

1.0 ORGANIZATION OF THE OFFICE

Federal and District of Columbia laws charge the Office of the District of Columbia Long-Term Care Ombudsman (ODCLTCO) with the duty to investigate and resolve complaints and concerns made by or on behalf of residents of long-term care facilities. The ODCLTCO shall be headed by an individual known as the District of Columbia Long-Term Care Ombudsman (the Ombudsman), who shall be selected from individuals with demonstrated expertise in: (i) long-term services and supports or other direct services for older persons or individuals with disabilities; (ii) consumer-oriented public policy advocacy; (iii) leadership and program management skills; and (iv) negotiation and problem resolution skills.

1.1 Mission and Philosophy

The Office of the DC Long-Term Care Ombudsman is an advocate and resource for older adults and persons with disabilities who reside in long-term care facilities including nursing homes, assisted living and community residence facilities, and those individuals receiving services through the Elder and Persons with Physical Disabilities (EPD) Medicaid Waiver. Ombudsmen seek to empower residents and care consumers by helping them understand and exercise their rights to quality care in an environment that respects and promotes their quality of life, dignity, and autonomy.

The Ombudsman, through staff and volunteers, advocates at both the individual and systems levels by receiving, investigating and resolving complaints made by or on behalf of residents and EPD waiver recipients; promoting the development of resident and family councils; and informing government agencies, providers and the general public about issues and concerns impacting the health, safety, welfare, and rights of recipients of long-term care services and supports.

1.2 Responsibilities of the Office

Pursuant to the requirements of § 712(a)(3) of the [OAA](#) and [D.C. Code § 7-702.01 \(2013\)](#) the Ombudsman shall:

- (i) Establish policies and procedures to identify, investigate and resolve complaints that are made by, or on behalf of, residents and relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of residents of long-term care facilities;
- (ii) Provide services to protect the health, safety, welfare, and rights of the residents;
- (iii) Inform residents about means of obtaining services provided by the ODCLTCO;
- (iv) Ensure that residents have regular and timely access to the services provided through the ODCLTCO and that residents and complainants receive timely responses from representatives of the ODCLTCO to requests for information and complaints;

- (v) Represent the interests of residents before governmental agencies, assure that individual residents have access to, and pursue administrative, legal and other remedies as necessary to protect the health, safety, welfare, and rights of residents;
- (vi) Provide administrative and technical assistance to representatives of the Office;
- (vii) Analyze, comment on (including recommend changes to) and monitor the development of Federal, State and local laws, regulations and other governmental policies and actions that pertain to the health, safety, welfare, and rights of the residents with respect to the adequacy of long-term care facilities and services in the State;
- (viii) Coordinate with and promote the development of citizen organizations consistent with the interests of residents; and
- (ix) Promote, provide technical support for the development of, and provide ongoing support as requested by resident and family councils to protect the well-being and rights of residents.

2.0 DESIGNATION OF REPRESENTATIVES OF THE OFFICE

2.1 Designation Process

The Ombudsman shall be responsible for designating representatives of the Office ([OAA § 712\(a\)\(5\)](#)), and, when necessary, refusing, suspending or removing the designation of such representatives. In determining whether to designate an individual as a representative of the Office, the Ombudsman shall at a minimum consider whether the individual:

- (i) has completed the training described in Section 5.0 of this Manual;
- (ii) is employed by the ODCLTCO;
- (iii) does not have, and does not have a family member who has, a conflict of interest:
and
- (iv) has passed a comprehensive criminal background check

Once these applicable criteria are met, and the prospective representative has completed a Confidentiality and Conflict of Interest Agreement, the Ombudsman will review and will determine whether the candidate is approved for designation status. This decision will be provided to all appropriate parties in writing.

2.2 De-designation Process

The Ombudsman shall investigate allegations of misconduct by any representative of the ODCLTCO in the performance of the Ombudsman program duties. ([45 CFR § 1324.13\(c\)\(4\)](#)). In addition, the Ombudsman may refuse to designate, suspend or withdraw the designation of, an individual as a representative of the Office where there is evidence that the individual:

- (i) has failed to pass a criminal background check involving a crime specified within [D.C. Code § 44-552\(e\)](#).²
- (ii) has failed to protect the rights of any older person or of any long-term care facility resident and has not represented such individual's interests without conflict of interest;
- (iii) has failed to thoroughly and completely investigate and resolve complaints made by or on behalf of a long-term care facility resident or EPD waiver consumer;
- (iv) has failed to perform his or her duties as an Ombudsman under either Federal or District law;

² If failing to pass the criminal background check was based on another crime not listed in the code, then discretion on the part of the State Ombudsman can be used in terms of time-frame, evidence of rehabilitation and relation to the role as a designee of the Office.

- (v) has abused, neglected or exploited any older person or any resident of a long-term care facility; or
- (vi) has engaged in conduct that is disruptive to the Office.

When the Ombudsman finds that grounds exist for suspending or withdrawing an individual's designation as a representative of the Office, the Ombudsman shall provide written notification to the designee. Upon receiving notification from the Ombudsman, the designee shall have 15 calendar days to respond in writing to the Ombudsman's findings and to request reconsideration. The Ombudsman shall then determine whether to issue revised findings. Designee status is automatically revoked if the staff designee is no longer an employee of the Office.

3.0 CONFLICTS OF INTEREST

3.1 Purpose and Background

The Ombudsman and representatives of the Office are responsible for representing the interests of residents of long-term care facilities. To ensure that the ODCLTCO is able to diligently advocate on behalf of a resident, the Ombudsman shall:

- (i) prohibit the employment or appointment of representatives of the Office with a conflict of interest that cannot be adequately removed or remedied ([45 CFR § 1324.11\(e\)\(4\)\(i\)](#));
- (ii) take reasonable steps to refuse, suspend, or remove the designation of an individual who has a conflict of interest, or who has a member of the immediate family with a conflict of interest, which cannot be adequately removed or remedied ([45 CFR § 1324.11\(e\)\(4\)\(ii\)](#));
- (iii) periodically review and identify conflicts of interest of the Ombudsman and representatives of the Office [45 CFR § 1324.11\(e\)\(4\)\(iii\)](#); and
- (iv) if necessary, take the actions prescribed by Section 3.3 of the Manual to remedy or remove such conflicts of interest.

3.2 Identification

The Ombudsman shall screen all staff and volunteers for organizational and individual conflicts of interest and shall:

- (i) require that all staff and volunteers, prior to their designation as representatives of the ODCLTCO, and annually thereafter, review, sign and abide by the Confidentiality and Conflicts of Interest Agreement and attached hereto as [Appendix A](#);
- (ii) take reasonable steps to avoid assigning an individual to perform duties which would constitute an un-remedied conflict of interest; and
- (iii) periodically review the activities of the representatives of the ODCLTCO to determine whether any conflicts of interest have arisen.

In the event that the Ombudsman identifies any conflicts of interest, he or she shall disclose the identified conflicts and the steps taken to remove or remedy conflicts.

3.2.1 Organizational Conflicts of Interest

Pursuant to § 712 of the [OAA](#), and [45 CFR § 1324.21](#) promulgated thereunder, the Ombudsman and representatives of the Office shall not be employed by, or otherwise perform activities in, an organization that:

1. licenses, surveys, or certifies long-term care facilities;
2. is a professional 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. owns or has an 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. makes 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.

However, the prohibition of this Section 3.2.1 shall not apply to the performance of activities in such an organization that does not, in the opinion of the Ombudsman and the DACL, negatively affect the impact or effectiveness of the work of the ODCLTCO.

3.2.2 Individual Conflicts of Interest

Pursuant to § 712 of the [OAA](#), and [45 CFR § 1324.21](#) promulgated thereunder, the Ombudsman and representatives of the Office are prohibited from:

1. being directly involved in the licensing or certification of a long-term care facility;
2. owning, operating, or having an investment interest (represented by equity, debt, or other financial relationship) in, an existing or proposed long-term care facility;

3. being employed by, or participating in the management of, a long-term care facility in the District of Columbia or owner/operator of any long-term care facility in the District of Columbia;
4. receiving, or having the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility;
5. accepting gifts or gratuities of significant value from a long-term care facility or its management, a resident or a resident representative of a long-term care facility in which the Ombudsman or representative of the Office 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 representative of the Office or where the gift is valued at \$25 or less);
6. accepting money or any other consideration from anyone other than the Office, or an entity approved by the Ombudsman, for the performance of an act in the regular course of the duties of the Ombudsman or the representatives of the Office without approval by the Ombudsman;
7. serving as guardian, conservator or in another fiduciary or surrogate decision-making capacity for a resident of a long-term care facility in which the Ombudsman or representative of the Office provides services; and
8. serving residents of a facility in which an immediate family member resides.

The above list of situations giving rise to a conflict of interest is not exhaustive, and the Ombudsman may identify and prohibit additional actions at any time.

3.3. Removing or Remediating Conflicts of Interest

If the Ombudsman identifies an organizational or individual conflict of interest, the Ombudsman shall take steps to remove or remedy the conflict.

When a potential organizational or individual conflict of interest is identified, the Ombudsman shall review the circumstances of the potential conflict. The Ombudsman shall determine: (a) whether a conflict of interest exists, (b) whether the conflict of interest was knowing or accidental, and (c) whether the conflict could be remedied by appropriate action by the individual, agency, or entity involved.

The Ombudsman shall inform in writing the individual involved and the agency involved of the results of the review.

If the conflict can be remedied, the Ombudsman shall: (1) develop a written plan within 20 days of the completion of the review by the Ombudsman; which shall identify the conflict and impose a remedy to eliminate, or to the greatest extent possible minimize, the impact of the conflict; and (2) in the case of an individual conflict, require the ODCLTCO to implement the recommended plan; or (3) in the case of an organizational conflict, require that the agency

develop and implement policies and procedures that assure the ombudsmen, as resident and participant directed advocates, can perform their duties fully and without interference.

4.0 LEGAL COUNSEL

In accordance with [D.C. Code § 7-702.02 \(2013\)](#), the DACL shall ensure that the ODCLTCO has available to it adequate legal counsel with competencies relevant to the legal needs of the ODCLTCO and of residents receiving long-term care services and supports. In addition, legal counsel for the ODCLTCO shall not have a conflict of interest.

Legal counsel shall be available to:

- (i) Provide consultation and representation as needed in order for the ODCLTCO to protect the health, safety, welfare, and rights of residents;
- (ii) Provide consultation and/or representation as needed to assist the Ombudsman and representatives of the Office in the performance of their official functions, responsibilities and duties, including, but not limited to, complaint resolution and system advocacy;
- (iii) Represent the Ombudsman and representatives of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of their official duties.

Such legal counsel may be provided by one or more entities, depending on the nature of the competencies and services needed and as necessary to avoid conflicts of interest (as defined by the District of Columbia Rules of Professional Conduct). At a minimum, the Office shall have access to an attorney knowledgeable about the Federal and State laws protecting the rights of residents and governing long-term care facilities.

In assisting residents of long-term care facilities to obtain administrative, legal or other remedies, the Ombudsman shall coordinate with the legal services developer, legal services providers, and victim assistance services to promote the availability of legal counsel to residents.

5.0 CERTIFICATION, TRAINING AND CONTINUING EDUCATION

5.1 Initial Training

Before staff and volunteers may be designated as representatives of the Office, they must complete training consisting of four and a half days (36 hours) of subject matter review, which, pursuant to the U.S. Department of Health and Human Services Administration for Community Living Final Long-Term Care Ombudsman Program Training Standards, must cover the following subject areas:

- (i) The Long-Term Care Ombudsman's role, responsibility, and authority
- (ii) The resident and the resident experience
- (iii) Long-term care settings – Overview
- (iv) Access to residents, facilities & records
- (v) Disclosure of information and records
- (vi) Role of the Resident Representative
- (vii) Complaint Investigation
- (viii) Common resources and agencies
- (ix) Documentation
- (x) Communication

The pre-certification training for both staff and volunteers must ensure the following learning outcomes:

The Learner will understand, be able to describe or know how to find and operationalize the following information:

1. The Ombudsman program serves a vital purpose at the individual and systems level.
2. The representative of the Office is part of a statewide program under the direction of the Office of State Ombudsman and carries specific responsibilities and duties to the resident and the program.
3. The program serves as a resource to the resident, their families and facility staff with the goal to promote and protect the health, safety, welfare and rights of residents.
4. Resident rights and choice are paramount and the program promotes empowerment and is person-directed.

5. Relevant laws, along with where to find information on these laws, i.e. how to use the training manual, links to websites, who to call for technical assistance.
6. Awareness of different communication styles and strategies to communicate.
7. The importance of and responsibility to maintain confidentiality of all communications, records and other information with residents, complainants and others.
8. Steps to take when investigating a complaint and purpose of resolving the complaint to the resident's satisfaction and of protecting the health, welfare, and rights of the resident.
9. Programmatic Requirements.

5.2 Annual Training

In addition to the 36 hours of initial training, a minimum of 18 hours per year is required for maintaining the designation, through Classroom instruction, in-facility training, web-based and self-learning techniques, and National Ombudsman Resource Center webinars.

5.3 Supplemental Training

In addition to the training requirements described above, staff of the Office shall meet as necessary to receive training in specific long-term advocacy issues, including, but not limited to handling confidential information, regulatory requirements, techniques of complaint investigation, dispute resolution, documentation, ethics, empowerment and residents' rights, and any other topics deemed appropriate or necessary by the Ombudsman.

6.0 VOLUNTEER RECRUITMENT, SUPERVISION AND RETENTION

The Ombudsman encourages members of the public to volunteer to assist the ODCLTCO in carrying out its mission. To that end, the Ombudsman and the representatives of the Office shall actively recruit volunteers.

Volunteers shall:

- (i) Have an interest in being an advocate for residents of long-term care facilities (e.g., understand the issues of residents in long-term care facilities and be ready to speak on their behalf).
- (ii) Be free of conflicts of interest that cannot be resolved or remedied.
- (iii) Possess good interpersonal, verbal, writing, and reading skills.
- (iv) Agree to a criminal background check, reference checks, and other applicable screening.
- (v) Attend and participate in required training opportunities.
- (vi) Be at least 18 years of age.
- (vii) Agree to comply with all applicable laws and regulations, including all policies and procedures of the ODCLTCO.

Volunteers shall work under the supervision of the Ombudsman and shall perform his or her duties in accordance with applicable Federal and District of Columbia law, and the rules and regulations set forth in this manual.

7.0 VISITATION STANDARDS

7.1 Purpose

The Ombudsman shall have access to all residents to perform the functions and duties set forth in [45 C.F.R. §§ 1324.13](#) and [1324.19](#).

Nursing facilities with over 100 residents should be visited at least 4 hours per month; nursing facilities with fewer than 100 residents should be visited at least 2 hours per month.

7.2 General Facility Coverage Visits

The Ombudsman or representatives of the Office shall provide a regular presence as appropriate to all facilities. All visits should include but are not limited to the following components:

- (i) visiting a diverse group of residents;
- (ii) purposeful observation throughout the facility;
- (iii) distribution and discussion of residents' rights and Ombudsman contact information; and
- (iv) contact with facility administrators and staff.

Non-complaint related visits by volunteers shall be recorded on the Ombudsman Monthly Activity Sheet, attached hereto at [Appendix B](#). Staff making non-complaint related visits shall record the visits directly into the program's data management system.

8.0 ACCESS TO FACILITIES, RESIDENTS AND RECORDS

8.1 Access to Facilities and Residents

Full and complete access to facilities and home health agencies is essential for the ODCLTCO to fulfill its duties. For that reason, the Ombudsman and representatives of the Office are authorized to enter any long-term care facility within the District of Columbia at any time. ([D.C. Long-Term Care Ombudsman Program Act, §7-703.01](#)). Moreover, the Ombudsman and representatives of the Office shall have unrestricted access to all residents, and any resident representative, in order to perform the duties set forth in this manual.

Whenever representatives of the ODCLTCO visit a long-term care facility, they must wear their official identification badge and must record their visit in the Ombudsman log kept at the long-term care facility. The representative should also identify themselves to security and/or other staff of the long-term care facility. When representatives of the Office go to a floor or unit of a long-term care facility, they should attempt to identify themselves to any staff present.

8.2 Access to Records

The Ombudsman and representatives of the ODCLTCO shall have the authority to access and review the medical, social and other records relating to a resident if the resident, or the resident's representative if applicable, communicates informed consent and/or this consent is documented on the Consent Form attached hereto as [Appendix C](#). Absent the resident or the resident's representative communicating informed consent, representatives of the Office shall have authority to access and review the medical, social and other records relating to the resident if:

- (i) the representative of the Office has reasonable cause to believe that the resident's representative is not acting in the best interests of the resident;
- (ii) access is necessary in order to investigate the complaint; and
- (iii) the representative of the Office obtains the approval of the Ombudsman.

The Ombudsman and representatives of the Office shall have access to the administrative records, policies, and documents of any long-term care facility to which the general public or the residents of the facility have access. In addition, the Ombudsman and representatives of the Office shall have access to, and, upon request, be provided with copies of, all licensing and certification records maintained by the District of Columbia with respect to long-term care facilities. Because the ODCLTCO is federally designated as a health oversight agency, the [Health Insurance Portability and Accountability Act of 1996](#) ("HIPAA") Privacy Rule does not preclude release by covered entities of resident private health information or other resident identifying information to the ODCLTCO. This information includes but is not limited to residents' medical, social or other records, a list of resident names and room numbers, or information collected in the course of government survey or inspection process.

9.0 CONFIDENTIALITY AND DISCLOSURE

Maintaining the trust of residents is of paramount importance to the ODCLTCO. To that end, the files, records and information maintained by the ODCLTCO may only be disclosed at the discretion of the Ombudsman or his or her designee and in accordance with the procedures detailed in this Section 9.0.

In all cases, the Ombudsman or representative of the Office should attempt to obtain informed consent from the resident or the resident's representative, if applicable and document this consent on the Consent Form attached hereto as [Appendix C](#). The resident should be informed that they are not required to provide consent and that if they withhold consent, any identifying information will not be disclosed unless such disclosure is required by law.

Absent informed consent by the resident or resident's representative, no representative of the Office shall disclose identifying information about a resident unless:

- (i) the resident does not have a resident representative, or the representative of the Office has reason to believe that the resident's representative has acted in a way that may adversely affect the health, safety, welfare, or rights of the resident;
- (ii) the representative of the Office has no evidence indicating that the resident would not wish identifying information to be disclosed;
- (iii) the representative of the Office has reasonable cause to believe that it is in the best interests of the resident to disclose the identifying information; and
- (iv) the representative of the Office obtains the approval of the Ombudsman to disclose the identifying information; or
- (v) disclosure is required by a court order.

In the event that the Ombudsman or a representative of the Office personally witnesses suspected abuse, neglect or exploitation of a resident, they shall seek informed consent to disclose identifying information about the resident and to refer the matter to other agencies as appropriate. If the resident, either personally or through a representative acting in the best interests of the resident, is unable to communicate informed consent, the Ombudsman or representative of the Office shall open a complaint on behalf of the resident and shall follow the procedures detailed in Section 10 of this manual; *provided that*, before any resident identifying information may be disclosed, the Ombudsman or representative of the Office has reasonable cause to believe that disclosure is in the best interests of the resident and must not have an evidence indicating that the resident would not wish a referral to be made.

The Ombudsman and representatives of the Office shall adhere to the provisions of this Section 9 regardless of the source of any request to disclose resident identifying information. Except as otherwise provided herein, the Ombudsman and representatives of the Office are exempt from abuse reporting requirements under the laws of the District of Columbia.

Inspection dates provided to the ODCLTCO by DC Health and the Department of Behavioral Health (DBH) are confidential under Federal and District of Columbia law. Inspection dates and dates of unannounced visits to long-term care facility shall not be revealed by the Ombudsman or any representative of the ODCLTCO.

10.0 COMPLAINT HANDLING

With respect to identifying, investigating and resolving complaints, and regardless of the source of the complaint, the Ombudsman and the representatives of the ODCLTCO serve the resident of the long-term care facility. The Ombudsman and the representatives of the ODCLTCO shall investigate a complaint, including but not limited to a complaint related to abuse, neglect, or exploitation, for the purposes of resolving the complaint to the resident's satisfaction and of protecting the health, welfare, and rights of the resident.

10.1 Process

Representatives of the ODCLTCO may visit residents in long-term care facilities; take telephone calls from residents or potential residents and their family members or representatives; listen to their complaints and concerns; and take action on behalf of long-term care residents to resolve their complaints and concerns. In investigating complaints, representatives of the ODCLTCO shall:

1. Determine the perspective of the resident making the complaint.

Before commencing any investigation, the representative shall work with the resident to identify their desired outcome with respect to the complaint. The staff member or volunteer should then request that the resident (or a representative of the resident) communicate informed consent using the Consent Form attached hereto as [Appendix C](#). The representative should also determine whether the resident consents to the allegations being reported to the long-term care facility or appropriate authorities (bearing in mind that disclosure may be required even absent consent as detailed in Section 9.0 herein) and, if so, if the resident consents to the Ombudsman or representative of the ODCLTCO disclosing identifying information about the resident.

In determining whether a resident representative is authorized to communicate or make determinations on behalf of the resident related to the complaint, the Ombudsman or staff of the ODCLTCO shall ascertain the extent to which authority has been granted to the resident representative pursuant to a court order, power of attorney, or similar grant of authority. Where the resident is unable to give informed consent, and has no representative is able to give consent on their behalf, the representative of the ODCLTCO shall, in consultation with the Ombudsman and staff of the ODCLTCO, take appropriate steps to investigate and resolve the complaint in order to protect the health, safety, welfare, and rights of the resident.

2. Document the complaint.

The representative of the ODCLTCO who receives the complaint must ensure the data is entered into the ODCLTCO database using the Complaint Intake Form attached hereto as [Appendix D](#). For additional information, consult GetCare.

3. Investigate and/or verify the complaint

The goal of investigation is to identify information to aid in the resolution of the complaint and to provide information for potential policy development. An investigation

involves a systematic, straightforward and careful inquiry into the allegations of the resident and any other relevant statements and documents.

As early as practicable, the representative of the ODCLTCO shall work with the resident to develop a plan of action for the resolution of their complaint. Staff and volunteers should utilize the following techniques, as appropriate, in the investigation process:

- (i) interview the resident to formulate a clear statement and history of the problem;
- (ii) make a personal onsite visit to the long-term care facility to assess the situation;
- (iii) interview other residents;
- (iv) examine resident records; and
- (v) determine what laws, regulations or policies might apply, in consultation with the Ombudsman and legal counsel if necessary.

If a complaint cannot be verified, the representative of the ODCLTCO should explain the situation fully to the resident and suggest alternative remedies before closing the case. If a complaint is substantiated by the representative, the staff of the long-term care facility should be informed as soon as possible and encouraged to respond to the issue or issues raised. In informing the staff of complaints, the representatives of the ODCLTCO should maintain the confidentiality of the resident unless the resident has consented to the disclosure of their personal information or such disclosure is otherwise required in accordance with Section 9.0 of this manual.

4. Resolve the complaint

If a representative of the ODCLTCO is able to verify a complaint, they should work with the resident and the staff of the long-term care facility to resolve the complaint to the satisfaction of the resident. Representatives of the ODCLTCO are authorized to use the following techniques in resolving resident complaints:

- (i) negotiating with staff at the long-term care facility to change a particular behavior, pattern or practice affecting the resident;
- (ii) educating the resident, their family members, or the long-term care facility personnel on ways to resolve the complaint;
- (iii) referring the situation to an outside agency for further action (*See Section 10.4*);
- (iv) proposing regulatory or statutory changes to agency and government officials;
- (v) communicating with community groups, professional organizations, and the media; and

- (vi) pursuing legal and administrative remedies on behalf of the resident and coordinating the use of legal services by the resident.

Representatives of the ODCLTCO should exhaust all reasonable options in attempting to resolve a complaint in a way that is satisfactory to the resident. If a representative is not able to reach a satisfactory resolution, the representative should inform the resident of that outcome and advise them on how to proceed independently. The representative should follow up with the resident to determine whether the issue or issues underlying the complaint have recurred and/or whether systemic changes are needed.

5. Close the complaint

Once a complaint has been resolved, the record should be closed. For information on data entry requirements, consult GetCare.

10.2 Prioritization and Time Frames

In the event that the ODCLTCO is handling multiple complaints simultaneously, staff and volunteers should prioritize the complaints as follows:

- (i) Investigation of complaints concerning an imminent threat to the health or safety of one or more residents shall commence as soon as possible, but in no case later than 12 hours after the complaint is received.
- (ii) Investigation of complaints related to resident care and rights shall commence within three working days.
- (iii) Investigation of complaints related to a long-term care facility, such as environmental problems shall commence within ten working days.
- (iv) Investigation of complaints that do not concern a long-term care facility, such as problems with public or private benefits shall commence within 21 working days unless the matter requires a timelier response.

10.3 Coordination with Other Agencies

The ODCLTCO represents the interests of long-term care residents. Its function is not to cite regulatory violations, nor does it have the power to do so. Instead, the ODCLTCO has established Memoranda of Agreement with DC Health, DBH, and Department of Health Care Finance (DHCF) to establish inter-agency protocols regarding referrals and citations of violations. In addition, the ODCLTCO has a Memorandum of Understanding with the D.C. Department of Aging and Community Living regarding services provided to Medicaid Beneficiaries.

10.4 Referrals

Any complaint that cannot be resolved by the Ombudsman or representatives of the ODCLTCO or that requires further investigation by DC Health, DBH or other outside agency must be referred to that agency using the Complaint Referral Form attached hereto as [Appendix E](#).

11.0 DOCUMENTATION AND RECORDS

11.1 Reports to the DC Department of Aging and Community Living (DACL)

The Ombudsman shall regularly report to the DACL regarding the activities of the Office. In addition to any other information requested by the DACL, such reports must include information regarding any organizational or individual conflicts of interest identified by the Ombudsman and describe the steps taken to remove or remedy such conflicts. The confidentiality and disclosure provisions of Section 9.0 of this Manual shall apply to any reports made by the Ombudsman or a representative of the Office to the DACL.

11.2 Annual report

The Ombudsman shall independently develop and provide final approval of an annual report to be submitted to the Assistant Secretary pursuant to the requirements of § 712(h)(1) of the [OAA](#) and [45 CFR § 1324.13](#). Such report shall also be made available to the public, the mayor of the District of Columbia, the DACL, DC Health/Health Regulations and Licensing Administration (HRLA), and other appropriate government agencies. The annual report shall:

- (i) describe the activities carried out by the Office in the year for which the report is prepared;
- (ii) contain an analysis of the ODCLTCO program data;
- (iii) describe the evaluation of the problems experienced by, and the complaints made by or on behalf of, long-term care facility residents;
- (iv) contain policy, regulatory, and/or legislative recommendations for: (a) improving quality of the care and life of long-term care residents, (b) protecting the health, safety, welfare and rights of the residents, and (c) resolving resident complaints and identified problems or barriers;
- (v) contain an analysis of the effectiveness of the ODCLTCO, including effectiveness in providing services to residents of long-term care facilities;
- (vi) identify any organizational conflicts of interest in the ODCLTCO and describe the steps taken to remove or remedy such conflicts; and,
- (vii) describe any barriers that prevent the optimal operation of the ODCLTCO.

11.3 File Retention and Security

The Ombudsman shall be responsible for managing the files, records and other information of the ODCLTCO, whether in physical, electronic or other formats. Such files, records and other information are the property of the Office. The Ombudsman shall ensure that appropriate measures are in place to protect the integrity and confidentiality of all information maintained by the Office, including limiting access to files and records to the staff of the Office and securing records or files with physical locks or digital passwords, as appropriate. All

complaint documentation, including release of confidentiality forms, shall be included in the electronic data system when the complaint is completed and officially closed. Hard copies of any volunteer activities reported to the program, including visitation logs, shall be retained by the Office for a period of at least one year from their date of submission.

12.0 GRIEVANCE PROCESS

Periodically, residents, complainants, providers, or the ODCLTCO representatives may have grievances with the Office and its operations. Examples of grievances include but are not limited to: (i) a determination not to designate an individual as a representative of the Office; (ii) a complaint by a facility or provider about the manner in which a representative of the Office carries out his or her responsibilities (such as visits to residents, complaint handling, or a facility staff training); or (iii) an action by a representative of the Office on complaint resolution with which a resident or complainant disagrees (e.g., a representative of the Office closes a case but the complainant or resident does not believe that work is complete, or that the representative's work was not sufficient).

Grievances shall be handled in accordance with the following procedures:

1. All grievances related to a representative of the Office shall be submitted in writing or through the use of auxiliary aids and services (unless otherwise allowed by the Ombudsman) to the designated Ombudsman Program Manager within 30 business days from the event or from knowledge of the event. Grievances are accepted from any person or entity with which the Ombudsman program has had official business.
2. The Ombudsman Program Manager shall review the grievance within 15 business days and provide a written response back to the individual grieving the issue, reporting the outcome of any findings and/or response of the Office. During the review, the Ombudsman Program Manager may request additional information from any party with knowledge of the grievance in order to adequately review the grievance.
3. If unsatisfied with the response of the Office, the grieving party may, within 10 business days of the response, request a secondary review by the Ombudsman. Any request must be made in writing (unless otherwise allowed by the Ombudsman). The Ombudsman will make a determination of whether or not to further review or investigate a matter and will inform the grieving party of such decision within 10 business days. A secondary review by the Ombudsman should be completed within 45 business days. The grieving party will be notified in writing of any findings and/or response of the Office. Any response or decision of the Ombudsman is final.
4. Notwithstanding the grievance process, the Ombudsman shall make the final determination to refuse, suspend, or remove the designation of a representative.
5. All grievances related to the Ombudsman shall be submitted in writing to the Executive Director of the Legal Counsel for the Elderly (LCE) within 30 business days from the event or from knowledge of the event.
6. The Executive Director of LCE shall investigate the grievance within 15 business days and provide a response back to the grieving party documenting the outcome and any action taken. The Executive Director of LCE shall, when determined appropriate, also notify the Executive Director of the DACL of the findings.

13.0 WILLFUL INTERFERENCE WITH OFFICIAL OMBUDSMAN DUTIES

Interfering with or obstructing the Ombudsman or representatives of the ODCLTCO in the performance of their duties is against the law in the District of Columbia.

13.1 Denial of Access

In the event that the Ombudsman or a representative of the Office is denied access to a long-term care facility, the Ombudsman or the representative should make at least one additional attempt to gain access to the facility (unless the visit is in response to a complaint involving a situation that presents an immediate threat to the health or safety of a resident) before petitioning a court for an order granting emergency access. The regulatory arm of DC Health or the DBH should be informed about each instance of denied access.

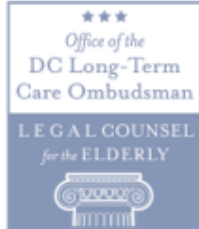
Pursuant to [D.C. Code § 7-704.01 \(2013\)](#), any person who knowingly denies access to the Ombudsman or a representative of the ODCLTCO, or who assists another person in doing so, may be charged with a misdemeanor.

14.0 PROGRAM MONITORING AND EVALUATION

The DACL is ultimately responsible for monitoring and evaluating the ODCLTCO and the activities of the Ombudsman and the representatives of the ODCLTCO. However, the Ombudsman shall also be responsible for monitoring the implementation of the policies and procedures set forth in this Manual and the efficacy of the representatives of the ODCLTCO in representing the interests of long-term care facility residents. In accordance with section 11.0 of this Manual, the Ombudsman shall report the results of his or her monitoring and evaluations to the DACL and such other person or agencies as are appropriate. Moreover, the Ombudsman shall consider whether it is advisable to amend the policies and procedures set forth in this manual or in any supplementary material developed by the ODCLTCO.

15.0 APPENDICES

A. Confidentiality and Conflicts of Interest Agreement and Code of Ethics



Office of the
District of Columbia
Long-Term Care
Ombudsman

601 E Street, NW
Washington, DC 20049
202-434-2190
202-434-6595 fax
DCOmbuds@aarp.org
www.aarp.org/lce

The Office of the DC Long-Term Care Ombudsman (ODCLTCO) Confidentiality and Conflict of Interest Agreement

I, _____, confirm that as a _____ with the ODCLTCO, I have reviewed the Office of the District of Columbia Long-Term Care Ombudsman Policies and Procedure and Manual and am in compliance with the requirements pertaining to confidentiality and conflict of interest.

Regarding confidentiality, I hereby agree to keep any information about ODCLTCO cases, complaints, residents, facilities and staff confidential and to not discuss such information outside of the ODCLTCO office. I will not express an opinion about the quality of specific long term care facilities to the public, family or friends.

Regarding conflicts of interest, I hereby acknowledge that I have no financial interests in, employment, business association or business dealings with any facility monitored by the D.C. Long-Term Care Ombudsman Programs. This acknowledgement includes but is not limited to: nursing homes (NHs); assisted living residences (ALRs); community residential facilities (CRFs); home health agencies (HHAs) and any adult day health centers that provide services to District long-term care residents.

I agree to immediately disclose to the ODCLTCO any potential conflicts of interest that arise after the date of this document.

By placing my signature on this document, I agree to abide by the Confidentiality Agreement and Conflict of Interest Disclosure policy.

Signature

Date

Revised: July 2021

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CODE OF ETHICS FOR OMBUDSMEN

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.

1. 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.
2. The Ombudsman respects and promotes the client's right to self-determination.
3. The Ombudsman makes every reasonable effort to ascertain and act in accordance with the client's wishes.
4. The Ombudsman acts to protect vulnerable individuals from abuse and neglect.
5. The Ombudsman safeguards the client's right to privacy by protecting confidential information.
6. The Ombudsman remains knowledgeable in areas relevant to the long term care system, especially regulatory and legislative information, and long term care service options.
7. 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.
8. The Ombudsman will provide professional advocacy services unrestricted by his/her personal belief or opinion.
9. The Ombudsman participates in efforts to promote a quality long term care system.
10. The Ombudsman participates in efforts to maintain and promote the integrity of the Long Term Care Ombudsman Program.
11. 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.
12. The Ombudsman shall conduct him/herself in a manner which will strengthen the statewide and national Ombudsman network.

B. Ombudsman Monthly Activity Sheet



Ombudsman Volunteer Activity/Checklist Reporting Form

Office of the DC Long-Term Care Ombudsman

Volunteer Name: _____

Facility: _____

Date of Visit: _____

Start Time: _____

End Time: _____

Program Activities <i>*Activity requires a topic</i>	*TOPICS	
	A. Resident Visitation	1. Abuse, Neglect, Exploitation
B. *Individual Information & Consultation	2. Access to Information	10. Ombudsman Services
C. *Facility/Provider Consultation	3. Activities/ Social Services	11. Other
D. Facility Survey Participation	4. Advance Directives/ Legal	12. Rehabilitation
E. Residents Council Participation	5. Dietary	13. Resident's Care
F. Family Council Participation	6. Discharge, Admission, Transfer	14. Resident's Rights
	7. Facility Policies, Attitudes, Resources	15. Safety/ Environment
	8. Financial, Property	16. Staffing

Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

Room #:		Notes:
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Room #:		Notes:
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Program Activity:		
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Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

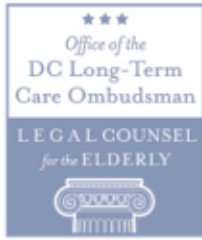
Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

Room #:		Notes:
Name:		
Program Activity:		
Topic (if applicable)		

Observations When Walking Into & Throughout Facility:

Entrance & Lobby:	Comments:
Facility: clean appearance	
Odors: good	
Hallways: clear of obstructions	
Floors: clean and not slippery	
Caution signs: in place with wet floor	
Facility License: posted in a public area	
Telephone numbers posted: Ombudsman, State Health Department, and Medicare	
Residents' Rights: posted	
Residents Rooms:	
Call lights: within reach in observed rooms	
Observed resident rooms: clean	
Resident's Quality of Life:	
...are not left sitting unattended in common areas for long periods of time	
...report being active and involved in daily activities	
...are well groomed, shaved, hair combed, and eyeglasses clean, free of smell	
Dietary:	
Food: appropriate temp	
Assistance: provided as needed	
Alternate choices/substitute menu items: available	
Menus: clearly posted and up to date	
Snacks: available upon resident request	
Dining room: clean	
Other:	

C. Consent Form



Office of the
District of Columbia
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Washington, DC 20049
202-434-2190
202-434-6595 fax
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www.aarp.org/lce

Office of the DC Long-Term Care Ombudsman Authorization for Release and Disclosure of Confidential Information

I, _____ (beneficiary/resident), residing at

allow any and all pertinent agencies and organizations to disclose or release all information and documents contained in records, pertaining to me, to the following organization:

**Office of the DC Long-Term Care Ombudsman
Legal Counsel for the Elderly
601 E Street NW,
Washington, DC 20049
Office: 202-434-2190/202-434-2160
Fax: 202-434-6595**

This consent has been given ___ orally, ___ in writing and/or through the ___ use of auxiliary aids and services. The records that may be released include, but are not limited, to the following: medical/psychiatric records, alcohol/drug abuse treatment records, any and all related reports, photographs (taken by facility, other agency or of the Office of the DC Long-Term Care Ombudsman), doctors' orders, and financial records. I authorize my healthcare providers and their staff to discuss my condition and treatment with the staff of the Office of the DC Long-Term Care Ombudsman.]

The purpose for such disclosure is to investigate and report concerns and complaints on my behalf and to represent my interests in any legal proceedings, if necessary. I understand that this might require the disclosure by the Office of the DC Long-Term Care Ombudsman of my name, residence and concerns to regulatory or enforcement authorities or other appropriate parties. I understand that this authorization, except for action already taken, may be voided by me at any time, verbally or in writing. This consent (unless expressly revoked earlier) expires one year from date of signature below. I also consent to allow copies of this release to be made and for copies to constitute a valid release.

_____	_____
Signature of Beneficiary /Resident	Date
_____	_____
Signature of Representative (if needed)	Date
_____	_____
Signature of Ombudsman Representative	Date

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D. Complaint Intake Form

D.C. Long Term Care Ombudsman Program Intake

Case Reference Title:			Case#		
Intake Date:		First Action Date:		Date Closed:	
				Assigned Ombudsman Staff:	
Complaint Referral Source: <input type="checkbox"/> Facility Visit <input type="checkbox"/> Hotline Call <input type="checkbox"/> Telephone <input type="checkbox"/> Email			Complainant: <input type="checkbox"/> Resident <input type="checkbox"/> Ombudsman/or volunteer <input type="checkbox"/> Family or Friend <input type="checkbox"/> Physician or staff <input type="checkbox"/> Legal Rep. <input type="checkbox"/> Other or anonymous		
Complainant Information					
Last Name		First Name		MI	Birth Date
					Gender <input type="checkbox"/> Female <input type="checkbox"/> Male
Address		City/State	Zip Code	Contact Phone#1	Relationship to resident
Email Address			Ward	Contact Phone#2	
Resident Information					
Last Name		First Name		Relationship to complainant	
				Contact Phone#1	
Address		City/State		Zip Code	Contact Phone#2
DOB		Resident Age		Email Address	
Gender <input type="checkbox"/> Female <input type="checkbox"/> Male		Facility Name/HH Agency		Ward	Resident Primary Diagnosis
PLEASE CHECK ✓ ALL THAT APPLY * RESIDENT REQUIRED INFORMATION					

Form

*Resident Pay Status: <input type="checkbox"/> Medicaid and Medicare <input type="checkbox"/> Medicaid <input type="checkbox"/> Medicare <input type="checkbox"/> Private Pay <input type="checkbox"/> SSI <input type="checkbox"/> EPD Waiver Recipient (HCBS) <input type="checkbox"/> State Plan (HCBS)	*Marital Status: <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced or Separated <input type="checkbox"/> Widowed <input type="checkbox"/> Unknown	*Ethnicity: <input type="checkbox"/> African American/Black <input type="checkbox"/> Biracial <input type="checkbox"/> White Hispanic <input type="checkbox"/> Black Hispanic <input type="checkbox"/> Asian <input type="checkbox"/> White Non-Hispanic <input type="checkbox"/> American Indian/Alaska Native <input type="checkbox"/> Native Hawaiian or Other Pacific Islander
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Case Intake Summary

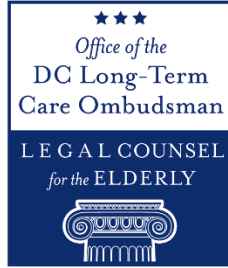
D.C. Long Term Care Ombudsman Program Intake Form Complaint Specific Reporting Grid

<p>A. Complaint Code # from AoA</p> <p>B. Number of residents affected by this complaint</p> <p>C. Verification of complaint 1-Verified; 2-Not verified; 3-Not a complaint</p> <p>D. Who was the complaint against? 1-Facility; 2-Family; 3-Resident; 4-Sitter; 5-Medicaid; 6-Medicare; 7-Physician; 8-Licensing or Certification agency; 9-APS; 10-Legal rep; 11-Other</p> <p>E. Primary referral code 1-Licensing or Certification agency; 2-Social Services; 3-Both 1&2; 4-Legal representative; 5-Other; 6-Not referred</p>	<p>F. Disposition of Complaint 1-Legislative or Regulatory action; 2-Not resolved; 3-Withdrawn; 4-Referred/no final report; 5-Referred/other agency failed to act; 6-No action needed appropriate; 7-Partially resolved; 8-Fully resolved; 9-Other</p> <p>G. Complaint investigated by 1-Ombudsman program only; 2-Referred only; 3-Both</p> <p>H. Was legal consultation need and/or used? 1-Yes; 2-No</p> <p>I. Was regulatory enforcement action needed and/or used? 1-Yes; 2-No</p> <p>J. Was an administrative appeal or adjudication needed and/or used? 1-Yes; 2-No</p> <p>K. Was civil legal action needed and/or used? 1-Yes; 2-No</p>
--	---

Complaint#	A) Complaint Code	B) #Resident	C) Verify	D) Against	E) Ref Code	F) Disposition	G) Investigated by	H) Legal	I) Regulatory	J) Admin	K) Civil
1											
2											
3											
4											
5											
6											

Each case may have more than one complaint. However each problem will have only one code. Use only one category for each type of problem. Utilize your current Long-Term Care Ombudsman Program Complaint Code document for the list of major and minor complaint codes.

E. Complaint Referral Form



Complaint Referral Form

Date of Referral:

Referred To:

URGENT

IMPORTANT

FYI

Referral by:

By Phone:

By Fax:

By E-Mail:

Ombudsman:

Date of Occurrence:

Name of Resident:

Facility:

Complainant/ Relationship/Contact #:

Summary of Complaint

DEFINITIONS¹

Auxiliary aids - means qualified interpreters, note-takers, computer–aided transcription services, written materials, telephone handset amplifiers, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD’s), videotext, qualified readers, brail materials, and other effective methods of communications referenced within [Section 36.303 of ADA Title III Regulation 28 CFR Part 36](#).

Conflict of Interest – means a situation that hinders the ability of the Ombudsman or a representative of the ODCLTCO to diligently advocate on behalf of a resident or otherwise represent the ODCLTCO.

ODCLTCO – means the Office of the District of Columbia Long-Term Care Ombudsman

DACL – means the District of Columbia Department of Aging and Community Living

DBH – means the District of Columbia Department of Behavioral Health

DHCF – means the District of Columbia Department of Health Care Finance

DC Health – means the District of Columbia Department of Health

Informed Consent – means permission granted—whether orally, visually, in writing, or with the use of auxiliary aids and services—with the knowledge and understanding of the risks and possible consequences associated with the action being permitted

HIPPA – means the [Health Insurance Portability and Accountability Act of 1996](#)

HRLA – means the District of Columbia Department of Health’s Health Regulations and Licensing Administration

LCE – means the Legal Counsel for the Elderly

OAA – means the [Older Americans Act of 1965](#), as amended.

Ombudsman – means the head of the Office of the District of Columbia Long-Term Care Ombudsman established by [the D.C. Long-Term Care Ombudsman Program Act, §7-702.02\(a\)](#) and designated under the Older Americans Act as the individual responsible for the management of the Office.

¹ Any terms not otherwise defined in this manual shall have the meanings given to them in Section 712 of the Older Americans Act and the rules and regulations promulgated thereunder.

Representative of the Office - means Ombudsman staff and volunteers designated by the Ombudsman to perform long-term care Ombudsman Program duties.

Resident – means a resident of a long-term care facility or an individual receiving long-term care services in his home through the Medicaid Elderly and Persons with Physical Disability (EPD) Waiver

Resident Representative – means any of the following: (1) an individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications; (2) a person authorized by State or Federal law (including but not limited to agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications; (3) Legal Representative, as used in section 712 of the [Older Americans Act](#); or (4) The court-appointed guardian or conservator of a resident.