

RESOURCE LIST: LTCOP FINAL RULE

Since 1978, the functions of the State Long-Term Ombudsman program have been delineated in the Older Americans Act; however, regulations have not been promulgated. In the absence of regulatory guidance, there has been significant variation in the interpretation and implementation of the program among States. AoA believes that consumers and long-term care providers will benefit from the implementation of this rule. Consumers and other complainants across the country will receive services from Ombudsman programs with more consistent quality and efficiency of service delivery. **This rule will be effective July 1, 2016.**

The following resources can be found at: http://ltcombudsman.org/library/fed_laws/ltcop-final-rule

State Long-Term Care Ombudsman Programs Rule

Final Rule Language

The Final Rule was published February 11, 2016 by the Department of Health and Human Services. Read the rule in its entirety. Final Rule: 45 CFR Parts 1321 and 1327 State Long-Term Care Ombudsman Programs.

- **Proposed Rule: State Long-Term Care Ombudsman Program** (June 18, 2013)
The Administration on Aging (AoA) of the Administration for Community Living (ACL) within the Department of Health and Human Services (HHS) issued a Notice of Proposed Rulemaking, with request for comments, to implement provisions of the Older Americans Act, mainly the State Long-Term Care Ombudsman program. This proposed rule replaces AoA's 1994 Notice of Proposed Rulemaking.

Resources Produced by AoA/ACL

Frequently Asked Questions (FAQs) - Long Term Care Ombudsman Programs

These FAQs were produced by AoA/ACL and are intended to assist State Agencies on Aging, State Long-Term Care Ombudsman Programs, and other entities that work with Ombudsman programs with the implementation of the State Long-Term Care Ombudsman Programs Rule, which will take effect July 1, 2016.

Long-Term Care Ombudsman Program Final Rule Webinar

This webinar was presented by Becky Kurtz, Director, Office of LTCO Programs with AoA of ACL, with an introduction by Kathy Greenlee, Administrator, Administration for Community Living; Assistant Secretary, Administration on Aging.

The webinar provided an opportunity to review sections of the rule including:

- Responsibilities of key figures in the system, including the Ombudsman and representatives of the Office of the Ombudsman;

- Responsibilities of the entities in which LTC Ombudsman programs are housed;
 - Criteria for establishing consistent, person-centered approaches to resolving complaints on behalf of residents;
 - Appropriate role of LTC Ombudsman programs in resolving abuse complaints; and
 - Conflicts of interest: processes for identifying and remedying conflicts so that residents have access to effective, credible ombudsman services
- **State Long-Term Care Ombudsman Programs NPRM: Consumer Voice Briefing** (July 2013)
This presentation by Becky Kurtz, Director, Office of LTCO Programs with AoA of ACL, gives an overview of the proposed rule. Listen to the recording and follow along with Becky's presentation.

Visit http://ltcombudsman.org/library/fed_laws/ltcop-final-rule for the links to the webinar, slides, and recording.

Resources Produced by NORC

State LTCO Program Statutes and/or Regulations Chart

This chart includes links to state statutes and regulations regarding the LTCO Program (as of February 2016).

LTCOP Rule Issue Brief: State LTCOP Organizational Level Conflict of Interest

The purpose of this document is to assist states to identify and remedy or remove conflicts of interest (COI) within the Office of the State Long-Term Care Ombudsman (the "Office") as required by the State Long-Term Care Ombudsman Programs, Final Rule.

LTCOP Rule Issue Brief: Local Ombudsman Entity Organizational Level Conflict of Interest

The purpose of this document is to assist the State Ombudsman to identify and remedy or remove conflicts of interest (COI) within an agency hosting a local Ombudsman entity as required by the State Long-Term Care Ombudsman Programs, Final Rule. Organizational COI are conflicts that may impact the effectiveness and credibility of the work of the Office of the State Long-Term Care Ombudsman.

Additional Resources Regarding conflict of interest applicable to all types of conflicts

- **Conflict of Interest and the Long-Term Care Ombudsman Program**
This resource paper discusses the Older Americans Act provisions and dimensions of conflict of interest. Key resources and approaches utilized by several state and local ombudsman programs are included as examples of program management practices to address issues such as policies and procedures, remedies, decision-making criteria, and COI forms.

- **Long-Term Care Ombudsman Strategy Session**
In this document conflicts of interest are discussed in the session summary, as well as in two briefs about COI in the appendices.
- **Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act** (Institute of Medicine (IoM), 1995). Read *Chapter 7: Conflicts of Interest*.
- **A Self-Evaluation and Continuous Quality Improvement Tool for State and Local Ombudsman Programs** (COI discussed on page 47 of the state LTCOP version and page 62 of the local LTCOP version)
This tool provides State and Local Long-Term Care Ombudsmen with an instrument for conducting a self-assessment of their program to identify the program's strengths and areas in need of improvement. Information and recommendations from several State and Local LTCO, NORC staff and consultants, AoA staff and resources such as the 1995 Institute of Medicine report were used to determine 13 components deemed fundamental to having a strong, effective ombudsman program.

The elements within each component (indicators) used to assess the program are considered to be exemplary practices that programs should strive to achieve. There is also a condensed version (the mini-tool) of the original instrument that allows for a quick, initial assessment of a statewide program to identify areas for improvement and areas of strength. Once those program areas are identified, the user can move on to the comprehensive evaluation tool for an in-depth assessment of each component. Links to the comprehensive self-assessment, mini-tool, instructional brief, and instructional webinar recording (for both local and state LTCOPs) are available on this page:
http://ltcombudsman.org/omb_support/pm/program-effectiveness

Overview of the Long-Term Care Ombudsman Program Final Regulations

The information contained in this document is an overview of the Final Regulations for the Long-Term Care Ombudsman Program (amending 45 CFR Parts 1321 and 1327), published in the Federal Register, Vol. 80, No. 28, 7704-7767 (February 11, 2015). The purpose of this overview is to provide a quick reference to the provisions included in the regulation.

Side-by-side of the Long-Term Care Ombudsman Program Final Rule with the Pertinent Preamble Language

This document lists each section of the Final Rule alongside the pertinent response to comments from AoA found in the preamble. The preamble language is helpful as it gives insight into the considerations behind the language and intent of the regulation.

Side-by-side of the Long-Term Care Ombudsman Program Final and Proposed Regulations

This document lists the language of each section of the Final Regulations alongside the original section language in the proposed rule in chart form so the changes, additions and omissions from proposed to final rule are apparent.

Worksheet - Long-Term Care Ombudsman Program Final Regulations

This document lists the language of the Final Regulations by section in chart form, alongside a blank column where corresponding state regulations or policy language can be inserted. This will give stakeholders in the states the opportunity to determine where the gaps are and additional language is needed in order to come into compliance with the new rules.

Technical Assistance Responses

- **Designation and De-Designation** (December 2015)
This brief answers the question, “Are there examples of SLTCOPs policies and procedures on designation and de-designation?”
- **Grievance Procedure** (December 2015)
This brief answers the question, “Are there examples of LTCO policies and procedures regarding how to respond complaints against the LTCO program?”
- **Disclosure of LTCO Information** (September 2015)
This brief answers the question, “How do State LTCOPs address disclosure of LTCOP information in program policies and procedures, e.g. determining what information to release, to whom, and under what circumstances, and delegation by the Ombudsman for disclosure?”
- **Complaint Response Time** (June 2015)
This brief answers the question, “In the Final Rule 1327.11 (v) Standards to assure prompt response to complaints by the Office and/or local Ombudsman entities which prioritize abuse, neglect, exploitation and time sensitive complaints in which consider the severity of the risk to the resident, the imminence of the threat of harm to the resident and the opportunity for mitigating harm to the resident through provision of Ombudsman program services. What are other State Ombudsman policy and procedures response time to complaints?”

State Policies and Procedures

NORC receives many requests from SLTCO regarding the development or updating of policies and procedures. When developing or revising your policies and procedures, you may find it helpful to visit the NORC website to review **samples of various state policies and procedures** from other state ombudsman programs here:

http://ltcombudsman.org/omb_support/pm/policies

SLTCOP Policies and Procedures: Conflict of Interest

Use this chart to quickly identify SLTCOPs with similar program structure and review their policies and procedures regarding conflict of interest. For the states that shared their policies and procedures we've identified core aspects of their policies regarding conflict of interest and created a chart for easy access to that specific language by clicking on the state initials.

State Resources Regarding the Rule

Texas LTCOP Informational Resources Regarding Implementation of the LTCOP Rule

Texas created a "LTCO Personal and Program Brief" as well as a document titled "Texas Federal Rule Implantation." These documents were created to explain the impact of the LTCOP rule to program representatives (local LTCO and Managing Local Ombudsmen, MLOs), their supervisors, and host agencies (Area Agencies on Aging).

**Be sure to continuously check lcombudsman.org for updated and new resources, charts and issue briefs.*