

# Effective Advocacy in Long-Term Care Settings

## *A Team Approach*

*Shannon Cupka, Education and Outreach Coordinator  
Long-Term Care Ombudsman Program  
New Mexico Aging and Long-Term Services Department*



# The Facts



## National Data

- By 2030, the number of Americans aged 65 and older will more than double to 71 million older Americans, comprising roughly 20 percent of the U.S. population
- In some states, those over age 65 will equal roughly 25% of the population<sup>1</sup>
- Trends indicate that for persons >25, there is a 1 in 4 chance of at least one nursing home stay during their lifetime<sup>2</sup>
- 78.2 million/7918

## New Mexico Data

- Fastest growth rate is of those over 85.
- More than 38,000 New Mexicans suffer from dementia related illnesses.
- More than 13,000 New Mexicans age 65 and older suffer from depression.
- More than 12,000 New Mexicans live in LTC facilities.
- By 2030, individuals over 65 will out number those under 18.

1. Center for Disease Control and Prevention and The Merck Company Foundation. The State of Aging and Health in America 2007. Retrieved 9/6/07 from [www.cdc.gov/aging](http://www.cdc.gov/aging)

2. National Long Term Care Ombudsman Resource Center. Retrieved 9/7/07 from: <http://www.ltcombudsman.org/uploads/ODRwebStats0205.pdf>

3. <http://www.census.gov/popest/national>

# Aging Gracefully?

- Mission: The right service to the right person in the right setting
- Issues
  - Patient-hood vs. Person-hood
  - Surplus Safety vs. Dignity of Risk
  - Choice/Control and Independence
- Change the “Culture of Aging”
  - Presently - “Just Don’t Do It”
  - Long-term services – not just for elders
  - Shared Voice

# What are the tools of Advocacy?

1. Be Informed
2. Be Prepared
3. Be Present
4. Be Creative
5. Be Heard



# Be Informed

## Quality of Care: Helpful Websites

### Facility Quality

- [www.medicare.gov](http://www.medicare.gov) \*
  - Resource Locator – Nursing Home, Home Health, Hospital Compare sites
  - CMS Facility 5 star rating system

### New Mexico & Federal Regulations

- <http://www.health.state.nm.us/HFLC/HFLCregindex.html>
  - Regulations Governing NM Health Care Facilities
- <http://dhi.health.state.nm.us/elibrary/regulations.php>
- <http://dhi.health.state.nm.us/providersearch/index.php>
  - Survey results, locate licensed residential care and nursing facilities

### Rights, Advocacy and Quality Improvement

- [www.theconsumervoice.org](http://www.theconsumervoice.org)
  - Consumer Guides and Fact Sheets on Advocating for Good Care
  - National Ombudsman Locator
- <http://assistedlivingconsumers.org>  
Guidebooks for Choosing a Facility

### Medicare/Medicaid information

- <http://www.cms.hhs.gov>



*Request to see latest facility survey report!!*

# Finding the right place: What does one look for?

## • Environment

- appearance & cleanliness
- sounds, smells, temperature, etc
- home-like? personal possessions?

## • Staff

- day/evening/weekend ratio of staff to residents
- Interaction: staff to resident, staff to staff, nametags worn?
- response time to call lights, requests for assistance
- training, availability of medical staff

## • Services/Policies

- included and add-on costs
- for special needs (e.g. therapies, dementia care, etc)
- discharge policies when care needs exceed facility's scope

## • Activities

- posted activity calendar, observation
- gender-appropriate, multigenerational?
- variety/indoor-outdoor
- for bed or room-bound residents?

## • Residents

- appearance/grooming
- care planning/assessments
- engagement
- resident feedback

## • Licensing

- annual survey - 9-15 month window, complaint surveys – as needed
- indicators of care important to you e.g. infection control, pain management, medication administration

## • Meals

- choice? appetizing? variety? accommodate special dietary needs? alternatives? snacks?
- assistance with feeding

## • Other

- safety: smoke detectors, sprinklers, handrails
- turnover rates – staff, administration
- unannounced visits

# Be Prepared: What Resources are available for Long-Term Care/Benefits/Legal Decisions?

## **Aging and Disability Resource Center**

- 1-800-432-2080
- [http://www.nmaging.state.nm.us/Resource\\_Center.html](http://www.nmaging.state.nm.us/Resource_Center.html)
- <http://www.nmresourcedirectory.org/>

## **Consumer and Elder Rights Division - Benefits Counseling Programs, SHIP (state health insurance program), Senior Medicare Patrol**

- 1-800-432-2080

## **Ombudsman Program**

- Santa Fe: 1-866-451-2901
- Albuquerque: 1-866-842-9230
- Las Cruces: 1-800-762-8690

## **Senior Citizen's Law Office/Lawyer Referral for the Elderly Program**

505-265-2300

[www.sclo.net](http://www.sclo.net)

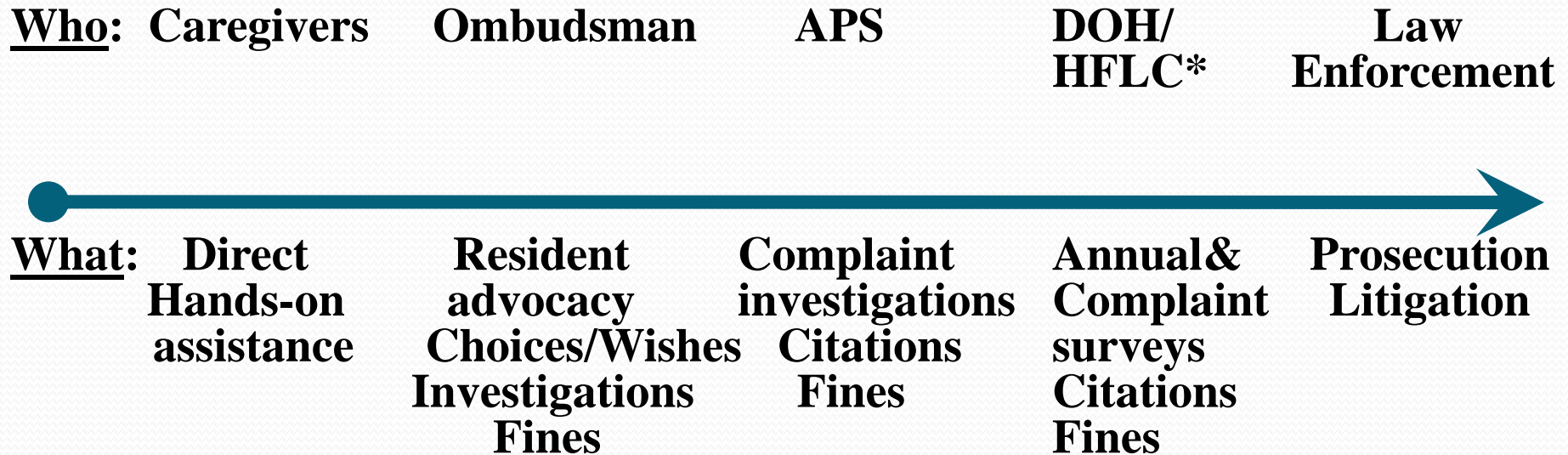
1-800-876-6657

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



# Protecting Vulnerable Adults in Long-Term Care Facilities

## FACILITIES PROTECTIVE SERVICES CONTINUUM



\*HFLC = Health Facilities Licensing and Certification



# Facilities Joint Protocol

*New Mexico's 2003 Public Health Act states "The department (DOH) shall develop a health facilities protocol in conjunction .....to ensure the health, safety and rights of individuals in health facilities.*

- *Department of Health*
- *Adult Protective Services*
- *Ombudsman*
- *Human Services Department (Medicaid Fraud)*



# **New Mexico LONG-TERM CARE OMBUDSMAN PROGRAM**

**Resident-Centered Advocacy Services**

*“To the world you may be one  
person, but to one person you  
may be the world”*

*~Anonymous*

# SCOPE OF THE OMBUDSMAN PROGRAM

- **Federal & State Mandates**
  - OAA
  - NM Long-Term Care Ombudsman Act
- **Health Oversight Agency**
- **Authority to:**
  - Conduct Investigations (overt, undercover, with “granny cams”)
  - Access Medical Records
  - Assess Civil Monetary Penalties
- **Systemic Advocacy**
  - Community Education & Outreach
  - Facility In-service training
  - Legislative Advocacy

# How we are different...

- Not regulators
- Facility access anytime, for any reason
- Can enter unlicensed facilities
- Can make recommendations for change
- Can negotiate a family/facility crisis
- Can contest an inappropriate discharge
- Resident-centered vs. Systems-centered



# What is the role of an Ombudsman?

## ⇒ "Carrier of the Message"

- ⇒ Finds out the resident's wishes/concerns
- ⇒ Advocates on behalf of the resident

⇒ An Ombudsman investigates and resolves complaints and works towards empowering the resident

⇒ An Ombudsman is independent of the long-term care facility

⇒ Services are free and confidential

# Rights of Residents

*Long-Term Care residents have special rights; they are in addition to the rights we all have as citizens of the U.S.*

- Fairness
- Freedom
- Choice
- Privacy

**AND....**

**The Right to live in the least restrictive setting possible**

# Transition Advocacy Program: Background

- National trend toward Home and Community-Based Services
- In NM – Managed Medicaid in operation since 2008
- Ombudsman program began transition advocacy services to:
  - Protect a resident's right to receive care in least restrictive setting possible
  - Promote communication and cooperation between all entities involved in discharge planning
  - Ensure that resident has a voice throughout the process
- Services are free. Any individual who wishes to transition to a less restrictive care setting, or return home, may request our services.



# How the process works...



- **Self-referral, referral through family or facility social services staff**
- **We meet with Resident to discuss:**
  - His/her wish to return to the community
  - Our role in the transition\*
  - Potential barriers/needs for successful transition \*
- **We discuss potential discharge with various entities**
  - Type of transition to take place and technical assistance needed
  - Facility has ultimate responsibility to ensure a safe and appropriate discharge
- **Post-discharge follow-up**
  - Resident Permission
  - Up to 6 months (in-person, telephonically)

*\*Not every discharge will require our involvement*

*\*We promise a voice, we do not promise a particular outcome*

# Be Present: How can individuals and their loved ones ensure good care?

- Visit, Visit, Visit, Visit, Visit!
  - *Different days, different times*
- Participate in care plan meetings, physician visits, discharge planning, home health assessments
- Become familiar with standards of care and Resident's Rights
- Get to know the Ombudsman



# Resolving Concerns/Complaints

## Who can I call with concerns/complaints?

- ❖ Department of Health: 1-800-752-8649
- ❖ Adult Protective Services : 1-866-654-3219
- ❖ Ombudsman: 1-866-842-9230

## Helpful Hints

- ❖ “Constructive Complaining”
  - identify which person can answer your questions
  - timing and approach
- ❖ What to Mention
  - who/what/where/when/what time?
  - one time vs. recurrent issues
- ❖ Request a care plan meeting

## Be Creative:

### How can one participate in a loved one's care?

- Primary vs. Secondary Caregiver Roles
- Help caregivers know a loved one's "story"
  - (interests, habits, beliefs, likes/dislikes)
- Create a feeling of home
- Volunteer in the Activities Program
- Bring civic/social/spiritual organization to the facility

# Be Heard: How can one participate in civic action and systems advocacy?

- Resident or Family Councils
- Federal & State Legislative efforts
- Join the Aging Network
- Become a LTC Ombudsman and advocate for residents



***For More Information:***

**New Mexico Long-Term Care  
Ombudsman Program**

Santa Fe & Northeastern NM: 1-866-451-2901

Albuquerque & Northwestern NM: 1-866-842-9230

Las Cruces & Southern NM: 1-800-762-8690