Minutes: VOP Statewide Conference Call
September 16, 2015; 2:00-2:30pm
Topic: Involuntary Discharges & Facility Closures

Attendance

Staff

- Cindy Pederson, Discharge Specialist
- Meredith Funke, VISTA VOP Coordinator

Volunteer Ombudsmen

- Gene Bryant
- Gregg Durlam
- Jeri Bailey
- Jerry Hampton
- Judy Avritt
- Judy Staack
- Kay Cota
- Maggie Elliott
- Mary Bustad
- Nancy Hodson
- Patricia Scieszinski
- Terry Hornbuckle

Purpose of this call & future calls

The purpose of the VOP Statewide Calls is to increase the opportunity for continuing education provided from the Office of the State Long-Term Care Ombudsman and to increase volunteer engagement. Additionally, we can go into depth on topics that we didn't have time to cover extensively in training.

Statewide conference calls will be held every odd month (May, July, September, etc.) at 2 p.m. and will be facilitated by one VOP Coordinator and one other staff member of the Office on rotation.

Each month's topic is intended to take a closer look at the particulars of resident's rights. Today we will be taking a look behind the scenes of the Office of the State Long-Term Care Ombudsman with the Discharge Specialist, Cindy Pederson.

Cindy Pederson Q&A

Cindy Pederson has been with Office of the State Long-Term Care Ombudsman (OSLTCO) for about a year. Her position came about because the department was having problems getting money for additional Local Ombudsmen. The decision was made to separate out the discharge duties that the current Local Ombudsmen were dealing with and create a position dedicated to working with these situations – the Discharge Specialist. Cindy is an attorney by training with a concentration in landlord/tenant law. Cindy served briefly as a Volunteer Ombudsman before accepting her current position.

{Meredith} In a couple of sentences, how would you describe your role as the Discharge Specialist with the Office of the State Long-Term Care Ombudsman?
{Cindy} I advocate for residents/tenants that find themselves involved in the involuntary discharge process from their long-term care facility. I explain the process and assist these individuals in getting representation through Legal Aid or in representing themselves in the process.

I think most of our volunteers know what an involuntary discharge is but could you explain it briefly?
Involuntary discharges occur when a facility provides notice to a resident informing him/her of the need to move out of the facility.

What are the reasons a resident could be involuntarily discharged from a facility?
There are many reasons a resident could be discharged from a long-term care facility. Non-payment for their stay at the facility is the most common. They may be a danger to themselves or others. If their condition improves and they do not need as much care, they may be discharged. If their condition worsens and the facility cannot provide the level of care necessary, they may be discharged.

What is the process for involuntarily discharging a resident from a facility?
The facility first must issue a notice to the resident. This notice also comes to our office. The notice must set out the reasons for the transfer or discharge as well as the effective date, location of transfer or

discharge, statement of appeal rights, and the contact information for our office. The resident has the option to appeal the discharge. If a resolution cannot be reached with the facility, the resident has the right to file an appeal and request a hearing. An administrative law judge will then decide if the resident should have to leave the facility.

What is your process after receiving a notice?
After receiving a notice of discharge, my first step is information gathering. I contact the resident/family to learn more about the situation and how they want to proceed.

How many notices have you received since you started in September 2014?
I have received about 280 notices over the past year. I have been involved with about 85 of those.

What might be some reasons that a long-term care facility closes?
There are typically two reasons: (1) a business decision by the owners of the facility or (2) decertification by the Centers for Medicare and Medicaid services (CMS).

What is your role in a facility closure?
I am a part of the crisis closure team. We work to gather information from the facility, work to protect the residents during the period of change, and smooth out the transition process for the residents.

Are there other representatives from our office that are involved, as well? Any collaboration with other agencies?
The Local Ombudsman for that region is heavily involved in facility closures. I have also collaborated with Iowa Legal Aid.

Can you share any instances where a Volunteer Ombudsman has assisted in an involuntary discharge or facility closure?
Volunteers can be put on the spot and brought into these situations unexpectedly. There was a situation where the volunteer was the first to notify our office that a facility was closing. Also, there have been situations where the facility will provide the discharge notice to a volunteer – which is not the correct procedure. If this happens, contact your VOP Coordinator and get us the notice right away.

Anything else you would like to share with us today?
Thank you to our volunteers. You all are vital in our mission. There are only eight Local Ombudsmen and one of me – you all help in such a huge way.

Group Q&A

How does the discharge process begin?
The facility is always the one who initiate the process. If the discharge is agreed to by the resident, it is considered voluntary. If the discharge is not agreed to by the resident, it is considered an involuntary discharge – this is where I {Cindy} can get involved. I start by contacting the resident and/or family involved, gathering information, and proceeding with the appeal if the resident desires. An administrative law judge is the person who makes the final determination of whether or not the resident will be discharged from the facility.

What is the definition of a resident being a "threat to themselves or others"?
There is not specific language in the rules to define what makes a resident a threat. Typically this refers to violence – if a resident is violent with the staff members or other residents. It also can refer to talking about suicide or actual attempts to take one's life.

Does inappropriate language qualify for an involuntary discharge?
No, crude language does not typically result in an involuntary discharge until it reaches a level of sexual harassment.

How do you {Cindy} work with facilities to change their mind about discharging a resident?
I would first find out what exactly is the problem – what is the reason for discharge? I then suggest interventions. Are there other ways we can solve the problem before discharging the resident? Could educating the resident help? For example, if the reason for discharge is because of nonpayment, is the resident not paying because of a paperwork issue? An issue with their client participation? Does the resident/family/guardian understand how the payment process works? I will do everything I can to resolve the issue with the facility. If this is not possible, I can work with the resident through the appeal process. They would be represented at a hearing where an administrative law judge makes the decision.

What is the time frame you are working with?
Facilities must provide notice no less than 30 days prior to the date of discharge. After receipt of the notice, there are seven days to file an appeal. I have seen some situations drag out a couple of months for various reasons – errors in the notice, etc.

What is the role of a Volunteer Ombudsman in this process?
For voluntary discharges, volunteers can answer questions for residents and provide information on who to contact for further questions. For involuntary discharges, get the notice to your VOP Coordinator if you are the one to receive it. For all discharge or transfer situations, it is most important to be there for support. You can do this when residents are being transferred out of your facility, as well as when new residents are admitted to your facility. Let them know that you are there and that they do have rights.

VOP Reminders

- October is Residents' Rights Month. To celebrate, our office is holding events across the state to engage facility staff and other individuals who work with older adults in activities that bring special attention to honoring residents' rights and ensuring resident-centered care practices.
- You all should have received an e-mail or a flyer in the mail with information regarding the events happening next month.
    - Cedar Rapids, Council Bluffs, Davenport, Des Moines, Mason City, Ottumwa, Sioux City, Waterloo
    - All events are from 10:00am-3:00pm; we are holding a meeting exclusively for Volunteer Ombudsmen after, so please plan on staying until 4:00pm
    - Because you are a Volunteer Ombudsmen, you will not be required to pay the $10 registration fee – we will be covering your lunch
    - These are not required, but will count towards your continuing education requirement.
    - Registration ends September 21st so please register ASAP if you are interested in attending an event.
- Any questions? Let your VOP Coordinator know.