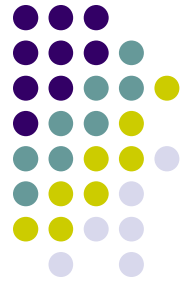
Complaints

- The first function of a LTC Ombudsman Program listed in the Older Americans Act
 - *Identify, investigate, and resolve complaints that are made by, or on behalf of, residents...*
- 184,591 cases with 271,650 complaints in 2008



Complaints (cont)

- Problem Solving or complaint resolution, is the primary means for ensuring that residents' rights are understood and honored
 - Educating residents, staff, and others about resident rights
 - Help to find practical solutions to problems when the facility's interests and the resident's interests conflict



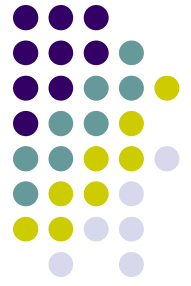
Complaints (cont)

- The LTCO's goal in problem solving is achieving satisfaction for residents
- Even if that is contrary to what others – ie, facility, family – think is in the residents' best interest
 - When the complainant is someone other than the resident, the ombudsman determines, to the extent possible, what the resident wants before intervening.



Complaints (cont)

- Sometimes the ombudsman can educate, support, and encourage the resident to engage in self-advocacy; and in some cases, the ombudsman will have to act on the resident's behalf
- Ultimate goal is to help staff become more responsive to residents and residents better equipped to directly express concerns to staff



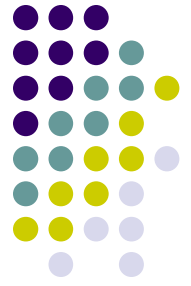
Complaints (cont)

- Identifying Unvoiced Complaints
 - Absence of complaints does not mean that all residents are receiving quality care or experiencing an acceptable quality of life
 - There are many reasons why residents are reluctant to voice complaints
 - Importance of frequent and regular visits to facilities by ombudsmen



Complaints (cont)

- Confidentiality issues
 - All records and information obtained during an investigation or resolution process must be held in confidence
 - Information may only be disclosed with the consent of the complainant or resident (or legal representative) or by court order



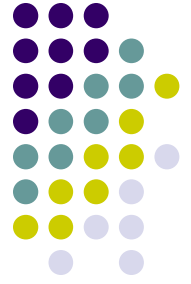
Complaints (cont)

- Core Principles of the LTCOP Complaint Handling
 - Complaints are resident driven
 - Complaints are confidential
 - Complaints call for empowerment
 - Though there are many persons involved in a resident's care, the primary focus of the ombudsman is the resident her/himself

Consultation



- Providing information about care options, etc.
- 327,028 consultations to individuals by state and local ombudsmen
- 128,395 consultations to facilities



Consultation (cont)

- Working with/referral to other agencies
 - ADRCs
 - Information and Referral
 - Centers for Independent Living
 - Medicaid Agency
 - Adult Protective Services



Consultation (cont)

- Nursing home transition/ diversion
 - What are the resident's rights?
 - What is their discharge potential?
 - What is the discharge plan?
 - What if the facility has questions?
 - What are the facility's responsibilities?



Consultation (cont)

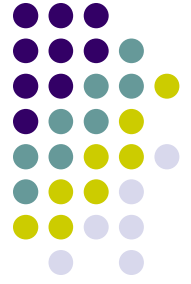
- Nursing home transition/ diversion
 - Move back to home and community- what options are available?
 - Family Supports
 - Services
 - Housing
 - Referral to other agencies



Consultation (cont)

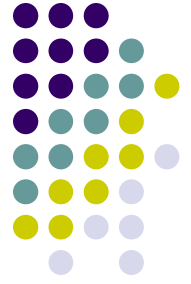
- Information about choosing a nursing home
 - Resources available
 - NH Compare
 - Survey reports
 - Aggregate Complaint Data
 - Other options for care

Consultation (cont)



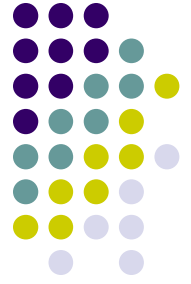
- Consultation to facilities
 - Educate staff
 - Residents rights
 - Long term services and care issues
 - Abuse reporting

Consultation (cont)



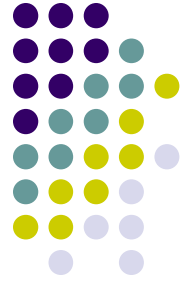
- Core Principles
 - Providing information and resources
 - Residents
 - Facilities

Changing Underlying Conditions (Systems Advocacy)



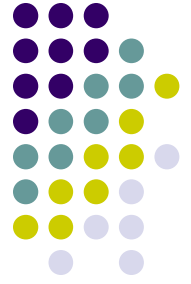
- Systems advocacy is an integral function of the LTCOP
- Mandate of the LTCOP has been to “recommend changes in the long-term care system which will benefit institutional residents as a class”

Changing Underlying Conditions (Systems Advocacy) (cont)



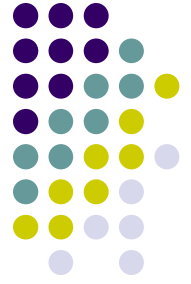
- Activities constituting systems advocacy can be:
 - focused on a “system” within
 - a single facility,
 - all facilities owned by one provider or chain,
 - the industry as a whole, or
 - other elements of the long-term care system, such as the regulatory and reimbursement systems

Changing Underlying Conditions (Systems Advocacy) (cont)



- Examples of Systems Advocacy:
 - Convening/participating in workgroups to study and address specific issues
 - Submitting written comments on a proposed regulation
 - Contacting a policy maker to discuss conditions affecting LTC residents
 - Presenting testimony at a legislative hearing
 - Sharing information with other individuals and groups who are concerned about the well-being of older persons

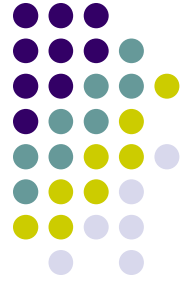
Changing Underlying Conditions (Systems Advocacy) (cont)



In order to engage in systems advocacy in a meaningful way, ombudsmen must have:

- Resources
- Autonomy

Changing Underlying Conditions (Systems Advocacy) (cont)



- There remains wide variation among states and local programs in the ability of the LTCOP to engage in systems advocacy
 - Lack of resources
 - Lack of understanding by the LTCO
 - Inadequate training
 - Organizational placement
 - Lack of monitoring

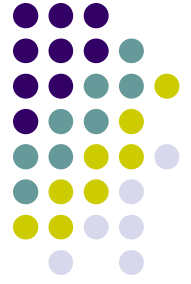
Changing Underlying Conditions (Systems Advocacy) (cont)



Engaging in Systems Advocacy:

- Empower residents, families, and citizen advocates to get involved
 - Work with resident and family councils; supporting residents in their individual advocacy
- Working with other organizations, agencies, workgroups at both state and local level
- Ombudsman Program materials and information
- Raising awareness of best practices – ie culture change – and sharing information

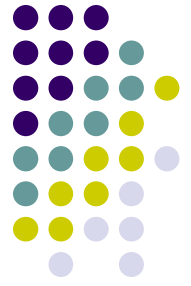
Changing Underlying Conditions (Systems Advocacy) (cont)



To be truly effective in systems advocacy, an Ombudsman Program must have:

- Access to LTC facilities and residents;
- Sufficient funding to adequately staff the program for timely response to complaints,
- Provision of information to the public, and collection and analysis of data (as well as systems advocacy activities);
- Access to decision-makers within state agencies;
- Adequate legal counsel;
- Authority to make recommendations to legislators; and
- Freedom to discuss non-confidential information with the media

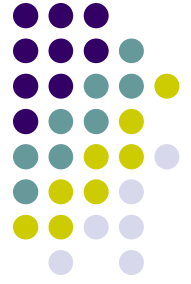
Conflict of Interest



“Conflicts of interest may arise from the structure in which the ombudsman program exists, from situations faced by the ombudsman, and from individual ombudsman relationships or conduct.”

Institute of Medicine

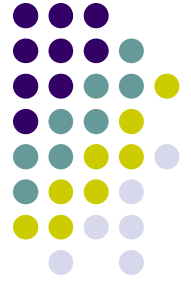
Conflict of Interest (cont)



“A conflict of interest exists in the LTCOP when other interests intrude upon, interfere with, or threaten to negate the ability of the LTCOP to advocate without compromise on behalf of long-term care facility residents.

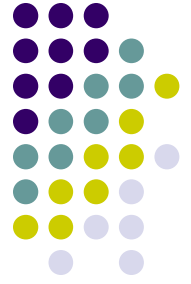
Georgia LTCOP Policies & Procedures

Conflict of Interest (cont)



Individual Conflict

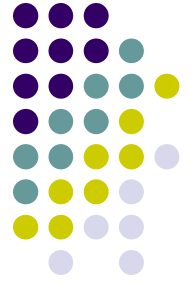
- Financial considerations
- Employment considerations
- Issues of judgment and objectivity



Conflict of Interest (cont)

- Organizational Conflict
 - Issues of independence
 - Do other interests, priorities, or obligations of the agency that houses the ombudsman materially interfere with the ombudsman's advocacy on behalf of residents?
 - How is the individual's time and energies spent

Conflict of Interest (cont)



Litmus Test of Conflict – Does the situation impact:

- Client directed advocacy
- Public perception of the ombudsman role as an independent voice for consumers, and
- The ability to bring issues to the attention of other agencies or programs for resolution

Conflict of Interest (cont)



Perceived Conflict

- “The ability of ombudsmen to independently and fully carry out their functions, including the public perception of the program’s independence, is crucial to the program’s success” Report language from the Senate on the 1992 Amendments to the Older Americans Act



Conflict of Interest (cont)

- Identifying and Removing Conflicts
 - Be continually vigilant regarding conflict of interest and the potential for perceived conflict of interest. Reinforce through ongoing education.
 - OAA requires states to establish mechanisms to remove conflicts of interest

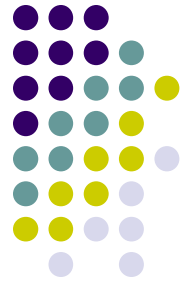
Conflict of Interest (cont)



Example:

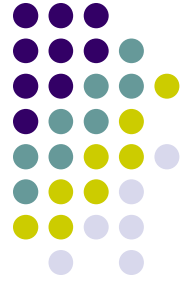
A former nursing home administrator applies to work with the ombudsman program. There are no facilities owned or operated by the corporation where the administrator previously worked in the area covered by the local ombudsman program. It has been two months since the administrator quit her nursing home job. She has excellent expertise, is very active in the state's culture change coalition, and has a reputation for knowing the individual residents in her facility.

Conflict of Interest (cont)



Example:

The regional agency that operates the local ombudsman program also provides case management services for nursing home transition and home and community based waiver services. The ombudsman program has worked with residents who have complaints about the case management services. This regional agency is the only non-profit agency serving elders in that part of the state. The agency has a long-standing reputation as an advocate with consumer-friendly services.

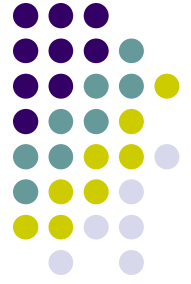


Conflict of Interest (cont)

Mechanisms for removing conflict are:

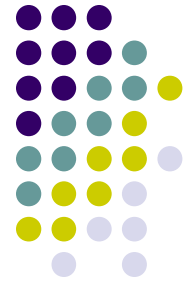
- Disclosure
- Disclosure with alternative options offered
- Disclosure with recusal
- Everyday ethical behavior
- Public accountability

Conflict of Interest (cont)



In determining whether **LTCO participation in community groups, professional associations, or other activities** constitutes a conflict of interest, the following questions should be considered:

- Will the LTCOP benefit from LTCO involvement in this activity?
- Will the LTCO be able to represent and assert the views of long-term care residents in this activity?
- Will the role of the LTCO in the activity benefit residents?
- How will participating in the activity affect the public perception and the residents' perspective of the LTCOP?
- Will the LTCO be put in a position of participating in a decision about a resident without the resident's involvement or permission?

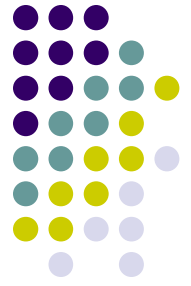


Conflict of Interest (cont)

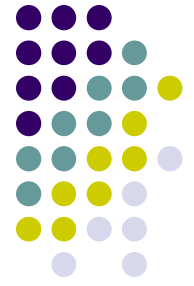
Recommended Actions for all LTCOPs:

- Define conflict of interest for program placement and for individuals associated with the ombudsman program
- Align the state's ombudsman program statute, regulations, and/or policies to be consistent with the current conflict of interest provisions in the Older Americans Act
- Provide tools for conflict of interest screens to be used for individuals and for entities designated as a local ombudsman program
- Be continually vigilant regarding conflict of interest and the potential for perceived conflicts of interest. Reinforce this through ongoing education
- Create a process for removing or remedying conflicts of interest, both actual and potential
- Establish a process for reviewing proposed remedies and criteria for accepting or rejecting remedies and outcomes

Resources Available Through the Ombudsman Resource Center

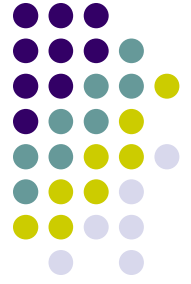


- *Equipping Long-Term Care Ombudsmen for Effective Advocacy: A Basic Curriculum*
 - *History and Role of the LTCOP*
 - *The Aging Process*
 - *Residents' Rights*
 - *The Problem Solving Process: Investigation*
 - *The Problem Solving Process: Resolution*
- *The LTCOP: Rethinking and Retooling for the Future (NASOP Bader Report)*



Resources (cont)

- *Ombudsman Best Practices: Using Systems Advocacy to Improve Life for Residents*
- *Conflict of Interest and the LTC Ombudsman Program, A Resource Paper*
- *The Role of the LTC Ombudsman in a Modernized LTC System*
- www.ltcombudsman.org – *National LTC Ombudsman Resource Center*



Panelists:

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