**CHAPTER 1**

**Long-Term Care Ombudsman Program: Introduction**

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**MISSION STATEMENT**

1. ***MISSION STATEMENT***

The mission of the Florida Long-Term Care Ombudsman Program is to improve the quality of life for all Florida Long-term care residents by advocating for, and protecting their health, safety, welfare and rights.

**PROGRAM JURISDICTION AND STATUTORY BASIS**

1. ***PROGRAM JURISDICTION AND STATUTORY BASIS***
   1. **Program Jurisdiction**: The Long-Term Care Ombudsman Program (LTCOP) was created by the Older Americans Act in 1972. In 1975, amendments to the Older Americans Act authorized the Administration on Aging (AOA) to make grants to states for the development of Nursing Home Ombudsman Programs. Amendments to the Older Americans Act in 1981 extended ombudsman program services to Cresidents of board and care facilities. In Florida, the Long-Term Care Ombudsman Act expanded the program to include residents of Assisted Living Facilities and Adult Family Care Homes. Currently the program’s jurisdiction lies with identifying, investigating, and resolving complaints made by or on behalf of residents of these long-term care facilities.
   2. **Statutory Basis**: For more information, refer to the following laws and regulations which govern the activity of the Long-Term Care Ombudsman Program:

* Chapter 400, Part I, Florida Statutes, “Long-Term Care Facilities: Ombudsman Program”
* Chapter 58L-1, Florida Administrative Code, “Long-Term Care Ombudsman Program”
* Title 42, United States Code, Sections 3058f-3058h, “Older Americans Act (OAA), Ombudsman Program”

**ORGANIZATION AND USE OF THE MANUAL**

1. ***ORGANIZATION AND USE OF THE MANUAL:***
   1. **Chapters/Sections**: This handbook is organized into chapters, some of which include sections containing similar subject matter. Sections are further divided into parts containing specific subject matter. Some chapters are simply divided into sections of specific subject matter.
   2. **Appendices**: This handbook includes appendices which provide samples of how to complete certain tasks and responsibilities.

**SCOPE OF THE MANUAL**

1. ***SCOPE OF THE MANUAL:***
   1. **Scope of the Manual**: The manual describes the operation, responsibilities, duties and performance of the Long-Term Care Ombudsman Program in its effort to advocate for long-term care residents in the State of Florida and is focused on assisting in the daily operation of the program. The manual is not all-inclusive. The manual should be used as a reference point to ensure proper procedures are being followed. The manual refers to the Program Intranet, Appendices, and other program-related information that may not be found directly in the manual.

**REVISIONS AND CHANGES TO THE MANUAL**

1. ***REVISIONS AND CHANGES TO THE MANUAL***

**Manual Revisions**: Official revisions to this manual are as directed by the State Ombudsman.

**DEFINITIONS**

1. ***DEFINITIONS***

The following definitions apply throughout this manual unless defined differently elsewhere or the context indicates otherwise. Definitions are intended to provide staff with a *general idea* of the “industry lingo” often used by individuals who assist residents of long-term care facilities.

**Abuse** – Any willful act or threatened act that causes or is likely to cause significant impairment to a vulnerable adult’s physical, mental, or emotional health. Abuse includes acts and omissions. (Chapter 415.102)

**Activities of Daily Living** – functions and tasks for self-care, including ambulation, bathing, dressing, eating, grooming, toileting and other similar tasks. (Chapter 429.02)

**Administrative Assessment –** a review of conditions in a long-term care facility which impact the rights, health, safety, and welfare of residents with the purpose of noting needed improvement and making recommendations to enhance the quality of life for residents. (Chapter 400.0060)

**Administrator (NH) –** the licensed individual who has the general administrative charge of a facility. (Chapter 400.021)

**Administrator (ALF)** – an individual at least 21 years of age who is responsible for the operation and maintenance of an assisted living facility. (Chapter 429.02)

**Adult Family Care Home** – a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board and personal care, on a 24-hour basis, for no more than 5 disabled adults or frail elders who are not relatives. (Chapter 429.65)

**Adverse Incident –** An event over which facility personnel could exercise control rather than as a result of the resident’s condition and results in: death, brain or spinal damage, permanent disfigurement, fracture or dislocation of bones or joints, any condition that required medication attention to which the resident has not given his or her consent, including failure to honor advanced directives, any condition that requires the transfer of the resident from the facility to a unit providing more acute care due to the incident rather than the resident’s condition before the incident, or an event that is reported to law enforcement or its personnel for investigation; or resident elopement, if the elopement places the resident at risk of harm or injury. (Chapter 429.23)

**DEFINITIONS**

**Aging in Place** – the process of providing increased or adjusted services to a person to compensate for the physical or mental decline that may occur with the aging process, in order to maximize the person’s dignity and independence and permit them to remain in a familiar, non-institutional, residential environment for as long as possible. (Chapter 429.02)

**Alleged Perpetrator** – a person who has been named by a reporter as the person responsible for abusing, neglecting, or exploiting a vulnerable adult. (Chapter 415.102)

**Assisted Living Facility** – any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for

profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. (Chapter 429.02)

**Bed Reservation Policy** – the number of consecutive days and the number of days per year that a resident may leave the nursing home facility for overnight therapeutic visits with family or friends or for hospitalization for an acute condition before the licensee may discharge the resident due to his or her absence from the facility. (Chapter 400.021)

**Case** – Each inquiry brought to the attention of, or initiated by, the ombudsman on behalf of a resident or a group of residents, involving one or more complaints, which requires opening a case and includes ombudsman investigation, strategy to resolve and follow-up. (FAC 58L-1)

**Case Closed** – a case where none of the complaints within the case require any further action on the part of the ombudsman and every complaint has been assigned the appropriate disposition code. Each complaint must be reviewed and approved by the long-term care district ombudsman manager, or designee, before it meets this definition. (FAC 58L-1)

**Chemical Restraint** – a pharmacologic drug that physically limits, restricts, or deprives an individual of movement or mobility, and is used for discipline or convenience and not required for the treatment of medical symptoms. (Chapter 429.02)

**Community Living Support Plan** – a written document prepared by a mental health resident and the resident’s mental health case manager in consultation with the administrator of an assisted living facility with a limited mental health licensed or the administrator’s designee. A copy must be provided to the administrator. The plan must include information about the supports, services, and special needs of the resident which enable the resident to live in the assisted living facility and a method by which facility staff can recognize and respond to the signs and symptoms particular to that resident which indicate the need for professional services. (Chapter 429.02)

**DEFINITIONS**

**Complaint** – A concern brought to the attention of, or initiated by, the ombudsman for investigation and action by or on behalf of one or more residents of a long-term care facility, relating to the health, safety, welfare or rights of a resident. One or more complaints constitute a case. (FAC 58L-1) A complaint is also defined as a concern brought to, or initiated by, the ombudsman for investigation and action a) on behalf of one or more residents and b) relating to the health, safety, welfare or rights of a resident. (National Ombudsman Resource Center)

**Complainant** – an individual or a party who files one or more complaints made by, or on behalf of, residents with the ombudsman program. (FAC 58L-1)

**Conflict of Interest** – A conflict of interest is a competing interest, obligation or duty which compromises, influences, interferes with (or gives the appearance of compromising, influencing or interfering with) the integrity, the activities or the conduct of the program’s representatives, including the State Long-Term Care Ombudsman, in faithfully and effectively fulfilling his or her official duties. Types of conflicts include: conflicts of loyalty, which involve issues of judgment and objectivity, including, but not limited to, financial incentives that shape an individual’s judgment or behavior in such a way that is contrary to resident’s interests; conflicts of commitment, which involve issues of time and attention that direct an individual’s time and attention away from the residents’ interests; and conflicts of control, which involve issues of independence, including limitations or restrictions that effectively prevent an individual’s ability to advocate for residents’ interests. (FAC 58L-1)

**Confidentiality** – The non-disclosure of confidential information concerning a long-term care facility resident or other person. “Confidential Information” is a “fact or a specific situation or the knowledge of either that pertains to a person’s private life which is privileged by law.” It is not public information and may not be disclosed to any individual or agency without permission of the resident or the residents legal representative or when stipulated by law.

**Consent** – Verbal or written permission to disclose confidential information given by the resident, the residents legal representative, or the State Ombudsman.

**Consultation –** Providing information and assistance to an individual or a facility. (National Ombudsman Resource Center)

**Culture Change**- The national movement for the transformation of older adult services, based on person-directed values and practices where the voices of elders and those working with them are considered and respected. Core person-directed values are choice, dignity, respect, self-determination and purposeful living.

**Direct Order** – Goods or services requisitioned by Tallahassee Headquarters are done so on a “direct order”, also called “purchase order.”

**DEFINITIONS**

**District Chair** – Member of a district council elected by a majority of council members to serve a one-year term. One member may serve an unlimited number of terms but must be re-elected each year.

**District Ombudsman Manager** – Employee of the State of Florida who works closely with and supervises district council leadership and members.

**Exploitation** – a person who stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult **or** a person who knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult. (Chapter 415.102)

**Extended Congregate Care** – a type of supplemental license that an assisted living facility may apply for that enables residents to age in place in a residential environment despite mental or physical limitations that might otherwise disqualify them from residency in a facility licensed [as an assisted living facility]. (Chapter 429.02)

**Facility –** any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 243-hour nursing care, personal care or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age requires such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services. (Chapter 400.021)

**Institutional Care Program**: a Medicaid program that helps people in nursing facilities pay for the cost of their care plus provides general medical coverage.

**Limited Nursing Services** – a type of supplemental license that an assisted living facility may apply for that allows the facility to provide allowable limited nursing services for persons who meet the admission criteria established by the department for assisted living facilities and shall not be complex enough to require 24-hour nursing supervision and may include such services

**DEFINITIONS**

as the application and care of routine dressings, and care of casts, braces, and splints. (Chapter 429.02)

**Long-Term Care Facility** – a nursing home facility, assisted living facility, adult family care home, board and care facility, or any other similar residential adult care facility. (Chapter 400.0060)

**Medicaid** – provides Medical coverage to low income individuals and families. The state and federal government share the costs of the Medicaid program. Medicaid services in Florida are administered by the [Agency for Health Care Administration](http://www.fdhc.state.fl.us/). Medicaid eligibility in Florida is determined either by the Department of Children and Families (DCF) or the Social Security Administration (for SSI recipients).

**Medicare** – A federal health insurance program for people age 65 or older financed through the recipient’s monthly payment and employment taxes. The coverage may be awarded to individuals under 65 with certain disabilities. Under certain conditions, Medicare pays for limited, short-term care in a nursing facility. Medicare requires that a nursing home be licensed by the Agency for Health Care Administration and certified as meeting certain standards of care, cleanliness, staffing, record keeping, and other appropriate issues in order to be reimbursed under Medicare.

**Mental Health Resident** – an individual who receives social security disability income due to a mental disorder as determined by the Social Security Administration or receives supplemental security income due to a mental disorder as determined by the Social Security Administration and receives optional state supplementation. (Chapter 429.02)

**Neglect** – the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term “neglect” also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. “Neglect” is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death. (Chapter 415.102)

**No Action Needed** – The complaint/problem required no action.(FAC 58L-1)

**Not Resolved** – The complaint/problem was not addressed to the satisfaction of the resident or complainant. (FAC 58L-1)

**DEFINITIONS**

**Not Verified** – It is determined that after work (interviews, record inspection, observation, etc.) that the circumstances described in the complaint are not accurate. (FAC 58L-1)

**Nursing Home Diversion Waiver and/or Aged and Disabled Waiver**: A Medicaid Program that pays for a person’s case management handling and paying for services that a person needs in Assisted Living Facilities and in Community settings. The purpose is to keep people living in Assisted Living Facilities or in their homes and not in Skilled Nursing Facilities.

**Nursing Home Facility** – any facility which provides nursing services as defined in Part I of chapter 464. (Chapter 400.021)

**Nursing Service –** such services or acts as may be rendered, directly or indirectly, to and in behalf of a person by individuals as defined in Chapter 464. **(**Chapter 400.021)

**Partially Resolved** – The complaint/problem has been addressed o some degree to the satisfaction of the resident or complainant, but not completely. (FAC 58L-1)

**Physical Restraint** – a device which physically limits, restricts, or deprives an individual of movement or mobility, including, but not limited to, a half-bed rail, a full-bed rail, a geriatric chair, and a posey restraint. The term “physical restraint” shall also include any device which was not specifically manufactured as a restraint but which has been altered, arranged, or otherwise used for this purpose. The term shall not include bandage material used for the purpose of binding a wound or injury. (Chapter 429.02)

**Quality Assurance** – Review of an ombudsman’s investigation and assessment documentation to ensure accuracy and thoroughness of the investigation.

**Referred, Agency did not substantiate –** The complaint/problem was referred to an agency having jurisdiction over the complaint/problem, but the complaint/problem was not substantiated. (FAC 58L-1)

**Referred, Agency Failed to Act** – The complaint/problem was referred to an agency having jurisdiction over the complaint/problem, but the agency failed to act. (FAC 58L-1)

**Referred, No Report** – The complaint/problem was referred to an agency having jurisdiction over the complaint/problem, but no report of final outcome by the agency was obtained. (FAC 58L-1)

**DEFINITIONS**

**Resident** – an individual 60 years of age or older who residents in a long-term care facility. (Chapter 400.0060) For Program purposes, anyone who resides in a long-term care facility can receive Program services.

**Resident Care Plan –** a written plan developed, maintained, and reviewed not less than quarterly by a registered nurse, with participation from other facility staff and the resident or his or her designee or legal representative, which includes a comprehensive assessment of the needs of an individual resident. (Chapter 400.021)

**Resolution** – Action or correction initiated as a result of a complaint investigation, which may or may not address the issue to the satisfaction of the resident or complainant.

**Resolved** – The complaint/problem was addressed to the satisfaction of the resident or complainant. (FAC 58L-1)

**Respite Care –** admission to a nursing home for the purpose of providing a short period of rest or relief or emergency alternative care for the primary caregiver of an individual receiving care at home who, without hoe-based care, would otherwise require institutional care. (Chapter 400.021)

**Requires Government Policy, Regulatory or Legislative Change to Resolve** – The complaint/problem may be resolved only by governmental order or enactment of changes in law, regulation or policy. (FAC 58L-1)

**State Council Representative** – Member in good standing of a district council elected by a majority of council members to serve all or a part of a 3-year term to represent district issues at the State Council level. Term is limited to two consecutive 3-year terms.

**Verified** – It is determined that after work (interviews, record inspection, observation, etc.) that the circumstances described in the complaint are accurate. (FAC 58L-1)

**Vulnerable Adult** – a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, long-term physical, or developmental disability or dysfunctioning, or brain damage, or the infirmities of aging. (Chapter 415.102)

**Withdrawn** – The complaint was withdrawn by the complainant or resident, the case was discontinued at the option of the ombudsman, or the resident or complainant died before final disposition of the complaint investigation. (FAC 58L-1)

**ABBREVIATIONS OR ACRONYMS**

1. **ABBREVIATIONS OR ACRONYMS**

The below-listed acronyms are intended to provide staff with a *general idea* of the “industry lingo” often used by individuals who assist residents of long-term care facilities. Additionally, the Program’s staffing position title abbreviations are identified.

### AAA Area Agency on Aging

### AARP American Association of Retired Persons

### ACLU American Civil Liberties Union

ACS Assistive Care Services (Medicaid)

ADL Activities of Daily Living

ADM Administrator

ADON Assistant Director of Nursing

ADRC Aging and Disability Resource Center

AFAD Ambassadors for Aging Day

AFCH Adult Family Care Home

AG Attorney General

AHCA Agency for Health Care Administration

ALA Assistant to Legal Advocate

ALE Assisted Living for the Elderly Waiver

ALF Assisted Living Facility

ALMA Assisted Living Member Association

AMA American Medical Association

AoA Administration on Aging

APD Agency for Persons with Disabilities

APS Adult Protective Services

ARNP Advanced Registered Nurse Practitioner

ASO Assistant to State Ombudsman

CARES Comprehensive Assessment, Review, and Evaluation for Services

CCE Community Care for the Elderly

CCRC Continuing Care Retirement Community

CHD County Health Department

CEU Continuing Education Unit

CFR Code of Federal Regulations

CHOW Change of Ownership

CMP Civil Money Penalty

CMS Center for Medicare/Medicaid Services

CNA Certified Nursing Assistant

COLA Cost of Living Adjustment

CON Certificate of Need

**ABBREVIATIONS OR ACRONYMS**

CPR Cardiopulmonary Resuscitation

DA Data Analyst

DCF Department of Children & Families

DME Durable Medical Equipment

DMS Department of Management Services

DNRO Do Not Resuscitate Order

DOEA Department of Elder Affairs

DOH Department of Health

DOM District Ombudsman Manager

DON Director of Nursing

DPOA Durable Power of Attorney

DSOLAPT Deputy State Ombudsman for Legal Advocacy, Policy and Training

DSOO Deputy State Ombudsman for Operations

ECC Extended Congregate Care

EIN Employer Identification Number

EOMB Explanation of Medicaid Benefits

FAC Florida Administrative Code

FAHSA Florida Association for Homes and Services for the Aging

FALA Florida Assisted Living Association

FAR Florida Administrative Register

FCOA Florida Council on Aging

FEID Federal Employer Identification

FHCA Florida Health Care Association

FLAC Florida Local Advocacy Council

FSMP Florida Senior Medicare Patrol

FLS Florida Legal Services

FMQAI Florida Medical Quality Assurance Inc.

FS Florida Statute

FSS Fiscal Support Specialist

FTE Full Time Equivalent (Staff)

FY Fiscal Year

GAO General Accounting Office

HCBS Home and Community-Based Services (Medicaid)

HIPAA Health Insurance Portability and Accountability Act

HMO Health Maintenance Organization

I&R Information and Referral

ICP Institutional Care Program (Medicaid)

ICF/DD Intermediate Care Facilities for the Developmentally Disabled

IG Inspector General

**ABBREVIATIONS OR ACRONYMS**

ICF/DD Intermediate Care Facilities for the Developmentally Disabled

IG Inspector General

IOM Institute of Medicine

JCAHO Joint Commission on the Accreditation of Healthcare Organizations

LA Legal Advocate

LBR Legislative Budget Request

LCSW Licensed Clinical Social Worker

LGBT Lesbian, Gay, Bi-Sexual, and Transgender

LMH Limited Mental Health

LN Licensed Nurse

LNS Limited Nursing Services

LOC Level of Care

LPN Licensed Practical Nurse

LTC Long-Term Care

LTCF Long-Term Care Facility

LTCOC Long-Term Care Ombudsman Council

LTCOP Long-Term Care Ombudsman Program

MAR Medication Administration Record

MC Membership Coordinator

ME Medical Examiner

MEDS-AD Medicaid for the Aged and Disabled

MFCU Medicaid Fraud Control Unit

MIS Management Information Systems

MOR Medication Observation Record

MPI Medicaid Program Integrity

NASOP National Association of State Ombudsman Programs

NASUA National Association of State Units on Aging

NCCNHR National Citizens Coalition for Nursing Home Reform

NH Nursing Home

NHD Nursing Home Diversion (Medicaid Waiver)

NORC National Ombudsman Resource Center

NORS National Ombudsman Reporting System

OAA Older Americans Act

OAG Office of Attorney General

OBRA Omnibus Budget Reconciliation Act

OSS Optional State Supplement

PA Prior Authorization

PA Physician Assistant

PAC Project AIDS Care (Medicaid)

PACE Program of All-Inclusive Care for the Elderly (Medicaid)

**ABBREVIATIONS OR ACRONYMS**

PASARR Preadmission Screening and Annual Review

PCP Primary Care Provider

PDL Preferred Drug List

POA Power of Attorney

PRIDE Prison Rehabilitative Industries and Diversified Enterprise

PRM Public Relations Manager

PSA Planning and Service Area or Public Service Announcement

QA Quality Assurance

QMB Qualified Medicare Beneficiaries (Medicaid)

RA Resident Assistant

RD Registered Dietitian

RDA Recommended Dietary Allowances

RN Registered Nurse

ROM Regional Ombudsman Manager

SALT Seniors and Law Enforcement Together

SAO State Attorney’s Office

SHINE Serving the Health Insurance Needs of Elders

SLMB Specified Low-Income Medicare Beneficiaries (Medicaid)

SIPP Statewide Inpatient Psychiatric Program

SLTCOC State Long-Term Care Ombudsman Council

SNF Skilled Nursing Facility

SNU Skilled Nursing Unit (in a hospital)

SO State Ombudsman

SSA Social Security Administration

SSI Supplemental Security Income

ST State Trainer

TBI Traumatic Brain Injury

TRICARE Triple Option Benefit Plan Available for Military Families

VA Veterans Administration