



TEXAS
Health and Human
Services

<https://hhs.texas.gov/laws-regulations/forms/8000-8999/form-8613-office-state-long-term-care-ombudsman-conflict-interest-identification-removal-remedy>

Effective Date:

3/2017

Documents

-  [8613.pdf](#)

Instructions

Purpose

- To request approval by the State Long-Term Care Ombudsman of a plan to remedy or remove an individual conflict of interest with a representative of the Office of the State Long-Term Care Ombudsman (Office). An individual conflict of interest is a conflict regarding a representative of the Office or an immediate family member of a representative of the Office.
- To remove an organizational conflict of interest that affects a local ombudsman entity. An organizational conflict of interest is a conflict within a host agency, or governmental entity or nonprofit organization contracting with a host agency, to perform the functions of a local ombudsman entity.

Procedure

When to Complete

When requesting approval of a remedy or removal plan by the State Ombudsman. This approval is required for a person or local ombudsman entity with an identified conflict to perform functions of the Ombudsman Program. Complete the form within the following time frames:

- before making a job offer for an identified conflict regarding a job applicant;

- before the person performs functions of the Ombudsman Program for an identified conflict regarding a volunteer applicant;
- within five days of identifying the conflict regarding a managing local ombudsman;
- within 30 days of identifying the conflict regarding a staff or volunteer ombudsman other than a managing local ombudsman; and
- within 30 days of identifying the conflict for a local ombudsman entity with an organizational conflict.

Form Retention and Submission

Submit Form 8613 to the State Long-Term Care Ombudsman via mail, email, or fax. The Office provides a copy of an approved request to the local ombudsman entity by email. Submit and retain a copy of the form as follows:

- For individual conflicts of interest other than the managing local ombudsman, the managing local ombudsman submits the form to the Office for approval. If approval is given, retain a copy of the approved form at the Office and local ombudsman entity. Provide a copy to the individual with an identified conflict.
- For individual conflicts of interest regarding the managing local ombudsman, the host agency representative submits the form to the Office for approval. If approval is given, retain a copy of the approved form at the Office and local ombudsman entity, and host agency.
- For organizational conflicts of interest, the host agency submits the form to the Office for approval. If approval is given, retain a copy of the approved form at the Office, local ombudsman entity and host agency.

Detailed Instructions

Name of person completing this form — type or print the name of the person who is completing the form.

Type of conflict — check the box to indicate whether the conflict is individual or organizational in nature.

- If Individual is selected, enter the name of the individual with the conflict.
- If Organizational is selected, enter the name of the entity or entities with a conflict.

Date conflict was identified— enter the date when the conflict was identified by the local ombudsman entity.

Section 1

Describe the conflict in detail.

Section 2

Describe the scope of the conflict. Specify organizations and businesses affiliated with the conflict, including businesses operated by the same owner.

Section 3

Identify functions that require changes to Ombudsman Program procedure, including the following functions as applicable:

- ombudsman intake procedures;
- contact with residents;
- communications with providers, facility staff, owner, or host agency staff;
- complaint-handling procedure;
- employment or volunteer responsibilities within the local ombudsman entity; and
- other changes.

Section 4

Describe how the conflict will be remedied or removed. Address each issue noted in Section 3, and the following as applicable:

- if the conflict is a current or previous financial relationship with a long-term care facility, say how this relationship will not negatively impact the Ombudsman Program;
- if a current or previous personal relationship with one or more residents in a long-term care facility, say how this relationship will not negatively impact the ombudsman's role as an advocate for all residents in the assigned facility or facilities;
- if the conflict involves membership or volunteer activities relating to long-term services and supports, say how the activity will not negatively affect the Ombudsman Program; and
- if an organizational conflict, address all functions affected by the conflict.

Section 5

State the name and title of the person to whom the individual or local ombudsman entity will report for supervision within the host agency. Describe how the arrangement will be monitored for effectiveness.

Section 6

Explain how long the conflict and plan are expected to exist. Address how and when the plan will be monitored for effectiveness.

Section 7 Signatures

For individual conflicts of interest other than the managing local ombudsman, the applicant or ombudsman and the managing local ombudsman sign and date the form.

For individual conflicts of interest regarding the managing local ombudsman, the applicant or managing local ombudsman and host agency representative (supervisor) sign and date the form.

For organizational conflicts of interest, the managing local ombudsman and host agency representative sign and date the form.

Section 8 Decision by State Ombudsman

The State Ombudsman answers Yes or No, and may include additional information in the Note field. If modifications to the plan are required, the State Ombudsman documents modifications in the Modifications field. Modifications may include time limits, additional requirements, and other direction by the State Ombudsman.

The State Ombudsman signs and dates the plan to indicate approval.



3/2017

<https://hhs.texas.gov/laws-regulations/forms/8000-8999/form-8607-conflict-interest-statement>

Documents

-  [8607.pdf](#)

Instructions

PURPOSE

To determine if an individual conflict of interest exists with a representative of the Office of the State Long-Term Care Ombudsman (Office). An individual conflict of interest is:

- a situation in which a person is involved in multiple interests, financial or otherwise, that could affect the effectiveness and credibility of the State Long-Term Care Ombudsman Program (Ombudsman Program); and
- a conflict that involves a representative of the Office or an immediate family member of a representative of the Office.

PROCEDURE

When to Complete

Obtain a completed and signed Form 8607:

- for a job applicant before making a job offer;
- for a volunteer applicant before the person performs functions of the Ombudsman Program;
- annually for a current staff or volunteer of the Ombudsman Program;
- when a staff or volunteer of the Ombudsman Program begins performing any of the activities identified as a potential conflict; and
- when a relevant change occurs, such as an immediate family member moving into or beginning work in a long-term care facility.

Questions regarding potential conflicts of interest include:

- being involved with licensing or certifying an LTC facility, DAHS or HCSSA;
- providing contract services, serving on a board or council, or working for a business that provides services to an LTC facility or a resident of an LTC facility;
- having the right to receive payment from an owner or operator of an LTC facility;
- being involved in making Medicaid, Medicaid managed care, Medicare, or PASRR decisions for someone other than an immediate family member;
- receiving gifts, gratuities or other considerations from an LTC facility, a resident of an LTC facility, or a resident's family;
- owning or investment in an LTC facility, DAHS, HCSSA, personal care service, or business that makes referrals to an LTC facility;
- managing or working for an LTC facility, DAHS, HCSSA, personal care service, or business that makes referrals to an LTC facility or managed care organization in Texas;
- having a relative who lives or works in an LTC facility in Texas;
- serving as a guardian, power of attorney, or primary decision-maker for a resident in an LTC facility; or
- volunteering for an LTC facility, including serving on a board or council, providing religious services or consulting.

Form Retention

Retain the original completed form in the person's certification file at the local ombudsman entity. Retain each subsequent form completed.

Submission to the Office

If a potential conflict is identified by answering "Yes" on the form, the managing local ombudsman may submit a removal or remedy plan for approval by the Office using Form 8613. If such a request is made, a copy of Form 8607 must accompany Form 8613.

DETAILED INSTRUCTIONS

Name of person completing this form — type or print the name of the person who is being screened for a conflict of interest.

Section 1

This section applies to current circumstances and employment or action completed within the last 12 months. It includes a member of the person's immediate family. Answer Yes or No to each question. If Yes, provide details of the circumstances.

Section 2

This section applies to current and past circumstances of the person. Answer Yes or No.

Section 3

This section applies to current and past circumstances of the person. Answer Yes or No.

Section 4

This section applies to current circumstances of the person. Answer Yes or No. If Yes, provide details of the circumstances.

Section 5

This section applies to current circumstances of the person. Answer Yes or No. If Yes, provide details of the circumstances.

Section 6

This section applies to current circumstances of the person. Answer Yes or No. If Yes, provide details of the circumstances.

Certification and Signatures

If the person answers No to all of the questions in Sections 1-6, the managing local ombudsman signs the form and retains a copy of the form in the person's certification file.

If the person answers Yes to one or more of the questions in Sections 1-6, the managing local ombudsman ensures the individual provides a detailed explanation of all Yes answers in the comments box. Based on the information provided, the managing local ombudsman determines if remedy or removal of the conflict is possible and submits Form 8613 as appropriate.

Title 45 Code of Federal Regulations

§1324.21 Conflicts of interest.

The State agency and the Ombudsman shall consider both the organizational and individual conflicts of interest that may impact the effectiveness and credibility of the work of the Office. In so doing, both the State agency and the Ombudsman shall be responsible to identify actual and potential conflicts and, where a conflict has been identified, to remove or remedy such conflict as set forth in paragraphs (b) and (d) of this section.

(a) Identification of organizational conflicts. In identifying conflicts of interest pursuant to section 712(f) of the Act, the State agency and the Ombudsman shall consider the organizational conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office, or requiring that an Ombudsman or representative of the Office perform conflicting activities, in an organization that:

- (1) Is responsible for licensing, surveying, or certifying long-term care facilities;
- (2) 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;
- (3) Has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility;
- (4) Has governing board members with any ownership, investment or employment interest in long-term care facilities;
- (5) 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;
- (6) Provides long-term care coordination or case management for residents of long-term care facilities;
- (7) Sets reimbursement rates for long-term care facilities;
- (8) Provides adult protective services;
- (9) Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities;
- (10) Conducts preadmission screening for long-term care facility placements;
- (11) Makes decisions regarding admission or discharge of individuals to or from long-term care facilities; or
- (12) Provides guardianship, conservatorship or other fiduciary or surrogate decision making services for residents of long-term care facilities.