

Innovative Long-Term Care Ombudsman Practices

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Our speakers

Karen Jones, Executive Director, Long Term Care Ombudsman Program, oversees San Luis Obispo County's staff and volunteer advocate for people in long term care facilities. They have been working in partnership with the County Office of Emergency Services, the Public Health Department, and the long term care facilities in San Luis Obispo County, to create and distribute a standardized disaster plan for long term care facilities. This was funded by a grant through the Public Health Department from the Hospital Preparedness Grant Program.

Ms. Jones also leads the San Luis Obispo County Adult Abuse Prevention Council, dedicated to protecting elder and dependent adults from the dangers of abuse, neglect and exploitation by providing public education, sharing information and resources, and promoting interagency



Molly Davies has been a Long-Term Care Ombudsman for twelve years. Currently she has oversight of the WISE & Healthy Aging LTC Ombudsman Program, serving the City and County of Los Angeles. Highlights include the creation of the Graduate student internship program, the development of training programs for hospital discharge planners to prevent inappropriate transfers and discharges, and work on the development of a memorandum of understanding that clarifies jurisdiction between Adult Protective Services and Ombudsman Programs.

Molly is additionally responsible for the Elder Abuse Prevention Program including oversight, and program development for the Los Angeles Financial Abuse Specialist Team (FAST). Most recently she designed and gained funding for a program within the agency's mental health services department that provides field base psychotherapy for elder abuse survivors in the community and in LTC facilities.

Molly is the Vice President of the California Long-Term Care Ombudsman Association and a steering committee member of the California Elder Justice Coalition. She holds a bachelor's degree in Sociology from UCLA and a master's degree in Social Work from California State University Long Beach.



Learning Objectives

- Learn how Ombudsman programs can participate in local emergency planning and response
- Learn the importance of preparing your home and program for emergencies
- Review communication options for use during an emergency
- Identify key indicators of unlicensed facilities
- Recognize the risks to residents related to placement in unlicensed facilities
- Introduction to a collaborative approach for responding to unlicensed facilities

Ombudsman Best Practices: Disaster Preparation

Karen Jones, Executive Director/Program Manager

Long Term Care Ombudsman Services of San Luis Obispo County

Should an Ombudsman do Disaster Work?

- NO!
 - We have no funding for this type of work.
 - We have no training for this type of work.
 - We do not have the resources to do our work now, what services do we give up to do disaster work?
 - The Government has plenty of people working on disasters who are more knowledgeable and better paid than Ombudsman.

Should an Ombudsman do Disaster Work?

- YES!
 - We are funded to do advocacy - disaster work is advocacy when it is needed the most.
 - Training is available – most of it is free!
 - If you don't have the resources to prepare, how will you deal with the disaster when it happens?
 - The Government staff have NO experience with care facility residents and need Ombudsman to help them make good decisions.

Should an Ombudsman do Disaster Work?

- Example:

During a disaster drill in 2006, San Luis Obispo County Disaster employees where “evacuating” a 150-bed SNF. They “found” a nursing home in Escondido to take most of the residents.

They thought this was a GREAT idea and could not understand why the Ombudsman was NOT appreciative!

- 1) 6+ hours on a bus = death for several of the residents.
- 2) There were hundreds of SNFs much closer and easier for families to find their residents.



Get Involved

Every County has:

- 1) Office of Emergency Services (OES)
- 2) Public Health Agency

► Find them and ask if you can participate in their disaster planning for fragile populations – specifically for long term care facilities.

If they say NO:

- Ask who is helping them with their obligation to ensure that long term care facilities are represented in their planning.
- Ask for a copy of the Standard Operating Procedures (SOP) for all types of disasters.

Get Educated

- Disaster Planners do NOT speak like most humans. 😊
BTAC, CHADOC, OES, SOP, NPP, ICS, NIMS, SNS, EOC, WEB EOC, and so much more. **You have to learn the language if you want to help facility residents.**
- Incident Command System training: ICS – 700 NIMS Introduction
 - Goggle: IS-700 NIMS follow the link to the training
(Approximately 15 minutes)
- National Ombudsman Resource Center:
 - “Ombudsman Role in Nursing Home Closure and Natural Disasters”
 - **Additional Resources - Google: Nursing Homes and Disasters**



Prepare Your Program First

You cannot help residents if Ombudsman are not prepared:

- 1) Prepare at home – all staff and volunteers must have a workable personal disaster plans and supplies**
- 2) Prepare your Ombudsman Program – have a plan**
 - How will you communicate if phones/internet are down?**
 - What services will you provide during the disaster?**
 - How will you know which facilities are operational and where evacuated residents have gone?**



Be Realistic and Cautious

When you first start working with local disaster planning, be realistic about what your program can REALLY do in the event of an emergency.

Example: If you commit to being the primary contact between facilities and disaster services during an emergency, you must have enough people to handle that responsibility.



Do not commit to providing services that are outside of the Ombudsman duties.

Example: Ombudsman cannot sort through rubble, provide first aid to victims or transport residents.



Practice Practice Practice

- ▶ Practice your home and program disaster plan
- ▶ Participate in county, state and federal disaster drills
- ▶ Participate in the annual “Great Shakeout” earthquake drill
- ▶ Turn temporary “emergencies” into opportunities to practice your plan:
 - Short term, unexpected power outage while at work?
 - Internet fails and cannot be restored immediately?
 - Phone lines are down?

These are excellent opportunities to update and revise your plans. 😊

Tips

Communication is KEY!

Cell Phones

Land Lines (not electricity based)

Satellite Phones

Short Wave Radio

Text Messaging

Emergency Radio Stations

Web Site

**Have a back up plan for deploying your Ombudsman
in case they cannot call you for instructions.**

Tips

Communication is KEY!

Free: GETS – Government Emergency Telephone Service (gives priority on landline phone use)

Small Fee: WPS – Wireless Priority Service (gives priority on cell phone use)

For more information:

<http://gets.ncs.gov/>

Tips

Communication is KEY!

Google Alerts – information on disasters around the world or in your neighborhood

<http://www.google.org/publicalerts>

A Few Last Things...

Disasters WILL happen, not if but when.

Be sure you are prepared for media attention.

Ask for help! Use your fellow Ombudsman programs to help prepare for and deal with disasters.

Eventually you will also need to plan for recovery – the weeks and months AFTER the disaster.

Ombudsman Response to Unlicensed Residential Facilities

Molly Davies, MSW, Vice President, Elder Abuse Prevention &
Ombudsman Services, WISE & Healthy Aging, Los Angeles County

Poll:

Unlicensed care

- Have you ever encountered an unlicensed care facility?

Unlicensed Facility Defined

Health & Safety Code 1569.44 (Elderly) and 1503.5 (Adult)

A facility shall be deemed to be an "unlicensed facility " and "maintained and operated to provide residential [non-medical] care" if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied.

- (1) The facility is providing care and supervision
- (2) The facility is held out as, or represented as, providing care and supervision
- (3) The facility accepts or retains residents who demonstrate the need for care and supervision
- (4) The facility represents itself as a licensed adult or elderly facility .

What is Care and Supervision?

- "Care and Supervision" refers to those activities which if provided requires the facility to be licensed. It involves assistance with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents

What are Activities of Daily Living?

- Assistance in dressing, grooming, bathing and other personal hygiene
- Assistance with taking medication
- Central storing and distribution of medications
- Arrangement of and assistance with medical and dental care. This may include transportation
- Maintenance of house rules for the protection of residents
- Supervision of resident schedules and activities
- Maintenance and supervision of resident monies or property
- Monitoring food intake or special diets.

Exempt Facilities from CCL Licensure

- Health facility
- Clinic
- Homeless Shelter
- House, institution, hotel, that supplies board & room only, or room only, or board; no elements of care
- Sober living facilities for recovering from alcoholism or drug addiction; no care or supervision provided
- Adult alcoholism or drug abuse recovery or treatment facilities (licensed by Dept. of Alcohol & Drug Programs)
- Care & Supervision provided by a close friend-friendship pre-existed a provider/recipient relationship
- Facilities conducted by well recognized church –treatment depends on prayers and spiritual means

Unlicensed Facility Findings

- Financial abuse and neglect are the most typical forms of abuse in this setting
- Operator is often the residents payee and restricts access to their own funds making leaving the facility difficult
- Undue influence by operator typical
- Residents are subject to illegal evictions and homelessness
- Residents are often in unsanitary and unsafe living conditions
- Residents frequently living in garage conversions
- Often code violations, and fire safety issues
- Unlicensed facilities may be in commercial properties

Unlicensed Facility Findings

- Unlicensed operators may have a licensed facility and use that to recruit residents and use for overflow
- Staff onsite are often other residents who are not trained to handle the complex needs of some of the residents that they retain
- Residents may be a mix of younger and older clients that may not be compatible
- Many clients have mental health conditions and substance abuse histories
- IHSS Fraud, misappropriation of social security funds
- Placement agencies typically place residents in these settings
- Residents formerly living in a licensed facility but were refused readmission after a hospital stay

Definition of Placement Agency

Placement agency means any of the following:

- County Probation Department
- County Mental Health Department
- County Public Guardian
- Acute Care Hospital Discharge Planner
- Conservator
- Regional Center
- Veterans Administration
- State-funded or private agency providing placement or referral services

Responsibilities of Placement Agency Staff

Health & Safety Code 1569.47

- No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing
- Violation of this subdivision is a misdemeanor.
 - punishable by a fine up to \$1,000 and/or by imprisonment in the county jail for a period up to one year.

Failure to Report Unlicensed Facility

- Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the Community Care Licensing.
- Failure to report is a misdemeanor.
 - punishable by a fine up to \$1,000 and/or by imprisonment in the county jail for up to one year.

Responding to Unlicensed Facilities

A Collaborative Approach

Los Angeles County Residential Placement Protocols (RPP) Task Force

- Formed to ensure a coordinated response by various agencies to facilities
- The multi-agency response is triggered if conditions exist involving multiple violations, which fall under the jurisdiction of multiple departments at an unlicensed or licensed residential facility
- The task force convenes every month to discuss and devise strategies for working complex cases and dealing with chronically noncompliant operators

Members of RPP Task Force

- The LA County Chief Executive Office (CEO)
- Long Term Care Ombudsman Program
- Adult Protective Services
- County Counsel- Code Enforcement Unit
- District Attorney- Code Enforcement Section; Elder and Dependent Adult Abuse Unit
- City Attorney's Office
- Fire- Fire Prevention Division
- Health Services- Alcohol and Drug Program Administration
- Public Health- Environmental Health
- Mental Health- Patients Rights Advocates
- Mental Health Law Enforcement Program
- Probation
- Public Works- Building and Safety; Regional Planning
- Sheriffs Department
- Attorney General's Bureau of Medi-Cal Fraud and Elder Abuse
- Social Security Investigative Unit
- In-Home Supportive Services

Coordinated Response

- Community Care Licensing, Ombudsman, and Department of Mental Health Patients Rights Advocates conduct joint visit regularly
- Report on the scene fire violations
- The team conducts follow up visit(s)
- May require a further group response with Code Enforcements Nuisance Abatement Team taking the lead and any combination of other partners
- Gaining entry into facilities can be difficult-have used law enforcement and probation or parole to help gain entry when they have a client placed at an unlicensed location

CCL Unlicensed Complaint Process & Enforcement Action

- Write-up complaint of unlicensed operation when there are allegations of care and supervision.
- Unannounced site visit within 10 calendar days.
- Complete SOC 341 if warranted
- Issue Notice in Violation of the Law (NOV)
- 15 days to submit an application for licensure or cease unlicensed operation.
- After 15 days, CCL returns to determine if unlicensed care has ceased, i.e. individuals requiring care and supervision have been relocated

CCL Enforcement Action

- If unlicensed care continues and no application has been submitted, civil penalties are issued
- Unlicensed Adult facility - \$200 per day
- Unlicensed Elderly Facility - \$100 per day per resident from day 1 to day 15
\$200 day per resident per day from day 16 till operation ceased
- Seek Injunction Order from the Attorney General Office
- Seek criminal prosecution through the District or City Attorney's Office

Ombudsman Responsibilities

Unlicensed Facilities

- In some communities APS serves in this role and in others Ombudsman
- Conduct complaint investigations on behalf of residents in “unlicensed” facilities that are providing elements of care and supervision
- Determine who placed clients in inappropriate setting and report the placement agency to proper authorities.
- Report operators to law enforcement or Bureau of Medi-Cal Fraud & Elder Abuse, when appropriate
- Provide residents referrals to licensed facilities

Ombudsman Responsibilities

Unlicensed Facilities

- Make referrals to Adult Protective Services on behalf of residents who require immediate placement assistance, if they meet APS criteria, and consent to the referral
- Referrals to Social Security, IHSS, and members of the LA County Residential Placement Protocol Task Force per MOU
- Advocate for best outcomes from partner agencies, including that they take a resident centered approach
- If the unlicensed applies to become licensed make on going unannounced visits

Unlicensed Facility Fact Sheet and Screening Tool

- Designed for quick identification of unlicensed care facilities, and referral information to agencies that handle complaints in this setting
- Designed for individuals who come into contact with elders and dependent adults who may be living in unlicensed care facilities and may be at risk of abuse and neglect
- Including but not limited to: IHSS workers, APS, ombudsman, fire fighters, police officers, building and safety staff, regional planning, regional centers, hospital social workers, and department of mental health patients' rights advocates.
- The fact sheet informs them that this is a problem, and the screening tool allows them to quickly identify, and report, so that appropriate interventions can be made

Unlicensed Facility Fact Sheet

This tool has been developed to provide pertinent laws and regulations regarding unlicensed facilities and how to report identified unlicensed operations in the City and County of Los Angeles.

Unlicensed Facility Defined: (Health & Safety Code 1569.44 (Elderly) & 1503.5 (Adult))

A facility shall be deemed to be an "unlicensed facility" and "maintained and operated to provide residential [non-medical] care" if it is unlicensed and not exempt from licensure, and any one of the following conditions exist:

- The facility is providing care and supervision.
- The facility is held out as, or represented as, providing care and supervision.
- The facility accepts or retains residents who demonstrate the need for care and supervision.
- The facility represents itself as a licensed adult or elderly facility.

Defining Elements of Care and Supervision:

The following are key assessment areas to assist placement agencies in determining if facility is possibly an unlicensed operation:

- Residents receiving care with activities of daily living, such as bathing, toileting, and dressing.
- Residents receiving assistance with medication administration and/or facility centrally stores medications.
- Facility is representative payee for resident.
- Facility arranges and/or provides transportation to doctor's appointments.

Facilities Exempt from Licensure:

If there are no present elements of care and supervision, the following facilities are exempt from licensure. Any allegations of abuse or neglect that are thought to have occurred in exempt facilities, must be reported to Adult Protective Services at 213-351-5401 or 800-992-1660.

- House, institution or hotel that supplies room and board only, or room only, or board only.
- Sober living facilities for persons recovering from alcoholism or drug addiction.
- Homeless shelters
- Care and supervision provided by a close friend, whereby friendship pre-existed a provider-recipient relationship.

Reports of known or suspected unlicensed facility operations are the investigative responsibility of Community Care Licensing and the Long-Term Care Ombudsman Program. If there is an allegation of abuse or neglect that is thought to have occurred in an unlicensed facility, a mandatory abuse report must be filed with the Long-Term Care Ombudsman Program or Law Enforcement.

Department of Social Services, Community Care Licensing Division

Adult Care: 323-980-4934 / Senior Care: 818-596-4334

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WISE & Healthy Aging Long-Term Care Ombudsman Program of Los Angeles County

Araceli Ramirez, Unlicensed Facility Liaison: 213-617-8957 or 800-334-9473

Unlicensed Facility Screening Tool

If you answer yes to any of the following questions, you have identified an unlicensed facility that requires licensure and must be reported to Community Care Licensing and additionally may be reported to the Long-Term Care Ombudsman Program.

- | | Yes | No |
|--|--------------------------|--------------------------|
| 1. Does the unlicensed facility assist resident(s) with toileting? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Does the unlicensed facility assist resident(s) with bathing? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Does the unlicensed facility assist with transferring in and out of wheelchair? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Does the unlicensed facility provide skilled nursing care? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Does the unlicensed facility provide care to bed bound resident(s)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Does the unlicensed facility store and administer medications for resident(s)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Does the unlicensed facility arrange medical appointments for resident(s)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Does the unlicensed facility transport resident(s) to medical appointments? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Is the unlicensed facility the representative payee for resident(s)? | <input type="checkbox"/> | <input type="checkbox"/> |

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The WISE & Healthy Aging Long-Term Care Ombudsman Program is partially funded by the County of Los Angeles Community & Senior Services, Area Agency on Aging, through the Older Americans Act of 1965, as amended, the City of Los Angeles Department of Aging, and through private foundation grants and donations. Funding provided by the Archstone Foundation.



For More Information

- Contact Molly Davies mdavies@wiseandhealthyaging.org
- The following materials have been developed for this project:
- Fact Sheet/Screening Tool
- A compilation of unlicensed facility regulations
- Training for hospital social workers and discharge planners on transfer and discharge rights of residents in long-term care
- Article on this and other elder justice projects featured in the July-December 2010 Journal of Elder Abuse & Neglect



Questions?



Thank you!

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