


Division of Aging Services  
***State Long-Term Care Ombudsman***

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# 5100 State Long-Term Care Ombudsman

	Department of Human Services	Index:	POL 5100
	Policy and Manual Management System	Revised:	05/16/2023
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## Policy

The policy of the Department of Human Services (DHS) is to improve the lives of residents of long-term care facilities by informally investigating and resolving complaints on behalf of residents, and by advocating for the rights and interests of residents.

## Authority

[O.C.G.A. § 31-8-50 to O.C.G.A. § 31-8-63](#)

## References

[Title VII of the Older Americans Act](#); [U.S. Code Title 42, Chapter 35, Section 3058f-h](#) and [45 C.F.R. 1324.1 - 1324.21](#)

## Applicability

The Office of the State Long-Term Care Ombudsman and designated local entities (in private non-profit corporations) fulfill the requirements of the above-stated DHS policy.

## Definitions

None.

## Responsibilities

The [State Long-Term Care Ombudsman](#) is responsible for oversight of the development and updating of requirements for the program.


## History

The Older Americans Act (OAA) required state agencies on aging to establish and operate Long-Term Care Ombudsman (LTCO) programs since 1978. In 1979, Georgia passed its own long-term care ombudsman law, amended in 1995 to reflect 1992 OAA amendments.

# Evaluation

The State Ombudsman and staff review performance measures and make site visits to local entities periodically to assess program results and evaluate the outcomes of this directive.

# MAN 5100 Georgia Long-Term Care Ombudsman Program Policies and Procedures

	Department of Human Services  Policy and Manual Management System	Index:	MAN 5100
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## Part I Introduction to the Long-Term Care Ombudsman Program

### 100 General

#### 101 Authorization

The Georgia Long-Term Care Ombudsman Program (LTCOP) is authorized under the federal Older Americans Act and the Georgia Long-Term Care Ombudsman Program Act.

#### 102 Purpose

The LTCOP protects and improves the quality of care and quality of life for residents of long-term care facilities through advocacy for and on behalf of residents and through the promotion of community involvement in long-term care facilities.

#### 103 Philosophy

The LTCOP is a resident-centered advocacy program. The resident of, or applicant to, a long-term care facility is the client, regardless of the source of the complaint or request for service. The long-term care ombudsman will make every reasonable effort to assist, represent, and intervene on behalf of the resident.

#### 104 Applicability

These policies and procedures govern the actions of the Office of the State Long-Term Care Ombudsman, certified staff and volunteer Ombudsman Representatives, provider agencies, area agencies on aging, the Division of Aging Services of the Georgia Department of Human Services, and other parties involved in the operation of the LTCOP.

### References

Older Americans Act, 42 U.S. §§ 3001 *et seq* (hereinafter cited as “OAA”); O.C.G.A. §§ 31-8-50 *et seq*.

## **200 Definitions**

### **200.1 Abuse**

Willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness. (OAA § 102(13))

### **200.2 Advisory Council Development**

Activities related to the preparation for or attendance at meetings of the Long-Term Care Ombudsman Program Advisory Council. (See Section III-300 Documentation Guidelines)

### **200.3 Area Agency on Aging**

An agency designated by the Division of Aging Services to arrange for the provision of aging services in its planning and service area. (See OAA § 305(a)(2)(A))

### **200.4 Area Plan**

A plan developed by an area agency on aging for its relevant planning and service area as set forth in the Older Americans Act. (OAA § 306(b))

### **200.5 Associate Certified Volunteer Ombudsman Representative**

An Associate Certified Volunteer is a designated volunteer category with responsibility for responding to certain complaints. Associate Certified Volunteers are independent citizen advocates who visit the residents of long-term care facilities, identifying complaints and concerns. They investigate specific complaint categories and work with facility staff to resolve problems, advocating from the resident point of view and with resident permission. Associate Certified Volunteers are recruited and trained by the Local Long-Term Care Ombudsman Program and are assigned to serve at long-term care facilities in their local communities.

### **200.6 Certification**

The designation provided by the State Long-Term Care Ombudsman to an individual who meets minimum qualifications, is free of conflicts of interest, and has successfully completed training and other criteria stipulated in the Certification Requirements for Ombudsman Representatives ([Appendix B](#)). Designation authorizes such individual to act as a representative of the Long-Term Care Ombudsman Program. (See OAA § 712(a)(5); O.C.G.A. § 31-8-52)

### **200.7 Community Education**

Presentations to community groups, other agencies, or professionals, or to groups of residents or families (other than resident or family councils) on long-term care issues. (See Section III-300 Documentation Guidelines)

### **200.8 Local Ombudsman Entity Annual Plan**

A plan submitted by the Coordinator of the local Ombudsman entity annually for approval by the State Ombudsman and, where applicable, by the area agency on aging in its area plan, which sets forth goals and objectives for the local Ombudsman entity.

### **200.9 Complaint**

An expression of dissatisfaction or concern brought to, or initiated by, the Ombudsman program

which requires Ombudsman program investigation and resolution on behalf of one or more residents of a long-term care facility.

#### **200.10 Complaint Processing**

Services to assist residents of long-term care facilities to resolve problems or complaints through investigation, verification, and notification. (See Section III – 300, Documentation Guidelines)

#### **200.11 Exploitation**

The illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain. (OAA § 102(24))

#### **200.12 Family Council Activities**

Provision of technical assistance, information, training, or support to family members of residents and/or facility staff regarding developing, informing, or maintaining a family council. (See Section III-300 Documentation Guidelines)

#### **200.13 Grievance**

A grievance is an actual or perceived circumstance that causes a party, known as the aggrieved, to feel that he or she has been treated unfairly or that a circumstance resulted in an unjust outcome. A grievance is not a complaint as defined at 200.9 in the Policy Manual, but rather specifically relates to the responsibilities of the Office of the State Long-Term Care Ombudsman, its representatives, agents or volunteers associated with that office. (45 CFR 1324.11(7))

#### **200.14 Guardian**

Person or entity appointed by a court to exercise the legal rights and powers of another individual. (See O.C.G.A. §§ 29-1-1 et seq)

#### **200.15 Immediate Family**

Those persons related to an individual as a spouse, child, sibling, parent, grandchild, or grandparent.

#### **200.16 Information and Assistance**

Services which provide information to individuals on long-term care or the needs/rights of long-term care residents. (See Section III-300 Documentation Guidelines)

#### **200.17 Interagency Coordination**

Activities which involve meeting or coordinating with other agencies to learn about and/or improve conditions for one or more residents of long-term care facilities. (See Section III-300 Documentation Guidelines)

#### **200.18 Issues Advocacy**

Activities supporting and promoting issues which benefit residents of long-term care facilities. (See Section III-300 Documentation Guidelines)

#### **200.19 Legal Representative**

An agent under a valid power of attorney, provided that the agent is acting within the scope of his or her agency; an agent under a durable power of attorney for health care; or an executor, executrix, administrator, or administratrix of the estate of a deceased resident. (O.C.G.A. § 31-8-

## **200.20 Local Ombudsman Entity**

The local agency, designated by the State Long-Term Care Ombudsman, to represent the Office of the State Long-Term Care Ombudsman in carrying out the Program Components. (See OAA § 712(a)(5); 45 CFR 1324.1))

## **200.21 Long-Term Care Facility**

### **Federal definition**

Any nursing facility; board and care facility; and any other adult care home, including an assisted living facility, similar to a nursing facility or a board and care facility. (See OAA § 102(35))

### **State definition**

Any skilled nursing home, intermediate care home, or personal care home now or hereafter subject to regulation and facility licensure by the Georgia Department of Community Health. (O.C.G.A. § 31-8-51(2))

## **200.22 Long-Term Care Services**

A set of health, personal care, and social services delivered over a sustained period of time to persons who have lost or never acquired some degree of functional mental or physical capacity. (Institute of Medicine, Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act, 1995 at p. 290)

## **200.23 Long-Term Care Ombudsman Program, State Long-Term Care Ombudsman Program, or Ombudsman Program**

Phrase used to describe the Office of the State Long-Term Care Ombudsman and the Local Ombudsman Entities and the services provided by them. (See OAA §§ 711, 712(a)(5); 45 CFR 1324.1))

## **200.24 Older Americans Act**

Federal law that authorizes the Long-Term Care Ombudsman Program. (See OAA, 42 U.S. §§ 3001 et seq)

## **200.25 Neglect**

The failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caregiver to provide the goods and services. (OAA § 102(34))

## **200.26 Office of the State Long-Term Care Ombudsman**

The organizational unit which is headed by the State Long-Term Care Ombudsman. (OAA § 712(a)(1)(A); 45 CFR 1324.1)

## **200.27 Ombudsman or State Long-Term Care Ombudsman**

The individual who heads the Office of the State Long-Term Care Ombudsman and is responsible to personally, or through representatives of the Office, fulfill the functions, responsibilities and duties of the Long-Term Care Ombudsman Program. (OAA § 712 (a)(2); 45 CFR 1324.1)



## **200.28 OmbudsManager**

The data collection system used to record Ombudsman program activities including complaints. The system includes confidential information and is only accessible by designated staff and volunteers.

## **200.29 Ombudsman Representative**

The employees or volunteers designated by the Ombudsman to fulfill the Program Components whether personnel supervision is provided by the Ombudsman or his or her designees or by the local Ombudsman entity designated by the Ombudsman. (OAA § 712 (a)(5); 45 CFR 1324.1)

## **200.30 Program Components**

Services of the Long-Term Care Ombudsman Program performed with the goal of protecting the health, safety, welfare, and rights of long-term care residents.

## **200.31 Provider Agency or Local Ombudsman Entity**

The entity designated by the State Ombudsman to provide ombudsman services in a particular service area. (OAA § 712 (a)(5); 45 CFR 1324.1)

## **200.32 Resident Council Activities**

Provision of technical assistance, information, training, or support to residents and/or facility staff regarding developing, informing, or maintaining a resident council. (See Section III-300 Documentation Guidelines)

## **200.33 Resident Focus**

The resident directs all activities, even the visit with an Ombudsman Representative. Ombudsman Representatives represent the residents. Nothing begins or ends without the consumer's or resident's consent. (See 45 CFR 1324.13 and 45CFR 1324.19 (b))

## **200.34 Resolved**

The complaint has been resolved to the resident's satisfaction. If the resident cannot communicate his/her satisfaction, the Ombudsman Representative may seek resolution to the satisfaction of the resident's representative or complainant if consistent with the rights and interests of the resident. (See Section III-300 Documentation Guidelines)

## **200.35 Routine Visits**

Visits to a long-term care facility by an Ombudsman Representative for the purpose of providing residents with access to an Ombudsman Representative and for monitoring and assessing the general condition of residents and/or the physical plant of the facility. (See Section III-300 Documentation Guidelines)

## **200.36 Senior Certified Volunteer Ombudsman Representative**

A Senior Certified Volunteer Ombudsman Representative (Senior Certified Volunteer) is a designated volunteer category with responsibility for responding to complaints. Senior Certified Volunteers are independent citizen advocates who visit the residents of long-term care facilities, identifying complaints and concerns. They investigate complaints and work with facility staff to resolve problems, advocating from the resident point of view and with resident permission. Senior Certified Volunteers are recruited by the local Ombudsman entity and are assigned to serve at long-term care facilities in their local communities. Senior Certified Volunteers go

through a rigorous training including much of the same training that Ombudsman Representative staff receive. Senior Certified Volunteers must pass the same written and oral exam as an Ombudsman Representative.

#### **200.37 Training for Facility Staff**

Presentations to long-term care facility staff on long-term care issues. (See Section III-300 Documentation Guidelines)

#### **200.38 Volunteer Management**

Recruiting, training, managing, and providing technical assistance to volunteers assisting the local Ombudsman entity in carrying out its responsibilities.

#### **200.39 Volunteer Visitor Ombudsman Representative (Volunteer Visitor)**

A volunteer who is not certified but who visits residents in coordination with the local Ombudsman entity and otherwise provides assistance to the program. A Volunteer Visitor must work under the direct supervision of a certified staff Ombudsman Representative and is not authorized to investigate complaints.

## **Part II Administration of the Long-Term Care Ombudsman Program**

### **100 Program Structure**

#### **100.1 Georgia Department of Human Services**

Pursuant to the federal Older Americans Act and state law, the Georgia Department of Human Services (DHS) as the designated State Agency on Aging for Georgia, has established and operates the Office of the State Long-Term Care Ombudsman (OSLTCO).

#### **100.2 State Long-Term Care Ombudsman**

The State Long-Term Care Ombudsman (SLTCO) shall assure that all residents of long-term care facilities in the State have access to the services of the Georgia Long-Term Care Ombudsman Program (LTCOP) and that each service area in the State has a designated LTCOP provider agency known as the Local Entity (LE).

#### **100.3 Advisory Council**

The Advisory Council of the OSLTCO provides guidance and advice to the SLTCO in order to enhance the effectiveness of the statewide LTCOP.

#### **100.4 Contracts for ombudsman services**

The LE in each service area is operated through a contract as follows:

- a. Contracts shall exist in each service area between the DHS OSLTCO and an entity or entities meeting the criteria for designation ([II-201.1](#)).
- b. An Area Agency on aging (AAA) may directly provide long-term care Ombudsman Representa-

tive (LTCO) services, if not otherwise prohibited from directly delivering services (see [II-201.1](#)).

- i. Where an AAA provides Ombudsman Representative services directly, it must also fulfill the responsibilities of a LE.

## References

OAA § 712(a)(1); O.C.G.A. § 31-8

## 200 Designation and Withdrawal of Designation of Ombudsman Programs and Ombudsman Representatives

**How to use this Chapter:** This Chapter sets forth procedures for designation and de-designation by the Office of the State Long-Term Care Ombudsman (OSLTCO) as follows: 1) designation of Local Entities (LEs) (i.e. provider agencies), 2) de-designation of LEs, 3) designation of Ombudsman Representatives (OR's) (including minimum qualifications), and 4) refusal to designate an individual as an OR and de-designation of ORs.

Each Section includes: 1) criteria used in designating (or de-designating) and 2) the process used in designation (or de-designation). For designation (or de-designation) of LEs, the process is described separately for the possible placements of the LE when: a) area agency on aging serves as the LE; and b) nonprofit provider agency contracts directly with the Department of Human Services (DHS) Office of the State Long-Term Care Ombudsman (OSLTCO) to be an LE.

## 201 Designation of Ombudsman Programs

### Policy

The State Long-Term Care Ombudsman (SLTCO) shall designate provider agencies, also known as LEs, to provide OR services throughout Georgia.

### Procedures

#### 201.1 Criteria for designation as a LE

In order to be eligible for designation by the (OSLTCO) as a LE, an entity must:

- a. Be a public or nonprofit entity.
- b. Not be an agency or organization responsible for licensing or certifying long-term care services.
- c. Not be an association (or an affiliate of an association) of providers of long-term care or residential services for older persons.
- d. Have no financial interest in a long-term care facility.
- e. Have demonstrated capability to carry out the responsibilities of the LE (see [II-304](#)).
- f. Have no unresolved conflict of interest (see [II-400](#)).
- g. Meet all contractual requirements of the Georgia DHS.

## **201.2 Process for designation of a LE, where DHS OSLTCO contracts directly with a LE**

The designation of a new LE shall occur as follows:

- a. OSLTCO shall use a process to seek an entity to provide LTCOP services within a particular service area. The process will identify the criteria for designation as a LE and shall request submission of documents supporting the LE's claim to meet these criteria.
- b. OSLTCO shall require that all of the responding entities which meet the criteria for designation develop a proposal setting forth, at a minimum:
  - i. Assurance that the entity meets all criteria for designation as a LE.
  - ii. The goals and objectives of such entity in providing LTCOP services.
  - iii. A description of how each Program Component shall be met by such entity (see [III-100](#)).
  - iv. The staffing plan for the LTCOP.
  - v. A description of the resources of the entity which will be provided to assist in the operation of the LTCOP.
- c. The SLTCO shall review each submitted proposal and shall choose the entity most appropriate to serve as the LE based on the submitted proposals and on the criteria for designation. In considering which entity is most appropriate to designate as the LE, the SLTCO may, but is not required, to consult with the AAA serving the relevant service area.
- d. The SLTCO shall notify the responding entities of this determination within forty-five days. The notification shall be consistent with OSLTCO policy and procedures for entities that apply.
- e. DHS OSLTCO shall contract with the LE to provide LTCOP services. Such contract must:
  - i. Specify the service area.
  - ii. Require the LE to adhere to all applicable federal and state laws, regulations, and policies and the OSLTCO Policies and Procedures.
  - iii. Provide that designation by the SLTCO continues for the duration of the contract and subsequently renewed contracts within the period specified within the competitive bid unless the LE is de-designated by the SLTCO (see [II-202.2](#)) or the contract is terminated for cause.
- f. The execution date of the LE's contract with OSLTCO to provide OR services shall be the effective date of the designation.

### **References**

OAA §§ 307(a)(10), 712 (a)(4),(5); see OAA § 705(a)(5)

## **202 Withdrawal of Designation of Ombudsman Programs**

### **Policy**

The SLTCO has the sole authority to de-designate an entity as a LE for cause.

### **Procedures**

### **202.1 Criteria for withdrawal of designation**

The SLTCO has the sole authority to refuse to designate or may de-designate an entity as a LE for one or more of the following reasons:

- a. Failure of the entity to continue to meet the criteria for designation (II-201.1).
- b. Existence in the entity of an unresolved conflict of interest with the LTCOP.
- c. Deliberate failure of the entity to disclose any conflict of interest.
- d. Violation of LTCOP confidentiality requirements by any person employed by, supervised by, or otherwise acting as an agent of, the entity.
- e. Failure of the entity to provide adequate LTCOP services, including but not limited to failure to perform enumerated responsibilities (see II-304), failure to fill a vacant OR staff position within a reasonable time, failure to submit a LTCOP Annual Plan (see III-100.1) for approval by the SLTCO, or failure to use funds designated for the LTCOP for LTCOP services.
- f. Failure of the entity to adhere to the provisions of the contract for the provision of OR services.
- g. Failure of the entity to adhere to applicable federal and state laws, regulations, and policies and/or OSLTCO Policies and Procedures.

### **202.2 Process for withdrawal of designation of a LTCOP LE**

- a. The process to de-designate the LE shall be as follows:
  - i. The SLTCO shall send notice of the intent to de-designate at a specified date to the LE and may, but is not required, to send notice to the applicable AAA. The notice shall include the reasons for de-designation and notice of the reconsideration procedures of the OSLTCO.
  - ii. De-designation of a LE shall not become effective until all reconsideration procedures are exhausted.
  - iii. The SLTCO shall provide for the continuation of OR services (II-202.4) until designation of another entity is effective. The SLTCO, at his or her discretion, may consult with the applicable AAA regarding the provision of services in the service area.
  - iv. The OSLTCO shall terminate its contract with the LE.

### **202.3 Voluntary withdrawal of a provider agency**

A LTCOP LE may voluntarily relinquish its designation by providing notice to the SLTCO. Such notice shall be provided sixty (60) days in advance of the date of the relinquishment of designation.

### **202.4 Continuation of OR services**

Where a LE is in the process of appealing its de-designation or has relinquished designation:

- a. The LE and the SLTCO shall arrange for the provision of OR services until a new LE is designated.
- b. The LE shall surrender intact to the SLTCO or the SLTCO designee all LTCOP case records, documentation of all LTCOP activities and complaint processing as required by the ombudsman reporting system, and identification cards of all ORs associated with the LE.

- c. The LE shall, at the discretion of the OSLTCO, surrender any equipment purchased with funds designated for LTCO services.
- d. The LE shall surrender the balance of any advanced state or federal monies to the OSLTCO.

## Reference

OAA § 307(a)(5)

## 203 Designation of Long-Term Care Ombudsman Representatives

### Policy

The SLTCO designates individuals as ORs to participate in the LTCOP and to represent the OSLTCO. Such designation decisions are subject to reconsideration as set forth below, but are not subject to the general grievance process set forth in Policies and Procedures [Part II Chapter 900](#).

### Procedures

#### 203.1 Criteria for designation as an OR

To be designated as an OR, an individual must:

- a. Have demonstrated capability to carry out the responsibilities of an OR.
- b. Be free of unresolved conflicts of interest (see [II-400](#)).
- c. Meet the minimum qualifications for the applicable OR position.
- d. Satisfactorily complete the applicable certification training requirements as specified in the Certification Requirements For Ombudsman Representatives ([Appendix B](#)).
- e. Be awarded a current certification card, signed by the SLTCO.
- f. Satisfactorily fulfill OR responsibilities (see [II-305](#)).

#### 203.2 Minimum qualifications for Long-Term Care Ombudsman Representative Coordinators (ORCs)

- a. In order to qualify as an ORC, an individual must have:
  - i. An undergraduate degree from a four-year college or university.
  - ii. The equivalent of three years of full-time work experience with at least two years in aging, long-term care, or related fields (at least one year in a consultative or supervisory capacity is desirable).
  - iii. A criminal background check in accordance with the DHS contract requirement. The individual shall not be hired if he or she has been convicted of any of the crimes listed under the laws related to nursing home, personal care home or assisted living community employees. (OCGA § 31-7-350 and OCGA § 31-7-250, respectively).
- b. Comparable experience may be substituted at the discretion of the SLTCO. Experience may be substituted for undergraduate education on a one-to-one basis; however, the same experience cannot be used to meet both the education and experience requirements. Graduate education may be substituted for one year of experience; however, a minimum of two years of full-time work experience is required.

### **203.3 Minimum qualifications for staff ORs**

- a. In order to qualify for an OR staff position, an individual must have:
  - i. An undergraduate degree from a four-year college or university.
  - ii. Two years of professional experience with at least one year in aging, long-term care, or related fields.
  - iii. A criminal background check in accordance with the DHS contract requirement. The individual shall not be hired if he or she has been convicted of any of the crimes listed under the laws related to nursing home, personal care home or assisted living community employees. (OCGA § 31-7-350 and OCGA § 31-7-250, respectively).
- b. Relevant and comparable education and/or experience may be substituted at the discretion of the SLTCO upon recommendation of the LTCOP Coordinator. Experience may be substituted for undergraduate education on a one-to-one basis; however, the same experience cannot be used to meet both the education and experience requirements.

### **203.4 Minimum qualifications for volunteers**

- a. No minimum education or experience is required for volunteers prior to screening and acceptance into the LTCOP. The LTCOP shall clarify responsibilities and provide training for volunteers, as set forth in [Section III-109](#) and [Appendix B](#).
- b. A volunteer shall have a criminal background check in accordance with the DHS contract requirement. The individual shall not serve as a volunteer if he or she has been convicted of any of the crimes listed under the laws related to nursing home, personal care home or assisted living community employees and if he or she:
  - i. Seeks to become certified.
  - ii. Has direct contact with residents in his or her role as volunteer.
  - iii. Has access to LTCO files or other confidential information regarding residents. (OCGA § 31-7-350 and OCGA § 31-7-250, respectively).

### **203.5 LE process for hiring OR staff**

- a. Prior to offering employment to an individual for the purpose of serving as an OR, the LE shall:
  - i. Indicate to the SLTCO that the individual has a satisfactory criminal background check.
  - ii. Provide the SLTCO with an opportunity to review the resume of the candidate(s) being considered for employment.
  - iii. Provide the SLTCO the opportunity to participate in the interviewing process.
- b. The SLTCO shall promptly notify the LE of any concerns related to the candidate's ability to meet minimum qualifications or other certification requirements.
- c. If the SLTCO has concerns about the future certification of any candidate, the SLTCO may request a separate interview of the candidate and shall inform the LE of any concerns that the LE should consider prior to hiring the candidate(s).



### **203.6 Requests for substitutions or variances**

Requests for substitutions or variances related to minimum requirements must be made in writing and approved prior to the hiring or promotion of the employee in question.

### **203.7 Certification of formerly certified OR from Georgia or from another state**

When an individual has been certified as an OR previously in Georgia but is not currently certified and has not been certified within the last two years, or when an individual is certified as an OR in another state or has been certified by that state within the last two years, the SLTCO shall determine what steps are needed to qualify as a certified OR, by reviewing the circumstances on an individual basis and considering, at a minimum, the following criteria:

- a. Content and extent of OR training completed, which must meet or exceed current certification training requirements for Georgia.
- b. Need for updated and/or Georgia-specific training.
- c. Need to demonstrate competencies for the position by completing written and oral examinations.
- d. Quality of performance of individual as an OR, including checking references.

If the individual has not been certified within the last two years, the individual shall participate in the full certification process unless the SLTCO specifically determines otherwise. Such determination shall be made on a case by case basis and is not a determination eligible for reconsideration.

### **203.8 Notification of designation**

- a. The SLTCO shall determine who would receive written notification of an individual's designation as an OR including the individual being designated, and the ORC. The SLTCO may also send notice to the AAA in the service area.

### **203.9 Continuing certification**

- a. Each staff OR is required to complete 60 hours of acceptable continuous education as further explained in [Appendix B](#).
- b. Each Senior Certified Volunteer Ombudsman Representative is required to complete 20 hours of acceptable continuous education as further explained in [Appendix B](#).

### **References**

OAA § 712(a)(5); O.C.G.A. §§ 31-7-250, 31-7-350, 31-8-52; Office of Aging Procedural Issuance No. 73 (Sept. 13, 1991) (PI No. 73)

## **204 Refusal to Designate, Suspension of Designation, or Withdrawal of Designation of an Individual as a Long-Term Care OR**

### **Policy**

The SLTCO has the sole authority, to refuse to designate, suspend designation, or de-designate an individual as an OR.



## Procedures

### **204.1 Criteria for refusal to designate, suspension of designation, or withdrawal of designation of an individual as an OR**

The SLTCO has the sole authority to refuse to designate, suspend designation, or de-designate an individual as an OR for any of the following reasons:

- a. Failure of the individual to meet and/or maintain the criteria for designation ([II-203.1](#)).
- b. Existence of an unresolved conflict of interest.
- c. Deliberate failure of the individual to disclose any conflict of interest.
- d. Violation of confidentiality requirements.
- e. Failure to provide adequate and appropriate services to long-term care residents.
- f. Failure to timely document cases (including completing journal entries), activities, and other required documentation.
- g. Falsifying records.
- h. Failure to adhere to the Ombudsman Code of Ethics ([Appendix A](#)).
- i. Failure to follow LTCO policies and procedures or the direction of the SLTCO.
- j. A change in employment duties which are incompatible with OR duties.
- k. Separation from the LTCOP. Examples include: removal from employment by the designated LE, an extended absence of the OR preventing fulfillment of job responsibilities, provider agency's contract for the provision of OR services is not renewed.
- l. Failure to act in accordance with applicable federal and state laws, regulations, and policies and/or the SLTCO Policies and Procedures.

### **204.2 Process for refusal to designate, suspension of designation, or withdrawal of an individual as an Ombudsman Representative**

- a. Prior to refusing to designate, suspending designation, or de-designating an individual as an OR, the SLTCO has discretion to, but is not required to, consult with the relevant LE to consider remedial actions which could be taken to avoid the refusal to designate or the de-designation. The SLTCO will take into consideration whether the LE has a history of participating successfully in remedial actions. The SLTCO may also consider the status of the LE; if the contract for services with the LE is ending, then consulting with the LE is unnecessary.
- b. The SLTCO has discretion to determine whether investigation is necessary or whether the documentation or other evidence is sufficient to sustain the de-designation action.
- c. The SLTCO shall provide written notice of the decision to refuse to designate, suspend designation, or de-designate an individual as an OR to the individual who is a candidate for designation, or is currently designated as an OR. The SLTCO has discretion, but is not required, to notify the LE, the AAA, and the Director of the State agency. When such notice is determined to be appropriate, such notice shall:
  - i. Specify the reasons for and effective date of the decision.
  - ii. In the case of a suspension, indicate the circumstances under which the suspension will end or be reconsidered.

- d. The ORC for the service area shall promptly notify the administration of facilities which had been regularly visited by such individual of the refusal to designate, suspension of designation, or de-designation.
- e. If the decision to refuse to designate, suspend designation, or de-designate an individual as an OR results in the absence of OR services in the relevant service area, the LE and the SLTCO shall arrange for the provision of OR services until an OR is designated.

#### **References**

OAA § 712(a)(5)

### **205 SLTCO Authority and Reconsideration**

#### **Policy**

The State Ombudsman has the sole authority, to determine whether to reconsider the decision to refuse to designate, suspend designation, or de-designate a LE and ORs. Such decisions are subject to this reconsideration policy and process, and are not subject to the grievance process.

#### **Procedures**

205.1 Refusal to designate, suspend designation or de-designate reconsideration:

The SLTCO has the sole authority to determine the circumstances that would trigger reconsideration of designation decisions including:

- a. Whether the SLTCO agrees that the individual or LE has successfully alleged that the circumstances that triggered the decision could benefit from further investigation.
- b. Whether the SLTCO agrees that the individual or LE has provided sufficient additional facts to the SLTCO for consideration.
- c. The SLTCO agrees that the individual or LE has provided specific remedial measures that are sufficient to trigger reconsideration.

205.2 The SLTCO has the sole authority to stay or suspend the designation and de-designation decision in order to further investigate or allow the individual or LE to implement remedial measures.

205.3 The SLTCO has the sole authority to set a time frame for the reconsideration, including the time for the investigation, if applicable, and the time for remedial measures to be implemented and assessed.

205.4 The SLTCO has the sole authority to affirm or rescind the designation decision, whether the SLTCO determines that reconsideration is warranted or not.

#### **References**

45 CFR § 1324.11(e)(6), 45 CFR § 1324.11(e)(7)

### **300 Roles and Responsibilities in Administering the Program**

## **301 The State Agency**

### **Policy**

The Georgia Department of Human Services has established and operates an Office of the State Long-Term Care Ombudsman and carries out through that Office the statewide Long-Term Care Ombudsman Program. The Office is independent in its representation of the interests of long-term care facility residents, without representing the positions or policies of the State agency, the Georgia Department of Human Services, or any other government entity.

### **Procedures**

#### **301.1 The State Agency responsibilities**

The Georgia Department of Human Services (the State agency), pursuant to the Older Americans Act and state law, shall:

- a. Provide for a full-time State Long-Term Care Ombudsman (SLTCO).
- b. Provide supervision of the SLTCO without interfering with its work to promote the interests of long-term care facility residents.
- c. Provide funding for a statewide Long-Term Care Ombudsman Program (LTCOP) in accordance with the Older Americans Act (OAA) and through application of a statewide allocation formula approved by the SLTCO, within appropriations specifically designated for the OS LTCO.
- d. Provide the SLTCO with administrative support for personnel, fiscal, contractual, data, and budgetary management, including administration of (contracts with designated provider agencies.
- e. Provide the SLTCO with authority to manage funds designated for the LTCOP, consistent with DHS policies.
- f. Provide for legal representation for the Office of the SLTCO and Long-Term Care Ombudsman Representatives against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the SLTCO or Ombudsman Representatives.
- g. Provide technical assistance for and monitor performance of provider agencies related to the operation of local Ombudsman entities.
- h. Refrain from interference with the LTCOP's mandate to advocate for and represent the interests of long-term care facility residents.
- i. Support, participate in, and coordinate with the Long-Term Care Ombudsman Advisory Council as requested by the Council and as appropriate.

### **References**

OAA §§ 304(d)(1); 306(a)(9); 307(a)(9); 703(a)(2)(C)(i); 705(a)(4); 712(a)(1), (4)

## **302 Advisory Council of the Office of the State Long-Term Care Ombudsman**

### **Policy**

The Advisory Council of the Office of the State Long-Term Care Ombudsman shall provide guidance

and advice to the Office of the State Long-Term Care Ombudsman in order to enhance the effectiveness of the statewide long-term care ombudsman program.

## Procedures

### 302.1 Advisory Council responsibilities

- a. The Advisory Council of the Office of the State Long-Term Care Ombudsman (Advisory Council) shall assist the Office of the SLTCO by:
  - i. Providing advice regarding the operation of the Office of the SLTCO.
  - ii. Serving as a sounding board to the Office of the SLTCO.
  - iii. Enhancing community understanding of the purpose and services of Georgia's Long-Term Care Ombudsman Program (LTCOP).
  - iv. Assisting the Office of the SLTCO to identify resources to benefit the LTCOP and long-term care facility residents.
  - v. Developing an understanding of long-term care issues and assisting the Office of the SLTCO in its efforts to advocate for improvements for long-term care residents.
  - vi. Providing a forum for dialogue with other public agencies and programs, providers, and policymakers regarding the operations of the Office of the SLTCO and the LTCOP.
- b. The advisory council shall not make binding decisions for, or otherwise serve as a governing body of, the LTCOP.

## References

[Georgia Office of the State Long-Term Care Ombudsman Advisory Council Charter, Appendix C](#)

### 303 State Long-Term Care Ombudsman

**How to use this Section:** This section addresses the responsibilities of the State Long-Term Care Ombudsman according to the party which is being served: 1) in general, 2) to long-term care residents, 3) to Long-Term Care Ombudsman Representatives, 4) to AAAs and (5) to provider agencies also known as local Ombudsman entities.

## Policy

The State Long-Term Care Ombudsman (SLTCO) is responsible for providing leadership for the statewide Long-Term Care Ombudsman Program (LTCOP).

## Procedures

### 303.1 General responsibilities of the State Ombudsman

The SLTCO is responsible for:

- a. Leadership and management of the statewide LTCOP
  - i. Providing leadership, planning, and direction for the statewide LTCOP.

- ii. Providing program management and development, including coordination with the State agency which may include participation on its Leadership Team.
  - iii. Evaluating statewide LTCOP performance.
  - iv. Developing policies, procedures, and standards for administration of the LTCOP and Ombudsman Representative practice.
  - v. Providing support to and accepting counsel from the Advisory Council.
  - vi. Adhering to the Ombudsman Code of Ethics ([Appendix A](#)).
- b. Designation of Ombudsman Representatives and LTCOPs
- i. Providing standards for designation of Ombudsman Representatives and provider agencies through issuing policies, providing guidance on requests for proposals, and providing for training and certification of Ombudsman Representatives.
  - ii. Prohibiting any individual from acting as a representative of the Office or processing complaints on behalf of residents without being certified to do so.
  - iii. Prohibiting any entity from providing services of the LTCOP without being designated to do so.
- c. Long-term care issues advocacy
- i. Advocating for policy, regulatory, and/or legislative changes to benefit long-term care residents.
- NOTE**
- Georgia law was revised in 2013 to exempt executive branch employees from lobbyist registration. However, the SLTCO has discretion to register as a lobbyist for state-level legislative and regulatory advocacy purposes.
- ii. Coordinating with statewide and national advocacy organizations involved in advocating for resident interests and long-term care issues.
  - iii. Providing leadership to statewide advocacy efforts on behalf of long-term care facility residents.
  - iv. Maintaining awareness of current issues and trends in long-term care.
  - v. Recommending public policy changes through:
    - A. Publication of an annual report.
    - B. Legislative and administrative advocacy.
    - C. Work with media.
    - D. Collaboration with other agencies and advocates.
    - E. Other appropriate means.
  - vi. Providing training and technical assistance to provider agencies, and others in the aging network regarding the LTCOP role in issues advocacy.
- d. Interagency coordination
- i. Coordinating LTCOP services with adult protective services, state agencies licensing and certifying long-term care facilities, legal assistance provided under the Older Americans Act

(OAA), law enforcement, protection and advocacy systems, and other appropriate agencies.

e. Maintaining record management and the LTCO reporting system

- i. Maintaining case records, both at the Office and through LTCOPs. Such records are the property of the SLTCO and may not be released, disclosed, duplicated, or removed without the written permission of the SLTCO or designee (see [II-500](#)).
- ii. Maintaining, in collaboration with the State agency, a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities and to residents, for the purpose of identifying and resolving significant problems.
- iii. Submitting such data to appropriate entities as required by the OAA.
- iv. Preparing and distributing the LTCOP annual report as required by the OAA.

f. Information and consultation

- i. Providing information and consultation regarding long-term care issues and the LTCOP to the general public, residents, community organizations, and other agencies.

g. Technical assistance

- i. Providing specialized technical assistance, consultation, training, and resources to Ombudsman Representatives, provider agencies, and the State agency related to the operation of the LTCOP.

## References

OAA § 712; O.C.G.A. § 31-8-53; O.C.G.A. § 21-5-70; O.C.G.A. § 21-5-71(i)(6.1); 45 C.F.R. § 1234.13(a)(7)(vii)

### 303.2 State Ombudsman responsibilities to long-term care residents

The SLTCO shall, personally or through representatives of the Office:

- a. Identify, investigate, and resolve complaints made by or on behalf of residents that may adversely affect the health, safety, welfare, or rights of residents, and relating to action, inaction, or decisions of:
  - i. Providers, or representatives of providers, of long-term care services.
  - ii. Public agencies.
  - iii. Health and social service agencies.
- b. Identify, investigate, and resolve complaints related to the welfare and rights of the residents with respect to the appointment and activities of guardians, conservators, and representative payees.
- c. Provide services to assist residents in protecting their health, safety, welfare, and rights.
- d. Inform residents about the means of obtaining services provided by long-term care service providers, public agencies, or health and social service agencies or other services to assist residents in protecting their health, safety, welfare, and rights.
- e. Provide regular and timely access to LTCOP services for residents and timely responses to complaints.

- f. Represent the interests of residents before governmental agencies and pursue administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents.
- g. Analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions pertaining to the health, safety, welfare, and rights of residents, with respect to the adequacy of long-term care facilities and services in the state.
- h. Recommend changes in such laws, regulations, policies, and actions as the Office determines appropriate.
- i. Facilitate public comment on laws, regulations, policies, and actions.
- j. Provide technical support for the development of resident and family councils to protect the well-being and rights of residents.
- k. Prohibit inappropriate disclosure of the identity of any complainant or resident with respect to LTCOP files, records, or other information.
- l. Serve as the Patient Care Ombudsman pursuant to federal bankruptcy law where the debtor is a health care business that provides long-term care and where:
  - i. The SLTCO is appointed by the United States trustee.
  - ii. The patients involved are otherwise within the jurisdiction of the Office.
  - iii. The SLTCO determines that serving as a Patient Care Ombudsman will not significantly impact the ability of the LTCOP to perform its other duties.

## References

OAA § 712(a)(3),(d); O.C.G.A. § 31-8-58; 11 USC § 333(a)(2)(B)

### 303.3 State Ombudsman responsibilities to Ombudsman Representatives

The SLTCO shall provide to Ombudsman Representatives:

- a. Certification training and ongoing training in accordance with the Certification Requirements for Ombudsman Representatives ([Appendix B](#)).
- b. Program management and development to enable the local Ombudsman entity to fulfill the Program Components ([III-100](#)).
- c. Technical assistance and supervision as needed related to complaint handling, issues advocacy, and other LTCOP services.
- d. Timely review, comment, and approval of the local Ombudsman entity Annual Plan ([III-100.1, b, i](#)).
- e. Monitoring and evaluation of the statewide LTCOP.

## References

OAA § 712(a)(3)(F); O.C.G.A. § 31-8-52

### 303.4 State Ombudsman responsibilities to the provider agency

The SLTCO shall provide to the provider agency:

- a. Administrative and technical assistance to assist the provider agency in its support of the LTCOP, including:
  - i. Information and resources to assist the provider agency in supporting and promoting the LTCOP.
  - ii. Statewide LTCOP data and data analysis.
  - iii. Assistance with monitoring the Ombudsman Representatives.
- b. Assistance with screening Ombudsman Representative applicants, including:
  - i. Providing a conflict of interest screening tool.
  - ii. Timely response to requests for review of applications and for minimum qualification substitutions.
  - iii. Participation in interviews of applicants as members of an interviewing team at the provider agency's request.
- c. Assistance with job performance review as requested by the provider agency.
- d. Assistance with arrangements for temporary provision of LTCO services when Ombudsman Representatives of the provider agency are unavailable, or an Ombudsman Representative staff position is vacant.

## References

OAA § 712(a)(3)(F)

## 304 Area Agency on Aging

### Policy

Where the area agency on aging serves as the provider agency, it is responsible for assuring the provision of LTCO services in its service area in accordance with Provider Agency Policy (see [II-305](#)). Where the area agency on aging is not the provider agency, the area agency on aging shall support the provision of Ombudsman Representative services in its service area.

### Procedures

#### 304.1 Area Agency on Aging responsibilities

The area agency on aging shall:

- a. Support the LTCOP by:
  - i. Assisting in the development of resources for the operation of the LTCOP, including financial and human resources,
  - ii. Providing opportunities for the LTCOP and other aging and social services organizations to collaborate to promote the health, safety, welfare, and rights of residents,
  - iii. Making appropriate referrals to the LTCOP,
  - iv. Promoting awareness of LTCO services to consumers and the general public within the service area,



- v. Participating in the LTCOP's advisory council where applicable.
- vi. Supporting the LTCOP in issues advocacy on behalf of residents.
- b. Where an AAA provides LTCO services directly, it must also fulfill the responsibilities of a provider agency ([II-305](#)).

## References

OAA §§ 306; 712(a)(4); Office of Aging Procedural Issuance No. 39 (February 13, 1987)

## 305 Provider Agency

### Policy

The provider agency is designated by the SLTCO to house the long-term care ombudsman program and to assure the provision of Ombudsman Representative services in the service area designated by contract with the State agency.

### Procedures

#### 305.1 Provider agency responsibilities

The provider agency shall:

- a. Be the sole provider of LTCO services in the service area designated through contract with the State agency.
- b. Operate the LTCOP in accordance with the provisions of the contract for LTCO services with the State agency.
- c. Assure that the LTCOP performs the Program Components ([III-100](#)).
- d. Require the Ombudsman Representative Coordinator to submit a LTCOP Annual Plan ([III-100.1, a, i](#)), to the area agency on aging, if applicable, and to the SLTCO for approval.
- e. Provide an Ombudsman Representative Coordinator, who:
  - i. Meets the applicable minimum qualifications (see [II-203.2](#)).
  - ii. Has no duties in the agency outside the scope of the LTCOP.
  - iii. Is employed full time.
- f. Provide resources for Ombudsman Representative staff and/or volunteers in addition to the Ombudsman Representative Coordinator as necessary to:
  - i. Fulfill the Program Components ([III-100](#)),
  - ii. Maintain or exceed the level of services provided in the service area during the previous fiscal year; Such staff shall meet the applicable minimum qualifications (see [II-203.3](#)).
- g. Assure that LTCOP data is provided to the OSLTCO in the format required by the State agency and in a timely manner.
- h. Prohibit inappropriate access to LTCO files, records, or other information located with the provider agency ([II-500](#)).
- i. Assure Ombudsman Representatives attendance at certification training and all statewide

LTCOP trainings.

- j. Provide professional development opportunities for Ombudsman Representatives.
- k. Provide administrative support as needed for the operation of the LTCOP such as custodial, fiscal management, clerical, technology support, and telephone coverage.
- l. Provide the Ombudsman Representative Coordinator with information about and opportunity to make requests regarding the use of funds designated for LTCOP use.
- m. Request a waiver from the SLTCO if, due to demonstrable and unusual circumstances, it anticipates it will be unable to comply with any of these responsibilities.
- n. Perform each of its responsibilities in administering the LTCOP in accordance with all applicable federal and state law, regulations, and policies.

## References

OAA §§ 306; 712(a)(4), (5)(A)

## 306 Long-Term Care Ombudsman Representative

### Policy

An Ombudsman Representative is designated by the SLTCO as a representative to provide LTCOP services in the service area designated in the provider agency contract. An Ombudsman Representative may be employed by the provider agency or serve as a volunteer.

### Procedures

#### 306.1 Ombudsman Representative general responsibilities

Ombudsman Representatives are responsible for:

- a. Providing Ombudsman Representative services to protect the health, safety, welfare, and rights of residents in accordance with the provisions of the federal and state laws governing the LTCOP and with the provisions of the provider agency contract for LTCOP services.
- b. Fulfilling the Program Components ([III-100](#)).
- c. Documenting LTCOP activities and case work in OmbudsManager as required by the SLTCO.
- d. Adhering to the Ombudsman Code of Ethics ([Appendix A](#)).
- e. Prohibiting inappropriate access to LTCOP files, records, or other information in the possession of the local Ombudsman entity (see [II-500](#)).
- f. Carrying out other activities that the SLTCO deems appropriate.
- g. Performing each responsibility in accordance with all applicable federal and state law, regulations, and policies and OSLTCO Policies and Procedures.

#### 306.2 Ombudsman Representative Coordinator responsibilities

Within the relevant LTCOP, the Ombudsman Representative Coordinator is responsible for:

- a. Overall management and development of the LTCOP, including knowledge of and opportunity to

make requests regarding the use of funds designated for LTCOP use.

- b. Supervision of all other Ombudsman Representatives and/or volunteers, Volunteer Visitors, Associate Certified Ombudsman Volunteers and Senior Certified Ombudsman Volunteers.
- c. Assuring that non-certified staff and volunteers work under the direct supervision of a certified Ombudsman Representative and do not process complaints.
- d. Ensuring that administrators of long-term care facilities in the service area are aware of the names and contact information for the Ombudsman Representatives assigned to serve residents of the facility. This requirement may be met through communication by letter, phone call, e-mail, or visit to the facility. The Coordinator shall ensure that this information is updated due to change in staff or volunteer assignment or withdrawal of designation of an Ombudsman Representative.
- e. Submitting to the SLTCO and provider agency a LTCOP Annual Plan ([III-100.1, b, i](#)) for each fiscal year indicating program goals and objectives relating to the Program Components ([III-100](#)) and other program activities.
- f. Assuring that the LTCOP satisfactorily accomplishes Program Component performance goals in the local Ombudsman entity LTCOP Annual Plan.
- g. Arranging, in consultation with the SLTCO, for provision of LTCO services in the service area when the LTCOP is temporarily unable to provide coverage.
- h. Regularly reporting on Ombudsman Representative activities as required by the provider agency, and SLTCO, including:
  - i. Assuring that accurate data is provided in a timely manner.
  - ii. Regularly reviewing summary reports to check for accuracy in data entry.
  - iii. Regularly comparing local Ombudsman entity LTCOP complaint and activity data with statewide statistics and the local Ombudsman entity LTCOP Annual Plan for use in program management (see [III-100.1](#)).
- i. Developing procedures for daily operation of the LTCOP, including procedures for documenting and filing documents related to complaint investigations.

### **306.3 Responsibilities of staff and volunteers not designated as Ombudsman Representatives**

Persons who are either hired or have volunteered for the LTCOP, but who have not completed the requirements for designation as an Ombudsman Representative, may provide LTCOP services as follows:

- a. Non-designated staff and volunteers may assist in the provision of LTCOP services under the direct supervision of a designated Ombudsman Representative. They may not have sole responsibility for the provision of any LTCOP service and may only participate in complaint processing by assisting Ombudsman Representative staff with specific, limited functions.
- b. Only designated Ombudsman Representatives may process complaints. If the Ombudsman Representative Coordinator is the only staff person, he/she shall work towards completion of certification and, until certified as an Ombudsman Representative, is responsible to request SLTCO supervision for the processing of all complaints.

## References

OAA § 712(a)(5); O.C.G.A. §§ 31-8-50 *et seq*

## 400 Conflicts of Interest

**How to use this Chapter** – This Chapter provides guidance in: 1) identifying and defining actual and potential conflicts of interest, 2) avoiding conflicts of interest, 3) remedying conflict where appropriate, and 4) describing consequences of operating a Long-Term Care Ombudsman Program with an unremedied conflict of interest.

When a conflict has been identified under [II-401](#), the reader should use the procedures set forth in [II-402](#) to determine whether the conflict can be sufficiently remedied to permit the provision of Ombudsman Representative services.

### Policy

The organizational placement of the Long-Term Care Ombudsman Program (LTCOP) and the individuals who carry out the duties of the Program must be free from conflicts of interest.

### Procedures

- [401 Identifying the Conflict](#)
- [402 Remediating Conflict](#)
- [403 Procedures to Avoid Conflicts of Interest](#)
- [404 Failure to Identify or Remedy a Conflict of Interest](#)

### 401 Identifying the Conflict

#### 401.1 Definitions of conflict of interest

- a. 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. Types of conflict of interest include:
  - i. **Conflicts of loyalty** – incentives, often related to financial or employment considerations, that shape one’s judgment or behavior in ways that are contrary to the interest of residents.
  - ii. **Conflicts of commitment** – goals or obligations that direct one’s time and/or attention away from the interest of residents
  - iii. **Conflicts of control** – limitations or restrictions that effectively foreclose one’s ability to take actions to advocate for the interest of residents.

#### 401.2 Organizational conflicts

Conflicts arising from organizational location include, but are not limited to, LTCOP placement in an agency which:

- a. Has an ownership or investment interest (represented by equity, debt, or other financial rela-

tionship) in, or receives grants or donations from, a long-term care facility or a long-term care service. (45 C.F.R. § 1324.21(a)(3))

- b. Provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care facilities or the operation of programs which control access to or services for long-term care facilities. (45 C.F.R. § 1324.21(a)(5))
- c. Operates programs with responsibilities conflicting with LTCOP responsibilities. Examples of such responsibilities include developing and carrying out care plans, and serving as guardian or conservator of long-term care residents.
- d. Has governing board members with ownership, investment or employment interest in long-term care facilities. (45 C.F.R. § 1324.21(a)(4))
- e. Has direct involvement in the licensing, surveying or certification of a long-term care facility or long-term care services. (45 C.F.R. § 1324.21(a)(1))
- f. Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities. (45 C.F.R. § 1324.21(a)(2))
- g. Provides long-term care coordination or case management for residents of long-term care facilities. (45 C.F.R. § 1324.21(a)(6))
- h. Sets reimbursement rates for long-term care facilities. (45 C.F.R. § 1324.21(a)(7))
- i. Provides Adult Protective Services. (45 C.F.R. § 1324.21(a)(8))
- j. Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities. (45 C.F.R. § 1324.21(a)(9))
- k. Conducts preadmission screening for long-term care facility placements. (45 C.F.R. § 1324.21(a)(10))
- l. Makes decisions regarding admission or discharge of individuals to or from long-term care facilities. (45 C.F.R. § 1324.21(a)(11))
- m. Provides guardianship, conservatorship or other fiduciary or surrogate decision-making services for residents of long-term care facilities. (45 C.F.R. § 1324.21(a)(12))

#### **401.3 Individual OR conflicts**

Conflicts for an OR include, but are not limited to, the following:

- a. Employment of an individual or a member of his/her immediate family within the previous year by a long-term care facility in the service area or by the owner or operator of any long-term care facility in the service area. (45 C.F.R. § 1324.21(c)(2)(iii))
- b. Participation in the management of a long-term care facility by an individual or a member of his/her immediate family. (45 C.F.R. § 1324.21(c)(2)(iii))
- c. Ownership, operational or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility or long-term care service by an individual or a member of his/her immediate family. (45 C.F.R. § 1324.21(c)(2)(ii))
- d. Involvement in the licensing or certification of a long-term care facility or provision of a long-term care service by an individual or a member of his/her immediate family. (45 C.F.R. § 1324.21(c)(2)(i))

- e. Receipt of, or right to receive, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility by an individual or a member of his/her immediate family. (45 C.F.R. § 1324.21(c)(2)(iv))
- f. Accepting any gifts or gratuities of significant value from a long-term care facility or its management, or resident or resident representative of a long-term care facility in which the Ombudsman or OR provides services (except where there is a personal relationship with a resident or resident representative which is separate from the individual's role as Ombudsman or OR. (45 C.F.R. § 1324.21(c)(2)(v))

**NOTE**

An OR should adequately compensate a facility for food provided by the facility with the exception of sample portions of food tested as part of an investigative process.

- g. Accepting money or any other consideration from anyone other than the Office or other entity designated by the Office of the State Long-Term Care Ombudsman (OSLTCO) for the performance of an act in the regular course of an OR's duties without Ombudsman approval. (45 C.F.R. § 1324.21(c)(2)(vi))

**NOTE**

This provision does not prohibit a LE from obtaining grants, donations or other funding for the LTCOP from entities without conflicts of interest.

- h. Provision of services with conflicting responsibilities while serving as an OR, such as adult protective services; discharge planning; serving as guardian or conservator, agent under power of attorney, or other surrogate decision-maker for a long-term care resident in the service area; pre-admission screening; or case management for long-term care residents. (45 C.F.R. § 1324.21(c)(2)(vii))
- i. Serving residents of a facility in which an immediate family member resides. (45 C.F.R. § 1324.21 (c)(2)(viii))
- j. Participating in activities which:
  - i. Negatively impact on the ability of the OR to serve residents.
  - ii. Are likely to create a perception that the OR's primary interest is other than as a resident advocate (see [II-403.3](#)). (45 C.F.R. § 1324.21)

## 402 Remediating Conflict

### 402.1 General

#### a. Notification of the SLTCO

Where an actual or potential conflict of interest within the LTCOP has been identified, the SLTCO shall be notified in writing. All agents of the Department of Human Services, area agencies on aging (AAAs), LEs, and ORs have a duty to notify the SLTCO of any actual or potential conflict of interest of which they have knowledge. (45 C.F.R. § 1324.21(b))

- b. The SLTCO shall determine whether appropriate actions may be taken to sufficiently remedy

the conflict. A conflict can be sufficiently remedied only where the existence of the conflict does not interfere with any duties of the LTCOP and where the conflict is not likely to alter the perception of the LTCOP as an independent advocate for residents.

#### **402.2 Remediating organizational conflicts**

Where organizational conflicts have been identified, the following steps shall be taken where the conflict can be sufficiently remedied:

- a. A written remedial plan shall be developed within thirty (30) calendar days of identification of the conflict to the SLTCO.
- b. The remedial plan must identify the conflict and provide assurances which shall minimize to the greatest extent possible the negative impact of the conflict on the LTCOP. Examples of such assurances could include, but are not limited to:
  - i. The LTCOP will investigate complaints in an unbiased manner and independently determine actions to be taken in their resolution.
  - ii. No agency employee or governing board member with a conflict of interest will be involved with or influence any decision to hire or terminate the employment of an OR. (45 C.F.R. § 1324.21(b(2))(iv))
  - iii. Governing board members of the LE or AAA who have a conflict of interest:
    - A. Must disclose the conflict to the governing board and to the SLTCO.
    - B. May have no involvement with OR activities concerning the entity which is the source of the conflict.
    - C. Must abstain from voting on issues related to the operation of the LTCOP.
  - iv. The agency's policies and procedures adequately set forth procedures to remedy conflicts of interest and ensure that the ORs can fulfill their duties without interference.
  - v. A memorandum of agreement exists between the LTCOP and another program which provides services with conflicting responsibilities. Such a memorandum must adequately set forth the roles, responsibilities, and appropriate working relationships of the respective programs.
- c. The remedial plan must be mutually agreed upon and signed by the agency in which the conflict exists and the SLTCO. If either party cannot agree to the plan, the conflict has not been sufficiently remedied.

#### **402.3 Remediating individual OR conflicts**

Where individual conflicts have been identified, the following steps shall be taken where the conflict can be sufficiently remedied:

- a. **Development of a written remedial plan**
  - i. Where the individual is an applicant for a position as an OR, a plan shall be developed before the individual is hired for the position. (45 C.F.R. § 1324.21(d)(2))
  - ii. Where the individual is an applicant as an OR volunteer, a plan shall be developed before the individual takes any actions on behalf of the LTCOP.

- iii. Where the individual is an OR staff or volunteer, a plan shall be developed within thirty (30) calendar days of identification of the conflict to the SLTCO. (45 C.F.R. § 1324.21(d)(2)(iv))
- b. The remedial plan must identify the conflict and provide assurances which shall minimize to the greatest extent possible the negative impact of the conflict on the LTCOP. An example of such an assurance could include:
  - i. Prohibiting the OR with a conflict of interest from serving the residents of the facility with which he/she has a conflict and arranging for another staff OR to serve those residents. Where appropriate, this arrangement could be time limited.
- c. The remedial plan must be mutually agreed upon and signed by:
  - i. The LE, the OR or applicant with the conflict of interest.
  - ii. The ORC.
  - iii. The SLTCO.
- d. Volunteer Visitors are not permitted to serve residents in facilities with which they have a conflict of interest. The SLTCO may delegate to an ORC the authority to:
  - i. Consider the conflicts of interest of an individual who wishes to serve as a Volunteer Visitor.
  - ii. Determine whether conflicts exist which may impede the ability of the Volunteer Visitor to fulfill the duties of that position or may alter the perception of the LTCOP as an independent advocate for residents. If such a conflict exists, the individual cannot serve as a Volunteer Visitor.

## **403 Procedures to Avoid Conflicts of Interest**

### **403.1 Persons seeking certification as an OR**

#### **a. Identification of the conflict**

The LE shall screen all persons seeking certification as an OR staff or volunteers to identify any actual or potential individual conflicts of interest. Upon request by the SLTCO, the LE shall submit evidence of such screening to the SLTCO. The SLTCO may periodically request the LE to perform a conflict of interest screen of currently certified OR staff or volunteers.

#### **b. Disclosure of the conflict**

All persons seeking employment or certification as an OR or volunteer shall disclose to the LE all information relevant to past employment, membership, or interests that may affect, or could reasonably be expected to affect, that individual's ability to carry out duties of an OR without conflicting interests.

### **403.2 Persons seeking to become Volunteer Visitors**

#### **a. Identification of the conflict**

The ORC shall screen all persons applying to become Volunteer Visitors to identify any actual or potential individual conflicts of interest.

#### **b. Disclosure of the conflict**



All persons applying to become Volunteer Visitors shall disclose to the ORC all information relevant to past employment, membership, or interests that may affect, or could reasonably be expected to affect, that individual's ability to carry out duties of a Volunteer Visitor without conflicting interests.

#### **403.3 OR involvement in activities**

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

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

#### **404 Failure to Identify or Remedy a Conflict of Interest**

- a. Failure on the part of an OR, LE, or AAA to identify and report to the SLTCO a known conflict of interest shall be sufficient grounds for refusal to designate, suspension of designation, or de-designation of the LE or the OR ([II-200](#)).
- b. Existence of an unremedied conflict of interest shall be sufficient grounds for the de-designation of the LE ([II-202](#)).
- c. Existence of an unremedied conflict of interest shall be sufficient grounds for the suspension of or de-designation of the OR ([II-204](#)).

#### **References**

OAA § 712(a)(5)(C)(ii), (f); IOM Report, pp. 101-127

## **500 Confidentiality and Release of Long-Term Care Ombudsman Information**

### **Policy**

Information and records of the Long-Term Care Ombudsman Program (LTCOP) in any format including, but not limited to, written or electronic, related to individual residents and complainants shall be confidential and shall be disclosed only in limited circumstances specifically provided by applicable law and these procedures.

### **Procedures**

- [501 Access to Long-Term Care Ombudsman Information](#)
- [502 Requests for Information Related to Specific Cases](#)

## **501 Access to Long-Term Care Ombudsman Information**

### **501.1 State Ombudsman access**

All Long-Term Care Ombudsman Program (LTCOP) information and records including case files, activity and complaint logs, and related information, are the property of the Office of the State Long-Term Care Ombudsman (OSLTCO). The State Long-Term Care Ombudsman (SLTCO) or designee has access to all such LTCOP records at all times for any purpose.

### **501.2 Ombudsman Representative (OR) access**

- a. Each OR has access to records of the local Ombudsman (LE) entity for which he or she serves.
- b. For the purpose of providing temporary coverage for another LE, an OR may have access to the LTCOP records of any other local Ombudsman entity to the extent necessary to provide such coverage.

### **501.3 The State agency, and LEs**

- a. For purposes of monitoring and supervising the LTCOP, the State agency as a part of the Georgia Department of Human Services and the relevant LE may review reports which reflect the activities and aggregate complaint processing information of the LTCOP, including activity reports and complaint summary reports. The State agency, AAA, or LE may not review records which disclose or imply the identity of any resident or complainant.
- b. No state agency, AAA, or LE may require an OR to disclose the identity of a complainant or resident except as specifically provided by these procedures.

### **501.4 Access to OR aggregate information by all other persons or entities**

- a. OR information can be helpful to consumers making decisions about placement in a long-term care facility, other agencies with responsibilities to residents of long-term care facilities, researchers, and other parties.
- b. Aggregate information of OR activities performed, or complaint processing information may be provided by an OR upon request to any party with the following limitations:
  - i. Complaint histories may include the type of issue investigated and whether or not the OR verified the complaint. However, information which could be used to identify a specific complaint or resident cannot be provided, including specific dates, resident-identifying information, or complainant-identifying information.
  - ii. When providing a complaint history of a specific facility, the information must:
    - A. Relate to only those complaints for which investigation findings are complete (not ongoing).
    - B. Include complaints received at the facility during a period of one year or more, in order to avoid identification of specific complaints.

### **501.5 Duty of ORC to maintain OR records**

- a. The ORC shall maintain OR case files and other written records pertaining to OR complaint processing and activities in an organized fashion so that records can be readily retrieved as needed

by the SLTCO or designee.

- b. Case records maintained by the LTCOP may not be released, disclosed, duplicated, or removed by anyone who is not an OR or volunteer without the written permission of the SLTCO.
- c. The ORC shall retain case files and other written records for a minimum of the previous six state fiscal years and the current state fiscal year. Destruction of records should be done in a manner that will protect resident and complainant confidentiality (e.g., shredding). In determining whether to maintain records past six fiscal years and the current state fiscal year, the ORC should consider whether other sources for the information may exist and whether a case file might be needed for future reference.

#### **501.6 Maintaining security and confidentiality of information**

*All parties responsible for providing OR services or supporting the LTCOP, shall make every effort to maintain the security and confidentiality of any contacts made to the LTCOP or any OR, complaint-related information, regardless of whether the contacts are made in person, on the telephone, by facsimile, by written correspondence, by e-mail, or by any other means.*

For example communications of resident-specific information should not be shared over e-mail or other electronic means unless adequate security measures have been taken to protect the security of the communications.

#### **References**

OAA § 712 (d); O.C.G.A. §§ 31-8-56 to -58; DAS Procedural Issuance No. 88;

#### **502 Requests for Information Related to Specific Cases**

- a. The OR shall not confirm or deny to another party whether a particular resident or complainant made contact with the LTCOP without the permission of the resident or complainant.
- b. Where a request is made for OR information related to a specific case, the SLTCO or designee shall be contacted for determination of whether disclosure is appropriate. Requests made under the Georgia Open Records Act or rules of discovery for litigation shall be subject to federal requirements limiting the disclosure of information by the LTCOP.
- c. The SLTCO or designee shall determine whether to disclose all or part of the records as follows:

- i. **Written**

The SLTCO shall require that the request be made in writing and may require a copy of the request before determining the appropriate response. Where the request is made orally or by the use of auxiliary aids and services or visually by a resident, complainant, or legal representative of the resident or complainant, the request must be documented immediately and filed as an OR record by the OR to whom consent was communicated in order to meet this requirement.

- ii. **Resident wishes/interest**

The SLTCO shall review the request with the relevant LTCOP to determine whether the release of all or part of the records would be consistent with the wishes or interest of the relevant resident(s). SLTCO shall determine whether any part of the records should be redacted (i.e. all identifying information removed). The identities of residents or complainants who

have not provided express consent for the release of their names shall not be revealed. Such consent must be in writing or made orally, and documented immediately and filed as an OR record by the OR to whom consent was communicated.

### iii. Removal of identity of residents or complainants

The SLTCO shall determine whether any part of the records should be redacted (i.e. all identifying information removed). The identities of residents or complainants who have not provided express consent for the release of their names shall not be revealed. Express consent must be in writing or through the use of auxiliary aids and services or communicated orally or visually, documented immediately and filed as an OR record by the OR to whom consent was communicated.

### iv. Source of request

The SLTCO or designee shall consider the source of the request as follows:

*Table II-A LTCO Records: Source of Request*

IF the request for Ombudsman Representative records is made by...	THEN the SLTCO or designee shall...
a resident	release any records generated by the OR which are directly relevant to that resident provided that the identity of other residents or complainants is redacted.
a complainant or by the legal representative of a complainant or resident	<p>release any records generated by the OR which are directly relevant to that resident or complainant provided that:</p> <ul style="list-style-type: none"> <li>i. the SLTCO has no reason to believe that the release shall be in conflict with the wishes or interest of the relevant resident, and</li> <li>ii. the identity of other residents or complainants is redacted.</li> </ul>
another agency or program	<p>release the records only if:</p> <ul style="list-style-type: none"> <li>i. the resident has provided consent (if the resident is unable to provide consent, the resident's legal representative may provide consent.) and</li> <li>ii. the identities of residents or complainants who have not provided consent for the release of their names are not revealed.</li> </ul> <p><b>NOTE</b> where federal requirements conflict with Georgia law, the federal requirements take precedence.</p>

IF the request for Ombudsman Representative records is made by...	THEN the SLTCO or designee shall...
a judge	<ul style="list-style-type: none"> <li>i. release any records directly responsive to a court order, and</li> <li>ii. provide an explanation to the court regarding the importance of not revealing the identity of residents and complainants and/or requesting the court to seal the OR records where the SLTCO determines that the release of records would be inconsistent with the wishes or interest of the resident.</li> </ul>
any other party	<p>release the records only if:</p> <ul style="list-style-type: none"> <li>i. the resident has provided consent (if the resident is unable to provide consent, the resident's legal representative may provide consent) and</li> <li>ii. the identities of residents or complainants who have not provided consent for the release of their names are not revealed.</li> </ul>

v. **type of request** — The SLTCO or designee shall consider the type of request as follows:

*Table II-B LTCO Records: Type of Request*

IF the request was made as...	THEN the SLTCO shall...
a general written request (e.g., a letter)	follow the steps II-502, b, i)-iv), above.
a formal discovery request	<ul style="list-style-type: none"> <li>i. follow the steps II-502, b, i)-iv), above,</li> <li>ii. obtain appropriate legal counsel, and</li> <li>iii. provide legal counsel with information sufficient to object to requests which would require revealing the identities of residents or complainants.</li> </ul>
an open records act request	<ul style="list-style-type: none"> <li>i. follow the steps II-502, b, i)-iv), above; and</li> <li>ii. respond according to the procedures set forth in the Georgia Open Records Act.</li> </ul> <div style="background-color: #f0f0f0; padding: 10px; margin-top: 10px;"> <p><b>NOTE</b> Where federal requirements conflict with Georgia law, the federal requirements take precedence.</p> </div>
a subpoena	<ul style="list-style-type: none"> <li>i. follow the steps II-502, b, i)-iv), above; and</li> <li>ii. make a court motion to quash the subpoena where the SLTCO determines that the release of records would be inconsistent with the wishes or interest of the resident.</li> </ul>
a court order	<ul style="list-style-type: none"> <li>i. release any records directly responsive to the order; and</li> <li>ii. provide an explanation to the court regarding the importance of not revealing the identity of residents and complainants and/or requesting the court to seal the LTCO records where the SLTCO determines that the release of records would be inconsistent with the wishes or interest of the resident.</li> </ul>

## References

OAA § 712 (d); O.C.G.A. § 31-8-58; DAS Procedural Issuance No. 88; O.C.G.A. § 50-18-70

## 600 Legal Counsel for the Long-Term Care Ombudsman Program

### Policy

Ombudsman Representatives shall have access to adequate legal counsel.

### Procedures

- [601 Adequate Legal Counsel](#)
- [602 Provision of Legal Counsel](#)
- [603 Obtaining Legal Counsel](#)

#### 601 Adequate Legal Counsel

The State agency of the Department of Human Services shall assure the provision of adequate legal counsel, without conflict of interest, including:

- a. Advice and consultation services needed to protect the health, safety, welfare, and rights of residents, and assistance to the Office of the State Long-Term Care Ombudsman (OSLTCO), the State Long-Term Care Ombudsman (SLTCO) and Ombudsman Representatives in the performance of their official duties.
- b. Representation in an actual or threatened legal action against any Ombudsman Representatives brought in connection with the performance of their official duties.

#### 602 Provision of Legal Counsel

Legal counsel is available as follows:

*Table II-C Legal Counsel*

Party	Advice/Consultation	Representation
SLTCO	<ul style="list-style-type: none"><li>• Resident issues: Elderly Legal Assistance Program (ELAP)</li><li>• Program operation: ELAP, The State agency Legal Counsel, Law Department</li></ul>	<ul style="list-style-type: none"><li>• If no conflict of interest: Law Department, through the Department of Human Services</li><li>• If conflict of interest: Independent attorney</li></ul>
Ombudsman Representative	SLTCO, The State agency Legal Counsel, ELAP	Independent attorney
Residents	ELAP	ELAP

#### 603 Obtaining Legal Counsel

##### 603.1 Office of the State Long-Term Care Ombudsman

- a. For the SLTCO to obtain advice and consultation, the SLTCO or designee may:
  - i. Consult with the State agency Office of General Counsel for programmatic legal issues.

- ii. Consult with the Legal Services Developer for resident-related legal issues.
  - iii. Contact the State agency Office of General Counsel for guidance on DHS policy or procedure or other matters for which that office has primary responsibility.
  - iv. Request assistance of the State of Georgia Law Department (Law Department) by following DHS procedures for such requests.
- b. For the SLTCO to obtain representation:
- i. The SLTCO or designee shall advise the State agency Commissioner and Office of General Counsel of the legal action or threatened legal action.
  - ii. The State agency Office of General Counsel shall follow the procedures of the agency to obtain representation from the Law Department for representation for the SLTCO.
  - iii. Where a conflict of interest exists, the SLTCO or designee shall arrange for the provision of legal representation of the SLTCO by an independent attorney. A conflict of interest may be identified by either the Law Department, the State agency Office of General Counsel, the State agency Commissioner, or the SLTCO.
  - iv. The SLTCO or designee shall obtain prior approval from the State agency Commissioner for the State agency expenditures for legal representation.
  - v. The State agency will provide funding for such expenditures.

#### **603.2 Ombudsman Representative**

- a. For legal advice and consultation, an Ombudsman Representative shall request assistance from either:
- i. The SLTCO, which shall assure the provision of advice and consultation for the Ombudsman Representative.
  - ii. The ELAP in the relevant service area if the issue relates to long-term care facility residents.
- b. For an Ombudsman Representative to obtain legal representation:
- i. The Ombudsman Representative shall advise the SLTCO of the legal action or threatened legal action.
  - ii. If the SLTCO determines that the Ombudsman Representative performed his or her duties in good faith, the SLTCO shall authorize the Ombudsman Representative to obtain legal representation as follows:
    - A. The Ombudsman Representative shall identify independent legal counsel. In doing so, the Ombudsman Representative may request the assistance of the SLTCO and/or ELAP in selecting appropriate legal counsel.
    - B. The SLTCO shall obtain prior approval from the State agency Commissioner for State agency expenditures for legal representation. The State agency shall provide state funds to cover such legal representation.
    - C. Legal counsel will not be provided by the State agency to provide defense to criminal charges brought against an Ombudsman Representative.

### **603.3 Area agencies on aging and provider agencies**

The area agency on aging and provider agency shall retain their own legal counsel in any matters related to the LTCOP.

#### **References**

OAA § 712(g)

## **700 Liability**

### **Policy**

An Ombudsman Representative (OR) is immune from liability for the good faith performance of his or her official duties.

### **Procedures**

#### **701 Immunity from Liability**

An OR shall not incur any civil or criminal liability for performing his or her official duties in good faith.

- a. Official duties are those duties of an OR set forth in applicable federal and state law and these policies and procedures. They shall include, but not be limited to, making a statement or communication relevant to receiving a complaint or conducting investigative activity.
- b. Evidence of performing duties in good faith includes, but is not limited to:
  - i. Making every reasonable effort to follow procedures set forth in applicable laws and these policies and procedures.
  - ii. Seeking and making reasonable efforts to follow direction from the Office of the State Long-Term Care Ombudsman (OSLTCO) and the State Long-Term Care Ombudsman (SLTCO).
  - iii. Seeking and making reasonable efforts to follow direction from the relevant Ombudsman Representative Coordinator (ORC).

#### **702 Liability Insurance**

- a. The State agency as a part of the Georgia Department of Human Services does not provide liability insurance or indemnification for area agencies on aging (AAAs) or provider agencies. AAAs and provider agencies should retain their own liability policies.
- b. OR Volunteers may be covered through the blanket liability coverage provided by the State of Georgia.

#### **References**

OAA § 712(i); O.C.G.A. § 31-8-62



## **800 Interference and Retaliation**

### **801 Interference and Retaliation Prohibited**

- a. No person shall willfully interfere with an Ombudsman Representative (OR) in the performance of official duties. “Interference” includes any inappropriate or improper influence from any individual or entity, regardless of the source, which will in any way compromise, decrease, or negatively impact on:
  - i. The objectivity of the investigation or outcome of complaints.
  - ii. The OR’s role as advocate for the rights and interests of the resident.
  - iii. The OR’s work to resolve issues related to the rights, quality of care, and quality of life of residents of long-term care facilities.
  - iv. The OR’s statutory responsibility to provide such information as the Office of the State Long-Term Care Ombudsman (OSLTCO) determines necessary to public and private agencies, legislators, and other persons regarding the problems and concerns of residents and recommendations related to residents’ problems and concerns.
- b. No person shall discriminate or retaliate in any manner against any resident, or relative or guardian/conservator of a resident, any employee of a long-term care facility, or any other person due to filing a complaint with, providing information to, or otherwise cooperating in good faith with an OR.

### **802 Procedures for Reporting Interference or Retaliation**

- a. Any person who has knowledge of such interference or retaliation may report such information to the SLTCO.
- b. The SLTCO shall review the information provided, and conduct further investigation if necessary, to confirm the occurrence of the interference or retaliation.
- c. If the SLTCO, based on such review, determines that enforcement action is warranted, the SLTCO shall pursue the following course of action:
  - i. Where the entity which has interfered or retaliated is a long-term care facility or its staff or agents:
    - A. The SLTCO shall submit a written report of such interference or retaliation to the State agency and to the Department of Community Health (DCH).
    - B. The State agency and the Department of Community Health (DCH) shall investigate the report of the SLTCO in accordance with its procedures for complaint investigation.
    - C. If the State agency and the Department of Community Health (DCH) complaint investigation confirms the occurrence of such interference or retaliation, the DCH has the authority to impose penalties in accordance with its procedures for the imposition of penalties.
  - ii. Where the entity which has interfered or retaliated is an entity other than a long-term care facility or its staff or agents:
    - A. The SLTCO shall report such interference or retaliation to the Director of the State agency at the Department of Human Services.
    - B. Such interference by an individual who is an official or employee of the Department of

Human Services, an area agency on aging, or a provider agency shall be deemed to be a violation of OAA § 705(a).

- C. The State agency Director shall assist the SLTCO in determining appropriate sanctions and assuring that appropriate sanctions are implemented.

## References

OAA § 712(j); O.C.G.A. § 31-8-60

## 900 Grievance Procedure

**How to use this Chapter:** This Chapter sets forth procedures for grievances related to Ombudsman Representative and Office of the State Long-Term Care Ombudsman actions as follows: 1) grievance intake and response, 2) confidentiality, 3) types of grievances, 4) intake procedure, 5) response time frames, and 6) completion of the process. Each section describes how the process works through resolution of the grievance including the process for appeal and the final decision.

## Policy

The Long-Term Care Ombudsman Program (LTCOP) provides a process through which grievances regarding the determinations or actions of the Ombudsman Representatives (OR) or the State Long-Term Care Ombudsman (SLTCO) are addressed. This policy establishes a system for the receiving, assessing, investigating, resolving and completing the processing of grievances.

## Procedures

- [901 General](#)
- [902 Grievance Intake and Response](#)
- [903 Confidentiality](#)
- [904 Types of Grievances](#)
- [905 Intake Procedure](#)
- [906 Response](#)
- [907 Completing the Process](#)
- [908 Training](#)

### 901 General

In order to facilitate an atmosphere in which residents, family members, facility staff persons, Ombudsman Representatives (OR) or others can speak freely and have frank discussions of grievances related to the responsibilities of the SLTCO, its representatives, agents or volunteers, the SLTCO has established the following guidelines. The policies set forth in these guidelines will help ensure that each grievance will receive the attention necessary to resolve it and that appropriate records are kept of each grievance.

## 902 Grievance Intake and Response

The Office of the State Long-Term Care Ombudsman (OSLTCO) is responsible for receiving and acting upon each grievance in accordance with this policy. The person responsible for acting on the particular grievance will:

- a. Clearly explain to the person(s) filing the grievance (aggrieved) what will happen in relation to the information received with special attention given to the Confidentiality provision, below at 903.
- b. Complete the Grievance Intake Form ([Appendix D](#)).
  - i. For grievances received orally, have the aggrieved sign it, if possible.
  - ii. For grievances received in written form, fill out the portion at the bottom of the Grievance Form. If the written grievance is not on the Form, the top two portions of the Grievance Intake Form should be filled out and the written document should be stapled to it.
- c. Deal with the grievance impartially.
- d. Assess the grievance. The person responsible for acting on the grievance shall assess it in consultation with his or her supervisor and must notify the SLTCO of the grievance.
- e. The person against whom the grievance is filed (Respondent) must receive a copy of the allegations and must have a formal opportunity to respond to the allegations in the grievance as noted below.
- f. Investigate the situation as necessary, including a formal interview with the aggrieved, the Respondent, and other parties as the investigator deems appropriate.
- g. Prepare a preliminary report with recommendations, provided to the Respondent.
- h. Allow time for the Respondent to file a response to the report and recommendations.
- i. Resolve the grievance including sending a final report to the aggrieved, the Respondent and the SLTCO.
- j. Complete the grievance process.

*Table IX-A Responsibility for Grievance Intake*

IF the grievance is against	THEN the grievance is filed with
an OR volunteer for the OR or SLTCO	supervisor of the volunteer
an OR	the Ombudsman Representative Coordinator responsible for that OR
an OR Coordinator	the SLTCO
the SLTCO	the State Unit on Aging Director or his/her designee. The State Unit on Aging Director shall request the Long-Term Care Ombudsman Program Advisory Council Chairperson to appoint a committee to act as the designee if the State Unit on Aging Director wishes to appoint a designee.

### NOTE

In order to resolve the grievance, the aggrieved party must be identified. The individual with whom the grievance is filed and the individual investigating the grievance shall take necessary and reasonable steps to ensure that the confidentiality of the grievance will be maintained except as to those who are involved in the cir-

cumstances of the grievance, including the resident, if a resident is involved. If the grievance concerns a resident, all rules related to confidentiality as stated in [section 500](#) of the State Long-Term Care Ombudsman Policy Manual apply and **the SLTCO must be consulted**.

### 903 Confidentiality

Confidentiality – because the purpose of a grievance is to resolve a specific issue between an aggrieved party and another individual, no confidentiality protection exists for the individuals who are involved with respect to those investigating the matter of the grievance. Release of information regarding the situation will be limited to only those directly involved in the grievance and the investigation of the grievance. If the grievance concerns a resident, all rules related to confidentiality as stated in [section 500](#) of the State Long-Term Care Ombudsman Policy Manual apply **and the SLTCO must be consulted**. For individuals involved in the situation, confidentiality will be maintained to the extent possible in conducting a thorough investigation. Once the investigation is complete, the results have been communicated and the grievance has been resolved, the records will be filed confidentially. Records relating to each grievance are the property of the SLTCO and may only be released in accordance with the record release policies of the SLTCO as stated in [section 502](#) under the Confidentiality heading of the Policy Manual.

*Table IX-B Confidentiality of Information Relating to Grievances*

IF the request was made related to	THEN the investigator shall...
a grievance regarding an action of a volunteer	<ul style="list-style-type: none"> <li>i. Consult with the SLTCO before any records are viewed.</li> <li>ii. Confer with the SLTCO about the importance of not revealing the identity of residents and complainants and emphasizing the confidentiality of all of the records involved.</li> <li>iii. Divulge only the information that is absolutely necessary to investigate and to try to resolve the grievance.</li> <li>iv. Divulge information only to those directly involved with the grievance.</li> </ul>
a grievance regarding an action of a OR	follow steps i) - iv) above.
a grievance regarding an action of an OR Coordinator of the SLTCO	follow steps i) - iv) above.
a grievance regarding a determination of the SLTCO	the SLTCO shall determine if any records relating to the situation that is the subject of the grievance may be reviewed by the investigating party.
an appeal regarding a decision of an OR regarding a grievance concerning a volunteer	the OR Coordinator shall follow steps i) through iv) above.
an appeal regarding a decision of an OR Coordinator regarding a grievance concerning a volunteer or an OR	the SLTCO shall follow steps i) through iv) above.

### 904 Types of Grievances

The following table explains with whom a grievance should be filed based on the type of grievance.

*Table IX-C Types of Grievances*

<b>A Grievance may be filed by</b>	<b>About</b>	<b>Against</b>	<b>With Whom</b>
a resident, a family member, a facility staff person	an action of	a volunteer	the supervising OR
a resident, a family member, a facility staff person, another OR	an action of	an OR	the OR Coordinator for that OR against whom a grievance is filed
a resident, a family member, a facility staff person, an OR, another OR Coordinator	an action of	the OR Coordinator	the STLCO
a certification candidate, an OR, an OR Coordinator, a Local Entity	an action or determination regarding Certification of an OR or the Designation or Withdrawal of Designation of a Program. Such action is subject to the designation and de-designation reconsideration policy as described in Policies and Procedures <a href="#">Part II Chapter 200</a> .	the SLTCO	Director of the State Unit on Aging*  *Notwithstanding the grievance process, the SLTCO shall make the final determination to designate or to refuse, suspend or remove designation of a local Ombudsman entity or OR.
an OR, an OR Coordinator, a Program	an action or determination by OSLTCO staff	OSLTCO staff	the SLTCO
<b>An Appeal may be filed by</b>	<b>When</b>		<b>With Whom</b>
an Aggrieved or Respondent	the aggrieved or the respondent is not satisfied with the outcome of the grievance and respondent is a volunteer or OR	an appeal may be filed with	the OR Coordinator of the volunteer
an Aggrieved or Respondent	the aggrieved or the respondent is not satisfied with the outcome of the grievance and respondent is the OR Coordinator	an appeal may be filed with	the STLCO
an Aggrieved or Respondent	the aggrieved or the respondent is not satisfied with the outcome of the grievance and respondent is OSLTCO staff	an appeal may be filed with	the SLTCO

## 905 Intake Procedure

The intake procedure for grievances is as follows:

### a. Grievance

The Grievance Intake Form shall be completed by a certified OR. The grievance may be made in writing or orally. Those filing grievances are encouraged to file them in writing. This can help to avoid any confusion or misinterpretation. In some situations it may be impossible or undesirable for a grievance to be filed in writing. If a report is made orally, the person receiving it must complete the Grievance Intake Form and if possible, obtain the signature of the aggrieved to verify the information. A copy of the grievance form (signed or unsigned) must be faxed to the SLTCO. The primary investigator (OR or SLTCO) shall keep a copy of the grievance form in accordance with the record retention policies of the SLTCO as stated in [section 501.5](#) under the Confidentiality heading of this Policy Manual.

## b. Appeal

In the event that the grievance is not resolved to the satisfaction of the aggrieved, appeal may be filed in accordance with these policies. An appeal must be made within fourteen (14) days from the completion of the grievance process. The appeal may be made in writing or orally. Those filing appeals are encouraged to file them in writing. This can help to avoid any confusion or misinterpretation. Situations may arise in which it is impossible or undesirable for an appeal to be filed in writing. If an appeal is made orally, the person responsible for acting on the appeal must make written notation of the appeal on the back of the initial Grievance Intake Form and if possible obtain the signature of the appellant to verify the notation. A copy of the appeal form (signed or unsigned) must be faxed to the SLTCO. The LE entity shall keep a copy of the grievance form in accordance with the record retention policies of the OSLTCO as stated in [section 501.5](#) of the Policy Manual.

## c. Method

In order to facilitate a thorough investigation of the grievance, when filing a grievance, the aggrieved must give his or her name and contact information. When filing a grievance or appeal, it is best to file it with the person responsible for investigating it, however any grievance or appeal can be filed directly with the SLTCO. Any grievance or appeal filed with the SLTCO for which the SLTCO does not have primary investigative responsibility will be forwarded to the appropriate party prior to any further action by the SLTCO. Although writing is encouraged, a grievance or appeal may be filed using any of the following methods:

- i. By U.S. mail – a grievance may be sent to the party responsible for investigating the grievance in written form to the address listed in the grievance material. The grievance form should contain the name of the person against whom the grievance is being filed, the date of the incident(s) and as much information as necessary to apprise the responsible party of the details of the grievance. The Grievance Intake Form is available on the SLTCO website. The form is also located in [Appendix D](#) of this Policy Manual. An appeal should be sent to the person responsible for considering the appeal and may also be sent to the SLTCO.
- ii. By fax – a grievance should be faxed to the person responsible for considering the appeal and may also be faxed to the SLTCO using the phone number provided on the grievance material.
- iii. By Internet – a grievance can be filed using the SLTCO website.
- iv. By phone - grievances against a volunteer or OR can be made by calling the OR Coordinator's office. Grievances against an OR Coordinator may be made by calling the SLTCO's phone number. An appeal can be made by calling the party responsible for considering the appeal or may be made by calling the SLTCO's phone number.
- v. Grievances against the SLTCO must be made in writing and by sending the written grievance to the Director of the State Unit on Aging via fax, internet or U.S. mail.

## 906 Response

All grievances or appeals shall be resolved expeditiously.

### 906.1 Time limits for filing

In general, the time limit for filing a grievance action will be seven (7) days from date of the incident which is the subject of the grievance.

### 906.2 Method of response

Acknowledgement of receipt of the grievance shall be in written or electronic form (e-mail, text message) within seven (7) days.

*Table IX-D Time Frame for Grievance Response*

<b>IF a grievance involves</b>	<b>Against</b>	<b>Grievance is filed with</b>	<b>THEN the standard of promptness for the response is</b>	<b>AND the standard of promptness for resolution of the grievance is</b>
a resident, a family member, a facility staff person	a volunteer	Supervising OR	within seven (7) days of the receipt of the grievance.	the grievance shall be resolved as expeditiously as possible while allowing for a thorough, impartial investigation of the grievance.
a resident, a family member, a facility staff person, another OR	a OR	OR Coordinator for OR	within seven (7) days of the receipt of the grievance.	the grievance shall be resolved as expeditiously as possible while allowing for a thorough impartial investigation of the grievance.
a resident, a family member, a facility staff person, an OR, another OR Coordinator	the OR Coordinator	SLTCO	within seven (7) days of the receipt of the grievance.	the grievance shall be resolved as expeditiously as possible while allowing for a thorough impartial investigation of the grievance.
a certification candidate, an OR, an OR Coordinator, a Program	OSLTCO staff	SLTCO	within seven (7) days of the receipt of the grievance.	the grievance shall be resolved as expeditiously as possible while allowing for a thorough impartial investigation of the grievance.

<b>IF a grievance involves</b>	<b>Against</b>	<b>Grievance is filed with</b>	<b>THEN the standard of promptness for the response is</b>	<b>AND the standard of promptness for resolution of the grievance is</b>
a certification candidate, an OR, an OR Coordinator,	the SLTCO	State Unit on Aging Director or the chair of the LTCO Advisory Council if the SUA is unable to process the grievance	within seven (7) days of the receipt of the grievance.	the grievance shall be resolved as expeditiously as possible while allowing for a thorough impartial investigation of the grievance. Designation and de-designation of certification candidates, ORs and Local Entities are subject to the reconsideration procedures outline in <a href="#">Section II Chapter 200</a> .
<b>If the aggrieved or respondent is not satisfied with the outcome of the grievance against</b>	<b>Then he/she may appeal with 14 days of the decision</b>	<b>Appeal is to</b>	<b>Standard of promptness for response is</b>	<b>Standard of promptness to resolve appeal is</b>
1. a volunteer 2. OR or OR Coordinator 3. SLTCO		1. OC 2. SLTCO 3. State Unit on Aging Director or the chair of the LTCO Advisory Council if the SUA is unable to process the grievance	within seven (7) days of the receipt of the grievance.	as expeditiously as possible while allowing for a thorough impartial investigation of the grievance process. For 3, please note the process for designation and de-designation are subject to the reconsideration procedures outline in <a href="#">Section II Chapter 200</a> .

## 907 Completing the Process

After the investigating party has reached a conclusion and determined any recommendations, the final steps in the grievance process include recording the findings of the primary investigator. Communicating the results to the aggrieved and Respondent and storing the grievance form in accordance with the confidentiality policies and record retention policies of the SLTCO ([501.5](#) and [501.6](#)). A grievance shall be considered as resolved when the following occur:

- a. Findings of the primary investigator
  - i. The grievance has been resolved to the satisfaction of the aggrieved.
  - ii. The investigating party has determined, after investigation, that the grievance:
    - A. Cannot be verified.
    - B. Was not made in good faith.
  - iii. Further activity by the investigator and/or the SLTCO is unlikely to produce satisfaction for the aggrieved.
  - iv. The investigator cannot take the action requested by the aggrieved.



- v. The aggrieved requests that the investigator cease activity on the grievance.
- vi. When the grievance relates to designation and de-designation, the reconsideration procedures outlined in [Section II Chapter 200](#) have been completed.
- b. The investigator shall communicate results to the aggrieved, either:
  - i. Orally by telephone or in person.
  - ii. In writing using e-mail or US Mail.
- c. Storing grievance documentation After the investigation has been completed and resolution has been reached, the investigator will record a brief summary of findings and action taken (if any). A copy of all documentation related to the grievance shall be provided to the SLTCO. All documentation shall be stored confidentially in accordance with the OSLTCO policy as stated in [section 501.5](#) and [501.6](#) of this manual.

## 908 Training

Each local Ombudsman entity shall be trained in the process of intake, processing, and documentation of grievances.

## References

45 CFR 1324.11(e)(7); OAA Title VII

# Part III Guidelines for Ombudsman Representative Practice

## Policies

- An Ombudsman Representative (OR) advocates on behalf of residents to resolve problems to their satisfaction and improve their overall quality of life and quality of care.
- An OR encourages, and provides information and consultation to enable, residents and complainants to personally work to address their own concerns.

## Procedures

- [100 Program Components](#)

## 100 Program Components

Each long-term care ombudsman program (LTCOP) shall provide services to protect the health, safety, welfare, and rights of residents. These services, known as Program Components, shall be performed in accordance with the following procedures and standards and as directed by the Office of the State Long-Term Care Ombudsman (SLTCO). The Program Components are:

1. Complaint processing.
2. Information and consultation.
3. Community outreach and education.

4. In-service education to facility staff.
5. Routine visits to long-term care facilities.
6. Issues advocacy.
7. Interagency coordination.
8. Resident council and family council activities.
9. Volunteer management.
10. Nursing home pre-survey information.

### **100.1 The local Ombudsman entity (LE) Annual Plan**

#### **a. Ombudsman Representative Coordinator (ORC) responsibilities**

- i. The ORC shall prepare a Long-Term Care Ombudsman Program (LTCOP) Annual Plan for submission to the SLTCO and, when applicable, the area agency on aging (AAA), setting goals for the LTCOP for the following fiscal year related to each program component. Where the AAA is the LE for OR services, the LTCOP Annual Plan shall be submitted as part of that AAA's area plan for the following fiscal year. Whether through the area plan or directly, the LTCOP Annual Plan shall be submitted to the SLTCO by the due date for the area plan as determined by the SLTCO and communicated to the provider agencies.
- ii. If an ORC determines the need for an amendment to the Annual Plan during the course of the fiscal year, such amendment shall be submitted to the SLTCO for review and approval, subject to the same review criteria by the SLTCO as for the originally submitted Annual Plan.

#### **b. Contents of the LTCOP Annual Plan**

The LTCOP Annual Plan shall:

- i. Include goals for each Program Component.
- ii. Provide for complaint processing to be the highest priority Program Component.
- iii. Meet or exceed the applicable standard(s) for each Program Component or include a request of a modified standard as set forth in c) iii), below.

#### **c. SLTCO responsibilities**

- i. The SLTCO shall inform the applicable ORC, LE director, DAS program coordinator and AAA of whether the LTCOP Annual Plan is acceptable within 30 days after receipt of the plan. If changes must be made to a LTCOP Annual Plan, the SLTCO shall provide assistance to the ORC to develop an acceptable Plan.
- ii. The SLTCO shall consider the comments of the AAA in reviewing the relevant LTCOP Annual Plan.
- iii. In determining whether a LTCOP Annual Plan is acceptable, the SLTCO shall consider the following:
  - A. Whether the Plan meets the standards set forth in these policies and procedures for each Program Component. Where a standard for a particular Program Component is not met in the Plan, the SLTCO may approve a modified standard only where the Plan describes one or more of the following:

1. Specific efforts to improve performance related to that Program Component over previous years and specific plans to work toward meeting the standard related to the Program Component.
  2. Specific efforts taken to improve performance of another Program Component. A plan to minimize the negative impact on other Program Components is required.
  3. Initiation of a time-limited project which is consistent with the purpose of the LTCOP and which may require significant staff time or other resources. A plan to minimize the negative impact on other Program Components is required.
  4. Limitations in staff or other resources which make compliance with a particular Program Component standard a hardship for the LTCOP.
- B. The Plan's anticipated benefit to residents.
- C. The Plan's anticipated impact on the provision of ombudsman services to long-term care residents.
- D. The performance history of the LTCOP as determined by a review of data relating to performance of Program Components.
- E. When the SLTCO receives an amendment of a LTCOP Annual Plan, the SLTCO shall inform the applicable ORC, LE director, DAS program manager, and AAA of whether the amendment is acceptable within 30 days after receipt of the amendment, using the criteria in paragraph A), above.

## **100.2 LTCOP evaluation**

### **a. Role of the ORC**

The ORC shall evaluate the performance of the LTCOP at least quarterly. This review shall include a review of activities and complaint data for the LTCOP and a comparison of the LTCOP with activities and complaint data statewide as statewide data are made available by the SLTCOP.

### **b. Role of the SLTCO**

- i. The SLTCO shall maintain activities and complaint data for the statewide LTCOP.
- ii. The SLTCO shall make aggregate complaint and activities numbers available to the public in the Long-Term Care Ombudsman Annual Report and at other times as the SLTCO deems appropriate.
- iii. The SLTCO shall provide aggregate complaint and activities data to ORCs, AAAs, provider agencies, and other interested parties at least annually and upon request as available.
- iv. The SLTCO shall review the activities and complaint data of the statewide program and each LTCOP, together with the LTCOP Annual Plan, at least annually to evaluate program performance.
- v. The SLTCO shall make periodic site visits to evaluate the performance of LTCOPs as deemed necessary by the SLTCO. The SLTCO shall notify representatives of the AAA and the LE and may invite them to participate at appropriate times during the site visit.

## References

OAA § 712(a)(5)

## 101 Complaint Processing

### Policy

Processing complaints made by or on behalf of residents of long-term care facilities is the long-term care ombudsman program's highest priority service.

### Procedures

#### 101.1 General

The LTCOP shall identify, investigate, and resolve complaints made by or on behalf of residents. Although the issues and circumstances of the complaints will vary, the following general guidelines apply to all complaint handling. Whenever questions arise regarding appropriate OR practice in handling complaints, the SLTCO should be contacted for guidance.

#### 101.2 Complaint intake and response

##### a. complaint intake

- i. When an OR receives information regarding a complaint, the OR shall determine:
  - A. The type of complaint as presented by the complainant.
  - B. What outcome the complainant is seeking.
  - C. What attempts, if any, have already been made to resolve the complaint.
  - D. Whether the complaint is appropriate for OR activity. Examples of complaints which are not appropriate for OR activity include those which:
    1. Do not directly impact a resident or former resident of a long-term care facility.
    2. Are outside the scope of the mission or authority of the LTCOP.
    3. Would place the LTCOP in the position of having an actual or perceived conflict of interest with the interest of a resident or residents.

##### NOTE

The OR *may* seek resolution of complaints in which the rights of one resident and the rights of another resident or residents appear to be in conflict.

- ii. The OR shall discuss the following with the complainant:
  - A. Alternatives for handling the complaint.
  - B. Encouragement for the complainant to personally take appropriate action, with OR assistance if needed.
  - C. Explanation that the OR role is to act in accordance with resident wishes.
  - D. The LTCOP policy of confidentiality.

## b. source of complaint

- i. Complaints may be filed with the LTCOP by residents, families, and friends of residents, long-term care facility staff, and any other person.
- ii. Complaints may be made anonymously to the LTCOP. Anonymous complaints must remain anonymous. If the OR receiving the complaint is able to communicate directly with the anonymous complainant, the OR may explain to the complainant that, in some circumstances, anonymity could limit the ability of the OR to investigate and resolve the complaint.

## iii. OR generated complaints

An OR shall file a complaint when the OR has personal knowledge of an action, inaction, or decision that may adversely affect the health, safety, welfare, or rights of residents and no other person has made a complaint on such action, inaction, or decision.

## c. timeliness of responses to complaints

- i. An OR shall use his or her best efforts to initiate investigations of complaints in a timely manner in order to resolve the complaint to the satisfaction of the resident.
- ii. The date on which the first action is taken to investigate the complaint by the assigned ombudsman (reported as the “action date”) is considered timely as follows:

*Table III-A Complaint Response*

IF a complaint involves...	THEN the standard of promptness for LTCO response (i.e. the action date) is...
<ol style="list-style-type: none"><li>i. abuse or gross neglect, and</li><li>ii. the OR has reason to believe that a resident may be at risk</li></ol>	within the next working day <sup>[1]</sup>
<ol style="list-style-type: none"><li>i. abuse or gross neglect, and</li><li>ii. the OR has no reason to believe that a resident is a risk</li></ol>	within three days, but not to exceed three calendar days <sup>[1]</sup>
actual or threatened transfer or discharge from a facility	whichever occurs first: <ol style="list-style-type: none"><li>i. 5 working days,</li><li>ii. the last day of bed-hold period (if resident is hospitalized), or</li><li>iii. the last day for filing an appeal for an administrative hearing</li></ol>
other types of complaints	within 7 working days

- iii. Where the LTCOP will be unable to initiate investigations in a timely manner (e.g., due to a planned vacation or extended illness), the ORC shall develop a plan for temporary coverage in order to meet the standard of promptness. Such plan shall be communicated to the LE and the SLTCO to assure appropriate and timely case referrals.
- iv. The LTCOP shall provide adequate telephone coverage to receive complaints promptly and confidentially during business hours. Where a message is left for the ombudsman, the LTCOP shall attempt to make contact with the complainant during the same day the contact was made whenever possible and, in all cases, within two working days. Adequate coverage may include: ORs or volunteers providing constant phone service, frequent checks of confi-

dential telephone voice mail by staff, and/or use of pagers or cell phones.

- v. The LTCOP is not designed to serve as an emergency response system; emergency situations should be referred to “911” for immediate response.

**d. resident focus**

- i. Regardless of the source of the complaint, the resident of, or applicant to, a long-term care facility is the OR’s client.
- ii. Regardless of the source of a complaint, an OR shall personally discuss the complaint with the resident in order to:
  - A. Determine the resident’s perception of the complaint.
  - B. Determine the resident’s wishes with respect to resolution of the complaint.
  - C. Advise the resident of his or her rights.
  - D. Work with resident in developing a plan of action.

**NOTE**

Where immediate action must be taken in order to protect resident rights, the OR may take necessary immediate action if it is not possible to first consult with the resident. The OR shall inform the resident of the action taken by the OR as soon as practicably possible and seek to follow resident wishes during the remainder of the complaint process.

- iii. Where the complaint relates to a nursing home regulatory violation, the OR shall inform the resident and/or complainant that the OR provides information to surveyors prior to standard surveys and seek resident and/or complainant permission to share the complaint information with surveyors. The OR shall provide the name of the complainant and/or resident to surveyors with complainant and/or resident consent.

**iv. resident consent refused or withdrawn**

- A. If, at any point during the complaint process, the resident expresses that he or she does not want the OR to take further action on a complaint involving the resident, the OR shall determine whether further efforts should be made on the complaint. In making this determination, the OR shall consider the following:

*Table III-B Resident Refuses Consent*

IF the resident...	THEN the LTCO shall...
<ul style="list-style-type: none"><li>i. refuses to consent to OR work on the complaint, or</li><li>ii. withdraws consent before the OR has verified the complaint</li></ul>	<ul style="list-style-type: none"><li>i. discontinue work on the complaint, and</li><li>ii. follow steps of III-101.2, d, iv), B), below</li></ul>

IF the resident...	THEN the LTCO shall...
withdraws consent after the OR has verified or partially verified the complaint	<ul style="list-style-type: none"> <li>i. discontinue investigation and resolution activities on the complaint,</li> <li>ii. determine, during subsequent visits to the facility, whether the type of complaint is recurring. If it is recurring, the OR shall determine whether the circumstances merit other strategies toward resolution which would not involve or disclose the identity of the resident who has withdrawn consent (e.g., filing an OR generated complaint, presenting the issue to the resident or family council), and</li> <li>iii. follow steps of III-101.2, d, iv), B), below</li> </ul>

B. For all complaints in which the resident refuses or withdraws consent, the OR shall:

1. Attempt to determine why the resident refused or withdrew consent, considering factors such as:
  - Past response of facility to complaints.
  - The resident's relationship with the staff.
  - The experience of this resident or other residents in the facility related to this type of complaint.
2. Inform the resident that he or she may contact the OR regarding the withdrawn complaint or other complaints in the future.
3. Provide a business card or brochure informing the resident how to contact the LTCOP.

**v. resident unable to provide consent**

- A. The OR shall advocate for a resident's wishes to the extent that the resident can express them, even if the resident has limited decision-making capacity.
- B. Where a resident is unable to provide or refuse consent to an OR to work on a complaint directly involving the resident, the OR shall:
  1. Seek evidence to indicate what the resident would have desired and, where such evidence is reliable, work to effectuate that desire.
  2. Assume that the resident wishes to have his or her health, safety, welfare, and rights protected.

**vi. resident no longer resides at facility or is deceased**

- A. Where a former resident who is the subject of a complaint no longer resides at the facility or is deceased, the OR may close the complaint(s) related to that resident. The OR shall make referrals to other agencies where appropriate to address any unresolved issues.

**NOTE** In most cases, the disposition of such complaint shall be recorded as "No action needed or withdrawn by the resident, resident representative or complainant".

- B. Where the complaint related to the former resident is a continuing or potential concern for other residents of the facility, the OR shall open a new case with another resident(s) as the complainant or an ombudsman-generated complaint in order to continue OR work to resolve the complaint.
- C. Where the complaint is received by the OR after the resident at issue has moved out of the facility or is deceased, the OR shall determine whether the complaint is potentially a concern for other residents of the facility.
  - 1. If the complaint is potentially a concern for other residents, the OR shall open a complaint and work to resolve it to the satisfaction of the complainant.
  - 2. If the complaint is not potentially a concern for other residents, the OR may, but is not required to, open a case. If a case is not opened, the OR shall:
    - a. Explain to the complainant the reasons for not opening a case.
    - b. Notify the complainant of other agencies that may be of assistance in responding to the complaint (e.g., information regarding the Healthcare Facility Regulation Division (HFR) of the Department of Community Health if the complaint relates to regulatory issues).

### 101.3 Investigation process

- a. The OR investigates a complaint in order to verify the truth of the complaint.
  - i. A complaint is “verified” when the OR determines, after completing an investigation, that the circumstances described in the complaint are substantiated or generally accurate,
  - ii. Because an OR works on behalf of resident interests, the OR gives the benefit of any doubt to the resident’s perspective.
- b. The OR shall seek the following information during the investigation of the complaint and document the findings in the OR case record:
  - i. What has occurred or is occurring.
  - ii. When it occurred and whether the occurrence is ongoing.
  - iii. Where it occurred.
  - iv. Who was involved.
  - v. Effect of the occurrence on resident(s).
  - vi. Reason for occurrence.
  - vii. What, if anything, the facility or other interested parties have done in response to the occurrence.
- c. In order to verify a complaint, the OR shall take one or more of the following steps, as appropriate to the nature of the complaint:
  - i. Research relevant laws, rules, regulations, and policies.
  - ii. Personally observe the evidence.

**NOTE** an OR shall not search a resident’s body for evidence. Where a resident chooses to reveal to the OR evidence on a part of his/her body which would



normally be clothed, the OR shall document in the case record the circumstances surrounding the resident's choice to reveal such evidence.

- iii. Interview the resident and/or complainant.
- iv. Interview staff, administration, other residents, and families.
- v. Identify relevant agencies and interview and/or obtain information from their staff.
- vi. Examine relevant records.
- vii. Refer the complaint to a more appropriate agency for investigation, following steps in [Section III-101.5](#).

**NOTE**

When referring to another agency for investigation, the OR may suspend his/her investigation if he/she determines that continuing the LTCO investigation could hinder the ability of the other agency to appropriately investigate.

- d. The OR shall have access to all long-term care facilities and residents, including access to have a private, confidential discussion with any resident upon resident request.
- e. The OR shall have access to review and make copies of medical, social, and other records of a resident if:
  - i. The OR has the permission of the resident or the resident's legal representative.
  - ii. The resident is unable to consent to the review and has no legal representative.
  - iii. Access is necessary to investigate a complaint if:
    - A. A legal guardian refuses to give permission.
    - B. The OR has reasonable cause to believe that the guardian is not acting in the best interest of the resident, and the OR obtains the approval of the SLTCO.
- f. The OR shall have access to review and make copies of the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities.
- g. The OR shall have access to review and make copies of all licensing and certification records maintained by the State with respect to long-term care facilities.
- h. Resident perception is a sufficient basis upon which an OR can verify a complaint of a subjective nature (e.g., If a resident complains that a staff person is not acting with respect toward that resident, the OR does not need to independently observe the staff person act disrespectfully in order to verify the complaint). However, whenever possible, the OR shall seek objective verification of the complaint.
- i. Facility visits for purposes of complaint investigation shall be unannounced unless a scheduled meeting with staff is necessary as part of the investigation process.

#### **101.4 Working toward resolution**

- a. Upon verifying or partially verifying a complaint, the OR shall make efforts to resolve the com-

plaint to the satisfaction of the resident, representative, and/or complainant.

- b. A plan to resolve the complaint shall be mutually agreed upon by the resident and the OR. Where a resident is unable to communicate his/her wishes, the OR may develop a plan with the resident's representative or the complainant if consistent with the rights and interests of the resident.
- c. The OR shall consider the following factors in developing the plan to resolve the complaint, as appropriate to the nature of the complaint:
  - i. The scope of the complaint (i.e. whether it impacts more than one resident).
  - ii. The history of the facility with respect to resolution of other complaints.
  - iii. Available remedies and resources for referral.
  - iv. Who (e.g., particular facility staff, another agency) would be best able to assist in resolution of the complaint; and the likelihood of retaliation against the resident or complainant if particular action steps are taken.
- d. Upon verifying or partially verifying a complaint, one or more of the following may be appropriate actions to resolve a complaint:
  - i. Explanation of the investigation findings to the resident, representative, and/or complainant.
  - ii. Negotiation - i.e., the OR advocates for the resident's rights and interests with the appropriate facility staff or other relevant party to develop an agreement that resolves the complaint. Negotiation may be done on behalf of or along with the resident, representative, and/or complainant.
  - iii. Mediation - i.e., the OR acts as an impartial referee between parties of equal status (e.g., between residents or between family members) to assist the parties in developing an agreement that resolves the complaint.
  - iv. Filing an appeal for an administrative hearing.
  - v. Coordination with and/or referrals to appropriate agencies (see [III-101.5](#), [III-101.6](#)).
- e. The OR shall attempt to resolve the dispute directly with the appropriate staff of the facility unless the OR and the resident (or representative or complainant) determine that another strategy would be more advantageous to the resident.
- f. Where an investigation reveals that a complaint is not valid, the OR shall explain to the resident, representative, and/or complainant that the OR was unable to validate the complaint and shall indicate what additional steps, if any, the OR plans to take (for example, monitoring the issue during future routine visits to the facility).

#### **101.5 Complaint referrals**

##### **a. When a complaint shall be referred.**

- i. An OR shall make a referral to another agency where:
  - A. The resident (or representative or the complainant, where the resident is unable to grant permission and the referral is in the resident's interest) gives permission.
  - B. One or more of the following applies:

1. Another agency has resources that may benefit the resident (e.g., Adult Protective Services can provide emergency relocation funds to assist in relocating the resident to another location).
  2. The action to be taken in the complaint is outside of LTCOP authority and/or expertise (e.g. HFR takes regulatory actions).
  3. The OR needs additional assistance in order to achieve resolution of the complaint.
  4. The resident requests the referral be made.
- ii. For every referral made by the OR to another agency, the OR shall include documentation of such referral in the OR case record.

**b. Sharing complaint-related information.**

After a complaint has been referred, the OR shall make every effort to maintain the security and confidentiality of information related to the complaint, so that the information is not shared beyond the agency or agencies receiving the referral. For example, communications of resident-specific information should not be shared over e-mail or other electronic means unless adequate security measures have been taken to protect the security of the communications.

**c. Referrals to law enforcement and regulatory agencies.**

- i. An OR may encourage residents or complainants to directly contact the appropriate regulatory agency to file a complaint and offer information and assistance to residents or complainants in making such contact.
- ii. Where an OR directly refers a complaint to the HFR, the LTCO shall take the following steps.
  - A. Submit the complaint in writing.
  - B. Or, contact complaint intake by telephone and subsequently document the referral.
    1. To document, record in OR records.
    2. OR may also submit a confirming letter to the agency.
- iii. Joint investigatory activities.

Where the OR is invited by a regulatory agency to assist in or provide information regarding an investigation of a facility, OR participation is appropriate only under the following circumstances:

- A. The OR is able to fulfill his or her role as a resident advocate.
- B. The OR does not attempt to regulate a facility or take actions which would lead one to assume that the OR is a regulator.
- C. The OR explains to facility administration and residents that his or her role is to advocate for the health, safety, welfare, and rights of residents, not to enforce regulations.

**d. Referrals to legal services.**

- i. For a resident who is age 60 or older and who requests or is in need of legal advice and/or representation, the OR shall refer the resident to the Elderly Legal Assistance Program (ELAP) in the service area where the resident resides or to the Georgia Senior Legal Hotline.
- ii. For a resident who is under age 60 and who is requesting or in need of free legal advice

and/or representation, the OR shall assist the resident in finding appropriate legal services. The OR may contact the ELAP, the SLTCO, the Legal Services Developer, or the Georgia Advocacy Office for information regarding such services.

- iii. Where the ELAP is unable to provide the requested legal service, the OR may provide the resident with a list of private attorneys who may provide the service. The OR shall not make referrals to or recommend an individual private attorney.

**e. Determining outcome of a referral.**

After a complaint has been referred, the OR shall determine:

- i. Resident satisfaction with the outcome of actions taken by the referral agency.
- ii. Whether appropriate action has been taken by the referral agency. Where appropriate action has not been taken by the referral agency, the OR may continue to work on the complaint by advocating for a more appropriate action by the referral agency.

**101.6 Final resolution**

The resolution status of a complaint shall be determined when any of the following occurs:

- a. The complaint has been resolved to the resident's satisfaction. If the resident cannot communicate his/her satisfaction, the ombudsman may seek resolution to the satisfaction of the resident's representative or complainant, if consistent with the rights and interests of the resident.
- b. The LTCOP has determined, after investigation, that the complaint either:
  - i. Cannot be verified.
  - ii. Was not made in good faith.
- c. Further activity by the OR is unlikely to produce satisfaction for the resident.
- d. The complaint is not appropriate for OR activity (see [III-101.2](#)).
- e. The OR anticipates no further response regarding the complaint from the agency to which the referral was made.
- f. The resident requests that OR activity end on the complaint.

**101.7 Follow-up**

- a. After resolving a complaint but prior to closing it, the OR shall:
  - i. Assure that the resident (or representative or complainant, where appropriate) continues to be satisfied with the outcome.
  - ii. Determine whether further actions on behalf of the resident should be taken by the LTCOP.

**NOTE**

For most complaints, the date of follow-up will be a date subsequent to the date of resolution.

- b. Where the resident has left the facility, the OR shall make reasonable attempts to follow-up with the resident in the resident's new location prior to closing the case.

- c. If further action is necessary, the OR shall keep the case record open, revise the resolution category and date if necessary, and continue to work towards resolution of the complaint.

#### 101.8 Closing a complaint or case

- a. The OR activity on a complaint is complete, and, therefore, the complaint may be closed, when follow-up steps have indicated the need for no further action or change in the resolution of the complaint.
- b. A case is closed when all of the complaints related to that case have been closed.

#### 101.9 Abuse and gross neglect complaints

##### NOTE

Specific guidelines are provided with respect to handling and reporting suspected abuse, gross neglect, and exploitation due to the serious nature of these complaints and in order to comply with laws governing the Long-Term Care Ombudsman Program, including confidentiality requirements and reporting requirements.

- a. Upon receiving an abuse or gross neglect complaint, an OR shall use his or her best efforts to ensure protection of the resident from further abuse or gross neglect.
- b. The OR shall follow complaint investigation steps (III-101.2-101.8) as in other types of complaints.

##### NOTE

The primary role of the OR is to seek resolution to the resident's satisfaction, not to verify the suspected abuse or gross neglect. The Healthcare Facility Regulation Division of the Department of Community Health (HFR), not the LTCOP, is the official reporting agency to investigate abuse in long-term care facilities in Georgia.

- c. The LTCO shall report suspected abuse or gross neglect as follows:

*Table III-C When to Report Abuse*

IF the resident...	THEN the LTCO shall...
gives permission to an OR to make the report	report the suspected abuse or gross neglect to Healthcare Facility Regulation (HFR), and, where appropriate, to law enforcement
<ul style="list-style-type: none"> <li>i. does not give permission to an OR to make the report; and</li> <li>ii. the complainant is a long-term care service provider, facility staff person, or other mandatory reporter</li> </ul>	inform the complainant of his or her duty to report to the HFR

IF the resident...	THEN the LTCO shall...
<ul style="list-style-type: none"> <li>i. does not give permission to an OR to make the report, and</li> <li>ii. acknowledges having been abused</li> </ul>	<ul style="list-style-type: none"> <li>i. determine: <ul style="list-style-type: none"> <li>1. whether other residents have experienced similar circumstances, and</li> <li>2. whether any other resident wishes the OR to take any action on his or her behalf, and</li> </ul> </li> <li>ii. make repeated visits to the resident who alleged abuse or gross neglect in order to encourage the resident to permit the OR to report the suspected abuse or gross neglect</li> </ul>
is unable to communicate his or her wishes	<p>refer the suspected abuse or gross neglect to the HFR, law enforcement or other appropriate agency under OR authority to protect the resident's right to be free from abuse or gross neglect only after:</p> <ul style="list-style-type: none"> <li>i. consulting with the resident's representative, if one exists, and follow his or her wishes,</li> <li>ii. if the resident has no representative, determine whether an action, inaction or decision may adversely affect the health, welfare, safety or rights of the resident,</li> <li>iii. the OR has uncovered no evidence indicating that the resident would not want the referral to take place,</li> <li>iv. the OR has reasonable cause to believe that the referral is in the resident's best interest, and</li> <li>v. the OR obtains the approval of the SLTCO.</li> </ul>
does not make the complaint (i.e. the OR receives a complaint of suspected abuse or neglect from a complainant other than the resident)	<ul style="list-style-type: none"> <li>i. advise the complainant to report the suspected abuse or neglect to the appropriate agency and provide information to assist the complainant in making the report, and</li> <li>ii. visit the resident and follow complaint investigation steps (III-101.2-101.6, above)</li> </ul>
<ul style="list-style-type: none"> <li>i. does not make the complaint, and</li> <li>ii. the OR personally witnesses abuse of a resident</li> </ul>	<ul style="list-style-type: none"> <li>i. File an OR generated complaint only after first: <ul style="list-style-type: none"> <li>1. seeking informed consent of the resident to disclose resident identifying information and act in accordance with the resident's wishes, or</li> <li>2. if the resident is unable to give consent and has no resident representative to give consent, the OR shall disclose the matter to HFR, law enforcement or other appropriate agency if: <ul style="list-style-type: none"> <li>A. the OR has no evidence indicating that the resident does not wish the referral to be made,</li> <li>B. the OR has reason to believe that disclosure would be in the best interest of the resident, and</li> <li>C. the OR obtains the approval of the SLTCO, and</li> </ul> </li> </ul> </li> <li>ii. follow complaint investigation steps (III-101.2-101.8, above) (45 CFR 1324.19(b)(7) and (8))</li> </ul>

IF the resident...	THEN the LTCO shall...
requests the OR to not make a report of abuse personally witnessed by the OR	i. determine: <ol style="list-style-type: none"> <li>whether other residents have experienced similar circumstances, and</li> <li>whether any other resident wishes the OR to take any action on his or her behalf, and</li> </ol> ii. make repeated visits to the resident who was the victim of abuse observed by the OR in order to encourage the resident to permit the OR to report the alleged abuse or gross neglect.
requests OR assistance in moving from the facility	take steps to facilitate moving the resident to another facility, such as assisting with contact of the resident's representative, family members, and/or appropriate agencies. <div> <b>NOTE</b> The OR shall not physically transport the resident.           </div>

*Table III-D Where to Report Abuse*

IF suspected abuse occurs in...	THEN a report is made to...
a nursing home, intermediate care facility, assisted living community, personal care home, unlicensed personal care home, or community living arrangement	Georgia Department of Community Health, Healthcare Facility Regulation Division Complaint Intake 800/878-6442 404/657-5726 or -5728
i. nursing home, intermediate care facility, assisted living community, personal care home, or community living arrangement, and ii. a family member, friend, or other person not employed by the facility is a suspect	Georgia Department of Human Services Division of Aging Services Adult Protective Services Central Intake 888/774-0152 404/657-5250 Via fax: 770/408-3001 <div> <b>NOTE</b> Reports made to HFR will be referred for investigation by adult protective services, pursuant to a memorandum of understanding.           </div>
all other settings	Georgia Department of Human Services Division of Aging Services Adult Protective Services Central Intake 888/774-0152 404/657-5250 Via fax: 770/408-3001

**NOTE**

All emergencies should be reported to “911”. The LTCOP, HFR, and Adult Protective Services offices do not provide emergency response systems.

- d. In addition to referrals made to official reporting agencies as set forth in Table III-D, above, the OR may also refer cases of suspected abuse, gross neglect, or exploitation as follows:

- i. Where the provider of services to the victim is Medicaid-certified, or abuse, neglect or exploitation is suspected, the LTCO representative may report via the SLTCO to the State Medicaid Fraud Control Unit at the Office of the State Attorney General.
  - ii. Where the LTCO has reason to believe that criminal activity has occurred, the LTCO may report to local law enforcement agencies.
- e. **continued monitoring** After reporting abuse, gross neglect, or exploitation in a long-term care facility, the OR shall continue to monitor:
- i. The safety of the resident at issue.
  - ii. The involvement and/or investigation of other agencies.
  - iii. Resident satisfaction with the outcome of actions taken in response to the suspected abuse, gross neglect, or exploitation.

#### 101.10 Documentation

- a. Regarding each complaint, the OR shall document in accordance with the Documentation Guidelines set forth in the State-Wide Reporting and Documentation System Procedures Manual.

#### NOTE

Case documentation shall be recorded in the electronic data system. If a program also maintains paper case files, those files shall include all of the information also recorded in the data system.

- b. The LTCOP shall maintain complaint documentation in an organized manner which:
- i. Can be readily understood by another OR or the SLTCO.
  - ii. Clearly describes all OR activity on the complaint and is maintained together in a file.
  - iii. Includes pertinent documents (e.g., Letters of Guardianship, Power of Attorney, Discharge Notices, etc.).
  - iv. Is maintained for a minimum of six years from the date of closure, and longer where the case or facility files contain information which is likely to be valuable for legal or historical purposes.

#### 101.11 Complaint volume

- a. The ORC shall periodically review the number of complaints brought to the LTCOP to determine whether:
- i. The number of complaints is so high as to impact the ability of LTCOP to adequately fulfill the other program components.
  - ii. The number of complaints is below the average number of complaints per program statewide.
  - iii. The number of complaints is approximately the same as the projection in the LTCOP Annual Plan.



**How to use this table:** This table is designed to assist ORCs, the SLTCO, and provider agencies in LTCOP evaluation and planning. It suggests strategies to use in impacting complaint numbers which appear unusually high or unusually low. It also provides guidance in evaluating program performance related to complaint processing. The LTCOP is not required to process a particular number of complaints.

*Table III-E Complaint Activity*

IF complaint numbers are...	THEN the ORC shall take the following steps...
low from a particular facility	<ul style="list-style-type: none"> <li>i. determine whether residents, families, or staff feel free to make complaints to LTCOP,</li> <li>ii. determine whether residents, families, and staff are familiar with the existence of and purpose of the LTCOP, and</li> <li>iii. review whether ombudsman-generated complaints are being accurately recorded by all staff.</li> </ul>
low for the LTCOP, indicated by any of the following: more than 10% below the statewide average, or more than 10% below the projected number of complaints in the LTCOP Annual Plan	<ul style="list-style-type: none"> <li>i. Review whether residents, families, and staff are familiar with the existence of and purpose of the LTCOP.</li> <li>ii. Increase frequency of routine visits.</li> <li>iii. Increase involvement with resident and family councils.</li> <li>iv. Increase community education and public information regarding the purpose of the LTCOP.</li> <li>v. Increase the number of in-service trainings for facility staff.</li> <li>vi. Review whether complaints, including ombudsman-generated complaints, are being accurately recorded by all ORs.</li> </ul>
high for a particular facility or company owning/managing facilities	look to systemic approaches to resolve common complaints.
high for the LTCOP, indicated by: more than 10% above the statewide average, or more than 10% above the projected number of complaints in the LTCOP Annual Plan	<ul style="list-style-type: none"> <li>i. Review whether serious complaints are being given highest priority for resolution.</li> <li>ii. Review whether ORs are providing sufficient resources and information to enable families and residents to personally resolve complaints where appropriate.</li> <li>iii. Review whether complaint categories are being used appropriately.</li> </ul>

b. The ORC shall periodically review the resolution status of complaints to monitor resident satisfaction with complaint activity and accuracy of OR reporting. The ORC shall seek to:

**i. improve resident satisfaction with complaint resolution**

Improved resident satisfaction is indicated by an increase in the total percentage of the sum of the following resolution categories:

A. “Partially or fully resolved to the satisfaction of the resident, resident representative or complainant”.

- B. “Withdrawn or no action needed by the resident, resident representative or complainant”.

**NOTE**

Some complaints will not be resolved to the resident’s satisfaction regardless of OR action. The disposition for those complaints is noted as “Not resolved to the satisfaction of the resident, resident representative or complainant”.

*Table III-F Resident Satisfaction with Complaint Resolution*

IF the percentage of complaints:	THEN the ORC shall take the following steps...
<p>Indicates no increase from the previous year in the total percentage of complaints which have the following resolution codes:</p> <p>A. “Partially or fully resolved to the satisfaction of the resident, resident representative or complainant”.</p> <p>B. “No action needed or withdrawn by the resident, resident representative or complainant”.</p>	<p>i. Review whether a high percentage of residents have withdrawn their cases. If so, identify possible causes for resident withdrawal of complaints (e.g., is the rate higher for a particular staff person or volunteer? is the rate higher in a particular facility?) and seek to rectify any identified problems.</p> <p>ii. Review whether a high percentage of complaints is “not resolved.” If so, identify possible causes and seek to rectify.</p> <p>iii. Review whether the percentage of complaints being referred to other agencies has an impact on resolution.</p> <p>iv. Review whether a large number of complaints is related to issues that must be resolved through legislative or regulatory action.</p>
<p>The percentage of complaints which are “Not resolved to the satisfaction of the resident, resident representative or complainant” is increased from the previous year.</p>	<p>review adequacy of complaint investigation techniques, including:</p> <p>i. response times,</p> <p>ii. thoroughness of investigations,</p> <p>iii. proper identification of complaints, and</p> <p>iv. adequate focus on the resident’s wishes.</p>

## References

OAA §§ 712(a)(5)(B)(ii), (iii), (iv), (v); (g)(1)(A); 731; O.C.G.A §§ 31-80 et seq.; O.C.G.A. §§ 30-5-1 et seq.; Georgia Long-Term Care Ombudsman Reporting Manual

## 102 Information and Assistance (I&A)

### Policy

The Long-Term Care Ombudsman Program shall provide information and assistance regarding long-term care and related issues as requested.

### Procedures

- a. timely responses
  - i. The LTCOP shall respond to a request for I&A during the same day the request is made whenever possible and, in all cases, within two working days.

- ii. The LTCOP shall provide adequate telephone coverage to accept I&A requests immediately and confidentially during business hours. Adequate coverage may include: OR staff or volunteers providing constant phone service, frequent checks of telephone voice mail by staff, and/or use of pagers, cell phones or other technologies.

b. number of requests for information and consultation

- i. The ORC shall periodically review the number of I&A requests brought to the LTCOP to determine whether:
  - A. The number of I&A requests is so high as to impact the ability of LTCOP to adequately fulfill the other program components, particularly complaint processing.
  - B. The number of I&A requests is below the average number of I&A requests per program statewide.
  - C. The number of I&A requests is approximately the same as the projection in the LTCOP Annual Plan (III-100.1, b, i).

**Table III-G Information and Consultation**

**How to use this table:** This table is designed to assist ORCs, the SLTCO, and provider agencies in LTCOP evaluation and planning. It suggests strategies to use in impacting I&A numbers which appear unusually high or unusually low. It also provides guidance in evaluating program performance related to I&A. The LTCOP is not required to provide a particular number of I&A activities.

*Table III-G Information and Consultation*

IF the number of I&A activities is:	THEN the ORC shall take the following steps...
low for LTCOP, indicated by: <ul style="list-style-type: none"> <li>• more than 10% below the statewide average, or</li> <li>• more than 10% below the projected number of I&amp;A requests in the LTCOP Annual Plan</li> </ul>	<ul style="list-style-type: none"> <li>• review ways to ensure that residents, families, and staff are familiar with the existence of and purpose of the LTCOP</li> <li>• increase community outreach or education regarding the purpose of the LTCOP</li> <li>• review whether I&amp;A activities are being accurately recorded by all ORs</li> </ul>
high for the LTCOP, indicated by: <ol style="list-style-type: none"> <li>1. more than 10% above the statewide average,</li> <li>2. the projected number of I&amp;A requests in the LTCOP Annual Plan, and</li> <li>3. impacting the ability of the LTCOP to adequately fulfill the other Program Components</li> </ol>	<ul style="list-style-type: none"> <li>• review ability of LTCOP to respond to requests in timely manner</li> <li>• determine what information is most commonly requested and provide written or on-line resources to reduce time spent on I&amp;A responses</li> </ul>

**References**

OAA § 712(a)(5)(B)(ii)

**103 Community Outreach and Education**

## Policy

The Long-Term Care Ombudsman Program shall educate the community about long-term care, the Ombudsman Program, and related issues.

## Procedures

### a. standard for community outreach or education

- i. Each LTCOP is expected to provide, at a minimum, five community outreach or education activities annually per full-time equivalent OR staff. This requirement includes part-time positions proportionately.
  - A. Such activities include, but are not limited to:
    1. Community education sessions.
    2. LTCOP exhibits at fairs and conferences.
    3. Special events hosted by the LTCOP to educate the community about the LTCOP.
- ii. The ORC shall periodically review the number of community outreach or education activities provided by the LTCOP to determine whether:
  - A. The number of community outreach or education activities is so high as to impact the ability of LTCOP to adequately fulfill the other program components, particularly complaint processing.
  - B. The number of community outreach or education activities is below the average number of community outreach or education activities per program statewide.
  - C. The number of community outreach or education activities is approximately the same as the projection in the LTCOP Annual Plan ([III-100.1, b, i](#)).

*Table III-H Community Outreach and Education*

IF the number of community outreach or education activities is:	THEN the ORC shall take the following steps...
low for the LTCOP, indicated by: <ul style="list-style-type: none"><li>• fewer than five activities annually per full-time equivalent LTCO staff; or</li><li>• more than 10% below the projected number of community outreach or education activities in the LTCOP Annual Plan</li></ul>	<ul style="list-style-type: none"><li>• seek ways to increase the number of community outreach or education activities</li><li>• request suggestions and/or opportunities for community outreach or education activities from the AAA, LE, SLTCO, and/or other LTCOPs</li><li>• increase provision of public information regarding the purpose and services of the LTCOP.</li></ul> <div><b>NOTE</b> if this number is less than the projected number of community outreach or education indicated in the LTCOP Annual Plan or less than 5 per full-time equivalent, the LTCOP must provide explanation to the SLTCO of the reasons why the approved standard will not be met.</div>

IF the number of community outreach or education activities is:	THEN the ORC shall take the following steps...
<p>high for the LTCOP, indicated by:</p> <ol style="list-style-type: none"> <li>1. more than 10% above the statewide average, or</li> <li>2. more than 10% above the projected number of community outreach or education activities in the LTCOP Annual Plan; and impacting the ability of the LTCOP to adequately fulfill the other Program Components</li> </ol>	<p>limit the number of community outreach or education activities provided</p>

## References

OAA §§ 712(h)(3)

## 104 Training for Facility Staff

### Policy

The Long-Term Care Ombudsman Program shall provide training for facility staff to long-term care facility staff regarding resident rights, abuse reporting, and related issues.

### Procedures

#### a. number of training for facility staff sessions

- i. Each LTCOP is expected to provide annually, at a minimum, training for facility staff sessions:
  - A. For nursing home and ICF/IID staff—sessions equal to 50% of the number of nursing facilities in the service area.
  - B. For personal care home, assisted living community and/or community living arrangements staff—one (1) session, preferably a session made available to a large number of providers.
- ii. The ORC shall periodically review the number of training for facility staff sessions provided by the LTCOP to determine whether:
  - A. The number of training for facility staff sessions is so high as to impact the ability of LTCOP to adequately fulfill the other program components, particularly complaint processing.
  - B. The number of training for facility staff sessions is below the average number of training for facility staff sessions per program statewide.
  - C. Or, the number of training for facility staff sessions is approximately the same as the projection in the LTCOP Annual Plan ([III-100.1, b, i](#)).

*Table III-I Training for Facility Staff*

IF the number of training for facility staff sessions is...	THEN the ORC shall take the following steps...
<p>low for the LTCOP, indicated by:</p> <ul style="list-style-type: none"> <li>• less than 50% of the number of nursing facilities in the service area,</li> <li>• no personal care home staff education sessions, or</li> <li>• more than 10% below the projected number of training for facility staff sessions in the LTCOP Annual Plan</li> </ul>	<ul style="list-style-type: none"> <li>• review whether facility administration and staff are aware that the LTCOP provides this service</li> <li>• evaluate content and presentation methods of previous training for facility staff sessions</li> <li>• consider developing new topics or new presentation methods for training for facility staff</li> <li>• develop a training for personal care home providers within a particular geographic area</li> </ul>
<p>high for the LTCOP, indicated by:</p> <ul style="list-style-type: none"> <li>• more than 10% above the statewide average, or</li> <li>• more than 10% above the projected number of training for facility staff sessions in the LTCOP Annual Plan; and</li> <li>• impacting the ability of the LTCOP to adequately fulfill the other Program Components</li> </ul>	<ul style="list-style-type: none"> <li>• review ability of LTCOP to respond to all requests for training for facility staff</li> <li>• provide sessions to groups of personal care home providers and staff, rather than to staff of individual facilities</li> <li>• limit the number of sessions available per nursing facility (e.g., one per year per facility).</li> </ul>

## 105 Routine Visits

### Policy

The Long-Term Care Ombudsman Program shall have a regular presence in all long-term care facilities in order to monitor the condition of residents, provide information regarding the Long-Term Care Ombudsman Program, and ensure resident access to an OR.

### Procedures

- a. The LTCOP shall monitor the condition of residents during routine visits.
  - i. Routine visits to facilities shall be unannounced.
  - ii. Timing of routine visits shall be staggered so that facilities have no basis to predict the timing of the visit.
  - iii. The OR shall document observations during or immediately subsequent to the routine visit and maintain such documentation with OR records.
  - iv. OR observations of conditions in the facility which adversely affect the health, safety, welfare, or rights of residents and which the OR takes action to resolve shall be documented as ombudsman-generated complaints if no other person has reported the complaint to the ombudsman.
- b. The LTCOP shall provide information regarding the LTCOP during routine visits.
  - i. The OR shall indicate his/her presence in the facility to the administrator or other person in charge as soon as practical after entering the facility.
  - ii. The OR shall wear a visible OR identification badge and carry his or her certification card while visiting the facility.
  - iii. The OR shall assure that the facility posts the LTCOP poster in the facility so that it is readily visible to residents, families, and staff. Depending on the facility floor plan, several posters may need to be posted to meet this requirement. The poster shall include current contact information for the LTCOP assigned to serve residents of that facility.

- iv. The OR shall assure that the facility has an adequate supply of LTCOP brochures to provide to all residents and their representatives. The OR shall encourage the facility to include the brochure in its admission packets to assure that residents are aware of their right to access the OR.
- v. The OR shall introduce himself or herself and explain the purpose of the LTCOP to residents in the facility, making special efforts to visit residents who have been admitted since the OR's last routine visit.
- c. The OR shall have business cards and/or brochures available to provide to any residents who wish to receive them.
- d. The OR shall offer any resident who speaks with the OR the opportunity to speak privately and confidentially.
- e. Prior to leaving the facility, the OR may meet with the administrator and/or department heads to provide information and recommendations based on his or her observations. Information regarding specific complaints shall be disclosed only with resident consent.
- f. **Frequency of Routine Visits**

The LTCOP shall ensure resident access to an ombudsman as follows:

- i. OR presence in facilities should be as frequent as possible in order to assure residents have access to an ombudsman.
- ii. OR presence should be increased in facilities in which there is a history of serious or frequent complaints.
- iii. **Nursing homes:** The LTCOP shall visit every nursing home in the service area at least one time per calendar quarter. More frequent visits are encouraged as resources permit.
- iv. **Personal care homes:** The LTCOP shall visit every personal care home in the service area at least one time per calendar quarter. More frequent visits are encouraged as resources permit.
- v. **Assisted living communities:** The LTCOP shall visit every assisted living community in the service area at least one time per calendar quarter. More frequent visits are encouraged as resources permit.
- vi. **Community living arrangements:** The LTCOP shall visit every community living arrangement in the service area at least one time per State Fiscal Year. More frequent visits are encouraged as resources permit.
- vii. **Intermediate care facility for individuals with Intellectual Disabilities:** The LTCOP has authority to visit residents of every intermediate care facility for individuals with intellectual disabilities in the service area, but are not required to make regular visits. Annual visits are encouraged as resources permit.
- viii. A visit for the purpose of taking action on a complaint may be made simultaneously with a routine visit to maximize efficient use of time and resources.

## References

O.C.G.A. § 31-8-55(b); 42 CFR § 483.10(b)(7)(iii), 42 CFR § 483.10(j)(iv); DHR Rules § 290-5-35-.18(l)(d), (t); DHR Rules § 290-9-37-.19(2)(t)

## 106 Issues Advocacy

### Policy

The Long-Term Care Ombudsman Program shall assure that the interests of residents are represented to governmental agencies and policy-makers.

### Procedures

#### a. examples of issues advocacy

Issues advocacy activities include, but are not limited to:

- i. Educating advocacy groups, governmental agencies, and policy-makers regarding the impact of laws, policies, or practices on long-term care residents.
- ii. Seeking modifications of laws, regulations, and other government policies and actions, pertaining to the rights and well-being of residents.
- iii. Facilitating the ability of the public to comment on such laws, regulations, policies, and actions.
- iv. Participating in a task force to study a long-term care issue and recommend solutions.
- v. Participating in a public hearing relating to a long-term care issue.
- vi. Providing information on a proposed law, regulation, or other public policy change related to long-term care.

#### b. The LTCOP may seek to resolve resident complaints through issue advocacy where:

- i. A complaint cannot be resolved due to a current law, policy, or practice,
- ii. Many residents share a similar complaint or are affected by a policy or practice.
- iii. Other strategies to reach resolution with particular facilities or agency staff have been unsuccessful.

#### c. guidelines for issues advocacy

The SLTCO shall:

- i. Provide guidance and direction to LTCOPs related to federal and state issues advocacy.
- ii. The LTCOP shall determine other issue advocacy activities to use by considering:
  - A. The potential impact of the activity on residents.
  - B. The most appropriate and effective method of addressing the issue.
  - C. The potential impact of the activity on the LTCOP.
  - D. The possibility of joint efforts by the AAA, the LE, the LTCOP's advisory council, and/or residents in the activity.
- iii. Inform the LE, and the SLTCO of plans to engage in issues advocacy through the LTCO Annual Plan.
- iv. Inform the LE and the SLTCO of advocacy steps taken on high-profile or politically sensitive issues (e.g., involving media or legislative contacts). Recommended practice is to inform



these parties prior to taking such action, but at a minimum, the LTCOP should inform them of actions to be taken.

- v. Attempt to involve residents and families in the activity whenever possible.

**d. SLTCO role**

- i. Provide leadership to statewide advocacy efforts on behalf of long-term care residents.
- ii. Recommend public policy changes through:
  - A. Publication of an annual report.
  - B. Legislative and administrative advocacy.
  - C. Work with media.
  - D. Collaboration with other agencies and advocates.
  - E. Other appropriate means.
- iii. Link areas or advocacy groups with mutual concerns.
- iv. Coordinate issues advocacy activities within the LTCOP.
- v. Develop advocacy strategies.
- vi. Provide a clearinghouse on state and national long-term care issues.
- vii. Identify and provide needed resources and training of ORs related to issues advocacy.
- viii. Coordinate advocacy efforts with the Georgia Council on Aging, and others in the aging network.
- ix. Provide training and technical assistance to provider agencies, and others in the aging network regarding the LTCOP role in issues advocacy.

**References**

OAA § 712(a)(5)(B)(iv), (v); § 712(h)(2), (3)

**107 Interagency Coordination**

**Policy**

The Long-Term Care Ombudsman Program coordinates with other agencies to improve conditions for residents of long-term care facilities and to make appropriate referrals.

**Procedures**

- a. The LTCOP shall develop relationships with other programs and agencies with resources, services, and/or interests which could benefit residents, including, but not limited to:
  - i. Healthcare Facility Regulation (HFR).
  - ii. Adult Protective Services.
  - iii. Elderly Legal Assistance Program and other elder rights programs and services.
  - iv. Regional offices and community service boards of the Department of Behavioral Health and Developmental Disabilities.

- v. Law enforcement.
- vi. Care coordinators of Medicaid-waiver community-based services such as the Community Care Services Program.
- vii. The Social Security Administration.
- viii. Medicaid eligibility units of the Department of Family and Children Services.
- ix. Protection and advocacy programs (i.e. the Georgia Advocacy Office).

## References

OAA § 712(a)(5)(B)(iv), (v); §§ 712(h)(6), (7)

## 108 Resident and Family Councils

### Policy

The Long-Term Care Ombudsman Program shall support the development of resident and family councils in long-term care facilities.

### Procedures

#### a. developing active resident and family councils

- i. The LTCOP shall promote resident councils and family councils in long-term care facilities in the service area.
- ii. Where any long-term care facility does not have an active resident council, the LTCOP shall offer assistance to the residents and the facility in developing an active resident council.
- iii. Where any long-term care facility does not have an active family council, the LTCOP shall offer assistance and encouragement to family members in developing an active family council.

#### b. LTCO involvement in council activities

- i. The LTCOP shall inform the presidents of each resident and family council in the service area of:
  - A. The purpose of the LTCOP.
  - B. Its availability to assist resident and family councils, including offering appropriate resources.
  - C. The topics it is prepared to present if requested.
- ii. An OR shall make his or her best efforts to be present at resident and family council meetings to which the OR has been invited.

#### c. SLTCO role

The SLTCO shall provide resources and technical assistance to LTCOPs in their efforts to develop resident and family councils.

#### d. Standards for resident and family council activities

- i. Each LTCOP is expected to provide annually, at a minimum, involvement with:
  - A. Resident councils in 100% of the nursing facilities in the service area.
  - B. Family councils in 30% of the currently active nursing home family councils.

**NOTE** For purposes of meeting these standards, the OR may participate in council meetings or other activities supportive of councils or council leadership.

- ii. The ORC shall periodically review the number of resident and family council activities provided by the LTCOP to determine whether:
  - A. The number of resident and family council activities is so high as to impact the ability of LTCOP to adequately fulfill the other program components, particularly complaint processing.
  - B. The number of resident and family council activities is below the minimum standard.
  - C. The number of resident and family council activities is approximately the same as the projection in the LTCOP Annual Plan (III-100.1, b, i).

*Table III-J Involvement with Resident and Family Councils*

IF the number of resident or family council activities is...	THEN the ORC shall take the following steps...
low for the LTCOP, indicated by: <ul style="list-style-type: none"> <li>• less than 100% of the resident councils in nursing facilities, or</li> <li>• less than 30% of active family councils in nursing facilities,</li> </ul>	<ul style="list-style-type: none"> <li>• review whether residents, family members, and facility administration are aware that the LTCOP provides this service</li> <li>• initiate regular contacts with resident and family council presidents</li> <li>• evaluate previous methods of developing resident and family councils</li> <li>• develop presentations relevant to resident and family councils and inform councils of OR availability to provide presentations</li> </ul>
high for the LTCOP, indicated by: <ul style="list-style-type: none"> <li>• more than 100% of the resident councils;</li> <li>• more than 30% of the active family councils; or</li> <li>• more than 10% above the number of resident or family council activities projected in the LTCOP Annual Plan; and</li> <li>• impacting the ability of the LTCOP to adequately fulfill the other Program Components</li> </ul>	<ul style="list-style-type: none"> <li>• limit the number of meetings that an OR will attend of a single resident or family council</li> </ul>

## References

OAA § 712(a)(5)(B)(vi)

## 109 Volunteer Management

## Policy

The Long-Term Care Ombudsman Program shall utilize volunteers to maximize its resources to benefit residents.

## Procedures

### a. LTCOP role

- i. The LTCOP shall propose its procedures for recruitment, training, and use of volunteers in the LTCOP Annual Plan (III-100.1, b, i).
- ii. Such proposal shall be consistent with policies and procedures, including training and certification requirements, set forth by the SLTCO.

### b. SLTCO role

- i. The SLTCO shall provide resources and technical assistance to assist each LTCOP develop and maintain its volunteer program.
- ii. The SLTCO shall provide the curriculum and supervision of training provided by the LTCOP to volunteers.
- iii. The SLTCO shall administer written and oral examinations for volunteers who seek certification.

### c. LTCO Volunteer role

Volunteers are designated by different titles depending on their level of training to act as a volunteer on behalf of LTCOP. All volunteers shall:

- i. Work under direct supervision of an OR as designated by the ORC or under the supervision of the ORC based on their designation.
- ii. Be qualified to perform certain responsibilities, just as an OR staff person does.

#### NOTE

Failure to follow the direction of the OR staff person may be grounds for de-certification as an OR Volunteer.

### d. Volunteer Visitor role

A volunteer who is not certified, but who visits residents in coordination with the LTCOP, is a "Volunteer Visitor." A Volunteer Visitor:

- i. Shall work under direct supervision of an OR as designated by the ORC. Failure to follow the direction of the OR shall be grounds for the ORC or the SLTCO to prohibit the individual to serve as a Volunteer Visitor.
- ii. Shall visit residents in long-term care facilities in order to:
  - A. Build relationships with residents.
  - B. Provide residents with access to the LTCOP.
  - C. Provide a regular LTCOP presence in the facility.
- iii. To the extent determined appropriate by the ORC, may perform any LTCOP activities, as

determined by the local LTCOP, except for complaint processing.

iv. Shall not process complaints, but may:

- A. Refer a complaint to a certified OR for investigation.
- B. Under direct OR supervision, perform specific, limited functions to assist the OR process a complaint.

**e. Associate Certified Volunteer role**

A volunteer who has achieved limited certification, who visits residents in coordination with the LTCOP, and who is certified to resolve certain types of complaints, is an “Associate Certified Volunteer.” An Associate Certified Volunteer:

- i. Shall work under direct supervision of an OR as designated by the ORC. Failure to follow the direction of the OR shall be grounds for the ORC or the SLTCO to prohibit the individual to serve as an Associate Certified Volunteer.
- ii. Shall visit residents in long-term care facilities in order to:
  - A. Build relationships with residents.
  - B. Provide residents with regular access to the ORs for the area.
  - C. Provide a regular OR presence in the facility.
  - D. With permission of the resident, resolve certain, specified types of complaints.
- iii. To the extent determined appropriate by the ORC, may perform any other LTCOP activities, as determined by the local LTCOP.
- iv. Shall only process specified types of complaints.
- v. Shall refer other complaints to a certified OR for investigation, and may, under direct OR supervision, perform specific, limited functions to assist the OR process more complicated complaints that are not within the Associate Certified Volunteer role.

**f. Senior Certified Volunteer role**

A volunteer who has met the Certification Requirements for Senior Certified Volunteer OR ([Appendix B](#)) shall be called a “Senior Certified Volunteer OR.” A Senior Certified Volunteer OR is certified to process all levels of complaints. A Senior Certified Volunteer:

- i. Shall work under the supervision of the ORC. Failure to follow the direction of the ORC shall be grounds for the ORC or the SLTCO to prohibit the individual to serve as a Senior Certified Volunteer.
- ii. Shall visit residents in long-term care facilities in order to:
  - A. Build relationships with residents.
  - B. Provide residents with access to OR services.
  - C. Provide a regular OR presence in the facility.
  - D. With permission of the resident, resolve any type of complaint.
- iii. To the extent determined appropriate by the ORC, may perform any other LTCOP activities, as determined by the local LTCOP.

- iv. Shall resolve and document all types of complaints.

**g. Other types of volunteers**

A LTCOP may utilize volunteers to perform other functions to benefit the LTCOP. Such volunteers may perform any LTCOP activities, as determined by the local LTCOP, except for complaint processing.

**h. Requirements for all types of volunteers with the LTCOP**

All volunteers shall:

- i. Work under direct supervision of an OR as designated by the ORC.

**NOTE** Failure to follow the direction of the OR may be grounds for dismissal from volunteer duties by the ORC.

- ii. Provide appropriate documentation to the LTCOP of all activities done on behalf of the LTCOP.
- iii. Adhere to the laws and policies related to confidentiality of information provided to the LTCOP.
- iv. Perform his or her responsibilities in accordance with all applicable federal and state laws, rules and regulations, and these Policies and Procedures.

**i. Reporting volunteer activities**

Activities performed by OR volunteers, including Volunteer Visitors, Associate Certified Volunteers, Senior Certified Volunteers, or other volunteers may be reported as LTCOP activities only if:

- i. The requirements of that Program Component are met.
- ii. The OR volunteer provides information to the ORC or designated OR after performing the activity.

**For further volunteer requirements, refer to the Volunteer Procedure Manual 2020.**

**References**

OAA § 712(h)(4)

**110 Pre-Survey Information**

**Policy**

The Long-Term Care Ombudsman Program provides appropriate information to Healthcare Facility Regulation (HFR) in order to assist in the planning of standard surveys for nursing facilities.

## Procedures

### a. SLTCO role

- i. The SLTCO shall exercise every prudent means of protecting the confidentiality of the survey schedule and shall not disclose the scheduled date of any survey to anyone outside of the LTCOP nor to any volunteer in the LTCOP unless the volunteer is certified.
- ii. The SLTCO shall immediately notify HFR of any known allegations that any individual associated with the LTCOP has in any way given prior notification to a facility of a survey date.

### b. LTCOP role

- i. The LTCOP shall provide pre-survey information in a timely manner to the SLTCO for use by HFR for every nursing home survey for which the LTCOP is informed.
- ii. All ORs and volunteers shall exercise every prudent means of protecting the confidentiality of the survey schedule and shall not disclose the scheduled date of any survey to anyone outside of the LTCOP.
- iii. All ORs and volunteers shall exercise caution, especially during telephone calls, facility visits, and conversations which might lead to sharing schedule-related information.

### c. Protocol for Providing Pre-Survey Information to HFR

- i. The SLTCO shall receive survey schedules from the HFR and, by the end of the next working day, notify the ORCs that the survey schedules have been received for the following month.
- ii. The LTCOP Coordinator shall obtain the schedule from the SLTCO promptly after notification that survey schedules are available, and in no case later than the 25<sup>th</sup> day of the month prior to the survey schedule.
- iii. The SLTCO shall provide information about scheduled surveys only to the ORCs and those certified ORs who need the information in order to compile information for HFR.
- iv. Information about survey schedules shall:
  - A. Not be taken into facilities.
  - B. Be filed and stored out of sight, not exposed on desktops.
  - C. Be removed from view when unauthorized persons visit.
  - D. Be delivered to authorized persons in person or in a protected manner.
  - E. Not be stored in labeled folders on desktops, work tables, bookcases, or unsecured files.
- v. The ORC shall coordinate the completion of pre-survey reports within the LTCOP and share information about scheduled surveys only with those certified Ombudsmen Representatives who need the information to compile information about the facility for HFR.
- vi. The LTCOP shall provide the SLTCO with information, in a format approved by HFR and the SLTCO, by uploading a pre-survey report into OmbudsManager under Activity Type “Pre-Survey Report Submitted to OSLTCO for HFR” and notifying the SLTCO of the activity entered by referencing only the Activity Code ID Number. No indication of the date of the survey shall be on any correspondence.
- vii. In order to be timely, pre-survey information must be submitted to the SLTCO on or before the Tuesday of the week prior to the scheduled survey unless otherwise instructed by the SLTCO.

- viii. Each Wednesday, the SLTCO shall deliver pre-survey information to HFR, unless otherwise instructed by HFR.
- ix. ORs may share additional, appropriate information with HFR surveyors as requested.
- x. ORs may participate in exit conferences at the end of HFR surveys.
- xi. ORs may request the opportunity to observe the survey process at a particular facility by making the request of the appropriate HFR Regional Director. Granting such opportunity shall be at the discretion of HFR.

**NOTE** ORs are encouraged to observe a survey at a facility not regularly visited by the OR. This will enable the OR to observe the survey without confusing residents or facility staff about the purpose of the OR's presence in the facility.

## 200 Other Program Components

The local Ombudsman entity may provide the following Other Program Component and include relevant goals in the LTCO Annual Plan.

### 201 Advisory Council

#### Policy

The Long-Term Care Ombudsman Program (LTCOP) may receive advice in its planning and operation from the community.

#### Procedures

##### a. Standard for advisory council

If a local Ombudsman entity includes this Program Component in its Annual Plan, it should set a goal of ongoing involvement with an active local Ombudsman entity advisory council.

- b. The local Ombudsman entity may design its advisory council to perform one or more of the following functions:
  - i. Provide advice regarding the planning and operation of the Local Ombudsman entity or SLTCO.

**NOTE** The advisory council should not make binding decisions for, or otherwise serve as a governing body of, the local Ombudsman entity.

- ii. Enhance community understanding of LTCOP purpose and services.
- iii. Act as a multidisciplinary team to assist the local Ombudsman entity or SLTCO in obtaining resources to benefit long-term care facility residents.
- iv. Develop an understanding of long-term care issues and assist the LTCOP in issues advocacy efforts.



- v. Assist the local Ombudsman entity or SLTCO in special projects.
- c. composition of the advisory council
  - i. The local Ombudsman entity may determine the composition of its advisory council.
  - ii. The advisory council should be multidisciplinary and representative of a variety of parties. Examples include, but are not limited to:
    - A. Residents.
    - B. Family members or friends of residents.
    - C. Other consumers of long-term care.
    - D. Staff of other social services agencies.
    - E. Senior center managers.
    - F. Health care professionals such as pharmacists, physicians, nurses, and occupational/physical/speech therapists.
    - G. Members of advocacy groups.
    - H. Educators in gerontology or related fields.

d. SLTCO Advisory Council model

As reference, the procedures related to the SLTCO Advisory Council are set forth in [Section II-302](#), and its charter, attached as [Appendix C](#).

## References

OAA § 712(a)(5)(v)(II), (e), (h)(3)(A),(6),(7),(8)

# Appendix A Code of Ethics for Ombudsman

## Background

Regardless of an ombudsman's level(s) of advocacy effort, or the complexity of the issue/problem which is being addressed, there is a basic set of principles which guide an ombudsman's decisions. The National Association of State Long Term Care Ombudsman Programs developed the following Code of Ethics for ombudsmen.

## Ethical Responsibilities

- A. The Ombudsman provides services with respect for human dignity and the individuality of the client unrestricted by considerations of age, social or economic status, personal characteristics or lifestyle choices.
- B. The Ombudsman respects and promotes the client's right to self-determination.
- C. The Ombudsman makes every reasonable effort to ascertain and act in accordance with the client's wishes.
- D. The Ombudsman acts to protect vulnerable individuals from abuse and neglect.
- E. The Ombudsman safeguards the client's right to privacy by protecting confidential information.

- F. The Ombudsman remains knowledgeable in areas relevant to the long-term care system, especially regulatory and legislative information, and long-term care service options.
- G. The Ombudsman acts in accordance with the standards and practices of the Long-Term Care Ombudsman Program, and with respect for the policies of the sponsoring (contract) organization.
- H. The Ombudsman will provide professional advocacy services unrestricted by his/her personal belief or opinion.
- I. The Ombudsman participates in efforts to promote a quality long term care system.
- J. The Ombudsman participates in efforts to maintain and promote the integrity of the Long-Term Care Ombudsman Program.
- K. The Ombudsman supports a strict conflict of interest standard which prohibits any financial interest in the delivery or provision of nursing home, board and care services, or other long-term care services which are within their scope of involvement.
- L. The Ombudsman shall conduct him/herself in a manner which will strengthen the statewide and national Ombudsman network.

## Appendix B LTCO Representative Certification Training Requirements

### Overview

- I. [Certification - Training Requirements](#)
  - A. [Certification Training Process](#)
  - B. [Required Topics](#)
  - C. [Classroom Training](#)
  - D. [On-site Training in Long-Term Care Facilities](#)
    - 1. [Training in nursing facilities](#)
      - a. General requirements for all Ombudsman Representative trainees (Ombudsman Representative staff and volunteers)
      - b. Staff Ombudsman Representative requirements
      - c. Exception for volunteer Ombudsman Representative
    - 2. [Training in personal care homes](#)
      - a. General requirements for all Ombudsman Representative trainees
      - b. Staff Ombudsman Representative requirements
      - c. Exception for volunteer Ombudsman Representative
- E. [Certification Examinations](#)
  - 1. [Written Examination](#)
  - 2. [Oral Examinations](#)

## F. Failure to Complete Training Requirements

## II. Notification of Certification

## III. Certification - Continuation Requirements

# I. Certification - Training Requirements

## A. Certification Training Process

The Office of the State Long-Term Care Ombudsman (OSLTCO) provides for training and certification of Ombudsman Representatives as required by state and federal law. Classroom and on-site training and examinations are done under the direction of the State Long-Term Care Ombudsman SLTCO. **The certification process consists of 13 days of training plus examinations, and, for Ombudsman Representative staff, the examinations must be completed within six months after attending the classroom training provided by the SLTCO.**

## B. Required Training Topics

Required training for candidates for Long-Term Care Ombudsman Representative certification includes, but is not limited to, the following topics and content areas:

1. Processes of aging
2. Characteristics of long-term care residents
3. State and federal long-term care regulatory system
4. History and overview of long-term care facilities
5. Long-term care reimbursement systems
6. Residents' rights
7. Long-Term Care Ombudsman Program
  - a. History of program
  - b. Federal and state statutes
  - c. Policies and procedures, including:
    - Duties and responsibilities
    - Confidentiality
    - Conflict of interest
8. Communication and interviewing skills
9. Complaint investigation skills and procedures
10. Reporting and record-keeping
11. Aging network - Ombudsman Representative role

These topics are presented in a combination of classroom, long-term care facility or other appropriate settings.

### C. Classroom Training – 3 days

Classroom training (**3 days**) provided by the SLTCO is required for all Ombudsman Representative staff and is available to volunteers and other interested parties as space is available. Local Ombudsman entities may provide equivalent classroom training for volunteers, subject to pre-approval by the SLTCO.

### D. Training in Long-Term Care Facilities

As required by Georgia law, the certification process includes on-site training of 7 equivalent work-days in a nursing home and 3 equivalent workdays in a personal care home.

#### 1. Training in Nursing Facilities – 7 days

##### a. Staff Ombudsman Trainees

The 7 days shall consist of:

- i. **2 days** under SLTCO supervision at a nursing home,
- ii. **3 days** observation of an HFR standard survey in a nursing home (with written submission to the SLTCOP describing observations), and
- iii. **2 days (equivalent to no less than 16 hours)** of observation (which can be done with supervision or independently, at the discretion of the SLTCO and Ombudsman Representative Coordinator) which may include, but is not limited to the following:

##### A. Interviews with nursing home department heads, such as:

- Administration
- Social services
- Nursing
- Dietary
- Activities
- Rehabilitative services
- Billing and reimbursement
- Laundry and housekeeping

##### B. Observation of the following:

- Resident care planning
- Resident council meeting
- Staff provision of services to and interaction with residents

##### C. Interviews with residents

Written summaries describing all observations and interviews shall be submitted to the OSLTCO for review within 10 days of the observation/interview.

Trainees are required to participate in consultations/discussions of field observations and interviews. The OSLTCO shall determine the number and frequency of the discussions, i.e.

bi-weekly, monthly, etc.

#### **b. Senior Certified Volunteer Ombudsman Representative Trainees**

Associate Certified Volunteer Representatives who wish to become a Senior Certified Volunteer Ombudsman Representative trainee must have successfully served in the position for at least six months prior to admission into the Certification Training Program.

Senior Certified Volunteer Ombudsman Representative trainees are not required to attend the SLTCO-supervised home observation or HFR survey but are required to complete 7 days of observation in a nursing home as indicated above.

### **2. Training in Personal Care Homes / Assisted Living Communities – 3 days**

#### **a. Staff Ombudsman Representative Trainees**

The 3 days shall consist of:

- i. 1 day under SLTCO supervision in personal care homes/assisted living communities,
- ii. 1 day observation of an HFR complaint investigation or standard survey in a PCH/ALC (with written submission to the SLTCOP describing observations) within 10 days of the observation), and
- iii. 1 day (**equivalent to no less than 8 hours**) of observation (which can be done with supervision or independently, at the discretion of the SLTCO and Ombudsman Representative Coordinator) which may include, but is not limited to, the following:

##### **A. Interviews with PCH/ALC staff, regarding:**

- Administrative philosophy of the provider/manager
- Description of services provided (and not provided) by the home
- Admission and discharge processes
- Billing practices

##### **B. Observation of the following:**

- Staff provision of services to and interaction with residents
- Daily routine of residents
- Resident interactions with staff and with other residents
- Services provided
- Activities provided and extent of resident involvement
- Food service

##### **C. Interviews with residents**

Written summaries describing all observations and interviews shall be submitted to the OSLTCO for review within 10 days of the observation/interview.

Trainees are required to participate in consultations/discussions of field observations and interviews scheduled by the OSLTCO. The OSLTCO shall determine the number and fre-

quency of the discussions, i.e. bi-weekly, monthly, etc.

#### **b. Senior Certified Volunteer Ombudsman Representative Trainee**

*Associate Certified Volunteer Ombudsman Representatives who wish to become a **Senior Certified Volunteer Ombudsman Representative** must have successfully served in the position for at least six months prior to admission into the Certification Training Program.*

Senior Certified Volunteer Ombudsman Representative trainees are not required to attend the SLTCO-supervised home observation or HFR survey but are required to complete **3 days** of observation in personal care homes/assisted living communities as indicated above.

### **E. Certification Examinations**

#### **1. Written Examination**

The SLTCO provides to the trainee a written open-book examination. The examination is designed to assess the trainee's ability to apply the complaint investigation process to sample cases by:

- a. Identifying issues involved
- b. Applying relevant statutes/regulations
- c. Developing a plan of action that demonstrates:
  - i. An awareness of the appropriate Ombudsman Representatives' role, and
  - ii. Appropriate resolution strategies and rationales.

The written examination will be evaluated by the SLTCO on a pass/fail basis. If the trainee does not pass the first or second time taking the exam, the SLTCO may identify additional work to be done on the examination needed to pass. The trainee must complete and return a passing written examination within two months of its receipt in order to become certified. Trainees may submit the written examination no more than three times during the two-month period. If the trainee does not pass by the third attempt, the trainee will not be certified.

#### **2. Oral Examination**

When all other certification activities have been satisfactorily completed, the oral examination is administered by the SLTCO.

- a. The purpose of this examination is to evaluate the following:
  - i. Knowledge of LTCOP policies and procedures and federal and state enabling statutes,
  - ii. Demonstration of the skills necessary to provide adequate services to long-term care residents,
  - iii. Knowledge of relevant laws and regulations necessary to fulfill job responsibilities, and
  - iv. Understanding of the Ombudsman Representatives' role in complaint processing.
- b. The examination will be evaluated on a pass/fail basis. If the trainee passes the oral examination and meets all other requirements for certification, the SLTCO may certify the trainee as an Ombudsman Representative. If the trainee does not pass the oral examination, the trainee shall not be certified. The SLTCO may identify activities or training needed to improve competency in

areas which the SLTCO has found the trainee deficient. The trainee will be notified of his/her certification status within five (5) working days of the examination. If the trainee does not pass the oral examination, the trainee may request the opportunity to go through the certification process again from the beginning. The Local Ombudsman Entity must make such a recommendation for the SLTCO to consider the request. The SLTCO has discretion to approve or deny the request to go through the certification training again.

#### **F. Failure to Complete Training Requirements**

The SLTCO has the authority to refuse to designate an individual as an Ombudsman Representative should he or she fail to satisfactorily complete the training requirements for certification, as set forth in the LTCO policies and procedures manual.

## **II. Notification of Certification**

When a trainee meets the required training requirements, the SLTCO may certify him or her as a certified Ombudsman Representative. Such certification constitutes a designation by the SLTCO of the individual as an Ombudsman Representative. At the time that the trainee is certified, the SLTCO will issue an identification card to the Ombudsman Representative, which shall be presented upon request by the Ombudsman Representative whenever the Ombudsman Representative is working in an Ombudsman Representative capacity.

**THE ENTIRE CERTIFICATION PROCESS SHALL NOT EXCEED SIX MONTHS AFTER COMPLETION OF INITIAL CLASSROOM TRAINING.**

## **III. Certification - Continuation Requirements**

### **Requirements for Maintaining Certification**

#### **Compliance with LTCO Policies and Procedures**

In order to maintain certification, the Ombudsman Representative must comply with the requirements of the LTCO policies and procedures.

#### **Program Affiliation**

In order to maintain certification, the Ombudsman Representative must remain affiliated with a designated Local Ombudsman Entity.

#### **Continuing Education Requirements**

- a. Ombudsman Representative Staff – 60 hours per two year recertification period (with a minimum of 18 hours each year)**
  - i. Each staff Ombudsman Representative shall attend a minimum of 60 hours of in-service training per two-year recertification period.
  - ii. Each Ombudsman Representative must complete 18 hours of continuing education every 12 months.
  - iii. Each staff Ombudsman Representative shall attend all state-wide trainings provided by the SLTCO, which will count toward the fulfillment of the 60-hour requirement. Any circum-

stance that prevents attendance at required trainings must be approved in advance by the SLTCO.

**NOTE**

If the SLTCO does not provide 60 hours of training in a two year recertification period or if a staff Ombudsman Representative is unable to attend training provided by the SLTCO and has received SLTCO approval for the absence, the remainder of the training requirement may be satisfied through other training related to ombudsman duties and approved by the SLTCO. Failure to obtain SLTCO approval for absence from required training is grounds for decertification.

- iv. Excess training hours cannot be carried over from one recertification period to the next.
  - v. In cases where an Ombudsman Representative fails to meet recertification requirements due to extenuating circumstances, consideration may be given to requests for a one calendar quarter grace period.
  - vi. Failure to meet the recertification requirements by the designated deadline is grounds for decertification.
- b. Associate and Senior Certified Volunteer Ombudsman Representatives - 18 hours per one-year recertification period**
- i. Each **Associate** and **Senior Certified Volunteer Ombudsman Representative** shall receive a minimum of 18 hours of in-service training every 12 months.
  - ii. Each **Associate** and **Senior Certified Volunteer Ombudsman Representative** shall attend, when possible, one statewide LTCO training provided by the SLTCOP. Attendance at in-service training programs provided or arranged for by the Local Ombudsman Entity with which the volunteer is affiliated may fulfill this requirement either in whole or in part. The SLTCO shall approve such volunteer training programs.

## **Recertification**

In order to continue to carry out his/her duties, each Ombudsman Representative must be re-certified every two years by the SLTCO. Certification records are maintained by the OSLTCO. Upon renewal of certification, the SLTCO will issue a new OR certification card.

Associate and Senior Certified Volunteers recertification is for 12 months. All certified volunteers must complete 18 hours of continuing education every 12 months.

## **Withdrawal of Designation**

If an Ombudsman Representative or volunteer fails to meet these requirements to maintain certification, the SLTCO may initiate withdrawal of designation proceedings as set forth in the LTCO policies and procedures.

# **Appendix C Georgia OLTCO Advisory Council Charter**



## **I. Background**

The Long-Term Care Ombudsman Program is authorized by the Federal Older Americans Act, (Public Law 89-73, as amended; 42 U.S.C. § 3058g) and Georgia law (O.C.G.A. §§ 31-8-50, et seq.). The Office of the State Long-Term Care Ombudsman (Office of the SLTCO) operates as a separate office within the Georgia Department of Human Services, Division of Aging Services. The Division of Aging Services, on behalf of the Office of the State Long-Term Care Ombudsman, contracts with Area Agencies on Aging to provide ombudsman services throughout the state in accordance with the Older Americans Act.

As a separate office, the Office of the SLTCO relies upon the Advisory Council of the Office of the SLTCO (Advisory Council) to ensure its accountability, advocacy and effectiveness.

## **II. Responsibilities of the Advisory Council**

The Advisory Council shall assist the Office of the SLTCO by:

- A. Providing advice regarding the operation of the Office of the SLTCO.
- B. Serving as a sounding board to the Office of the SLTCO.
- C. Enhancing community understanding of the purpose and services of Georgia's Long-Term Care Ombudsman Program (LTCOP).
- D. Assisting the Office of the SLTCO to identify resources to benefit the LTCOP and long-term care facility residents.
- E. Developing an understanding of long-term care issues and assisting the Office of the SLTCO in its efforts to advocate for improvements for long-term care residents.
- F. Providing a forum for dialogue with other public agencies and programs, providers, and policy-makers regarding the operations of the Office of the SLTCO and the LTCOP.

The advisory council shall not make binding decisions for, or otherwise serve as a governing body of, the LTCOP.

## **III. Composition of the Advisory Council**

- A. The Advisory Council shall consist of a minimum of 12, and no more than 20, members, all of whom shall serve in a volunteer capacity. At all times, the majority of members shall consist of residents or their representatives, persons with disabilities, elders, and/or consumer advocates (which may include staff or volunteer long-term care ombudsmen from community programs).
- B. At a minimum, the membership shall include:
  - 1. 5 members from any of the following groups:
    - a. residents of long-term care facilities or their representatives,
    - b. elders,
    - c. persons with disabilities,
    - d. consumer advocates for elders,
    - e. consumer advocates for persons with disabilities.

2. 1 community LTCO staff person, who may be recommended by the Council of Community Ombudsmen (COCO).
  3. 1 LTCO volunteer, who may be recommended by COCO.
  4. 1 Area Agency on Aging director, who may be recommended by the Georgia Association of Area Agencies on Aging (G4A).
  5. 1 representative of an agency which houses a community ombudsman program.
  6. 1 representative of the Division of Aging Services, who may be recommended by the Director of the Division of Aging Services.
- C. Additional members may represent these or other interests or relevant organizations but may not have a conflict of interest with the LTCOP.

#### **IV. Appointment of Advisory Council Members**

- A. The Advisory Council may appoint members to fill vacancies after soliciting and considering recommendations of the groups indicated and the SLTCO. The Director of the Division of Aging Services shall be provided with an opportunity to comment on nominees prior to their appointment.
- B. If the Advisory Council fails to fill any vacancy which has been held vacant for six months or more, the Director of the Division of Aging Services may appoint members to fill vacancies after soliciting and considering recommendations of the relevant group(s) indicated and the SLTCO.

#### **V. Terms and Responsibilities of Members**

- A. An Advisory Council member shall serve a two-year term. Each member is expected to:
  1. Participate (either in person or by telephone) in a minimum of two meetings per year.
  2. Actively participate in the functioning and responsibilities of the Advisory Council.
  3. Proactively seek ways to further the mission and strengthen the effectiveness of the LTCOP.
- B. Three or more Advisory Council members with expertise in fundraising shall serve on a Committee for Resource Development. The Committee shall examine opportunities to enhance resources to benefit the LTCOP and long-term care residents in Georgia.

#### **VI. Officers and Staff Support**

- A. The Advisory Council shall have the following officers:
  1. Chair — who shall facilitate meetings, set agendas in collaboration with the Office of the SLTCO, provide leadership to the Advisory Council, and serve on the Executive Committee.
  2. Vice-chair – who shall facilitate meetings in the absence of the chairperson and serve on the Executive Committee.
  3. Secretary – who shall assure distribution and approval of minutes of Advisory Council meetings and serve on the Executive Committee.
- B. The Executive Committee shall represent the Advisory Council when needed to assist the Office of the SLTCO in determining strategy for the Advisory Council and in making time-sensitive decisions when the full Council is unable to meet.

- C. The Office of the SLTCO will provide staff support for the Advisory Council, including, as needed:
1. assistance with transportation arrangements,
  2. accommodation of Council members with special needs or disabilities, and
  3. reimbursement for mileage for Council-related business as funds are available.

## **Appendix D Grievance Related to the Performance of an OR of the SLTCO of Georgia Intake Form**

[1] When all OR staff are out of the office (e.g., due to a required training conference or because the LE office is closed), then the response shall be within the next working day that any OR staff are in the office.