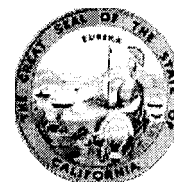


State of California—Health and Human Services Agency  
Department of Health Services



California  
Department of  
Health Services

**SANDRA SHEWRY**  
Director



**ARNOLD SCHWARZENEGGER**  
Governor

June 24, 2004

Mr. Joseph Rodrigues  
State Long Term Care Ombudsman  
Department of Aging  
1600 K Street  
Sacramento, C 95814

Dear Mr. Rodrigues:

This letter transmits a mutual information sharing agreement between the Department of Health Services, Licensing and Certification Division, and the Department of Aging, Office of the State Long Term Care Ombudsman. By evidence of the signatures on this transmittal letter, this agreement will remain in place until such time that it is either amended or repealed by either party.

A handwritten signature in black ink that reads 'Denise M. Arend'.

Denise M. Arend, Assistant Deputy Director  
Licensing & Certification Division  
Department of Health Services  
1501 Capitol Avenue, MS 3000  
Sacramento, Ca. 95814

A handwritten signature in black ink that reads 'Joseph Rodrigues'.

Joseph Rodrigues,  
State Long Term Care Ombudsman  
Department of Aging  
1600 K Street  
Sacramento, Ca 95814

enclosure

INFORMATION SHARING AGREEMENT

Section I. DESCRIPTION/PURPOSE OF PROGRAMS

LICENSING AND CERTIFICATION (L&C) PROGRAM

1. L&C regulates over 5000 public and private health facilities throughout California. The purpose of L&C is to license and monitor the operational aspects of licensed health care facilities in order to enforce state and federal laws and regulations which are contained in the Health and Safety Code, Welfare and Institutions Code, and the California Code of Regulations for the State and Titles 18 and 19 of the Social Security Act and the Federal Code of Regulations for Federal certification requirements. In addition, L&C investigates all complaints against health facilities.
2. L&C also certifies facilities as eligible for Medicare and Medicaid (Medi-Cal) reimbursement under contractual agreement with the Federal government. Certification is voluntary and required only if a facility wants to receive Medicare or Medi-Cal reimbursement.
3. L&C also certifies Certified Nursing Assistants, Home Health Aides, and Nursing Home Administrators and will investigate and take appropriate enforcement actions against individuals if abuse complaints are substantiated.

OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN (OSLTCO)

1. OSLTCO, under Title VII, Chapter 2, Sections 711-721 of the Older Americans Act, is mandated to receive, investigate, and seek to resolve complaints made by or on behalf of residents in long-term care facilities.
2. OSLTCO designates 35 local organizations, referred to as the local Ombudsman Program, to provide Ombudsman services through contracts with Area Agencies on Aging. OSLTCO provides policy direction, technical assistance, training and oversight to the local organizations.
3. Under State law, the local Ombudsman Program is responsible for receiving and investigating reports of abuse alleged to have occurred in long-term care facilities, the witnessing of the Advance Health Care Directive, and property transfers of more than \$100 for residents in nursing homes. The local Ombudsman Program also has responsibility for recruiting and training volunteers to visit facilities, informing the community on issues affecting long-term care facility residents and providing information to the general public on conditions in local long-term care facilities.

INFORMATION SHARING AGREEMENT

DESCRIPTION/PURPOSE OF PROGRAMS (Continued)	
<p><u>L&amp;C MISSION AND GOALS</u></p> <p>L&amp;C promotes the highest quality medical care in community settings and facilities. To improve access to care and assure care quality, L&amp;C will:</p> <ul style="list-style-type: none"> <li>• Operate a responsive, uniform enforcement program in accordance with State licensing and federal certification requirements;</li> <li>• Encourage provider initiated compliance and quality of care improvement activities;</li> <li>• Act as a focal point for the Department of Health Services (DHS) on health care policy regarding older Californians;</li> <li>• Initiate licensing and certification changes to improve the cost-effectiveness of programs, promote partnerships between public and private health care providers in order to improve care quality and access to new technologies, and respond to California's changing demographics;</li> <li>• Promote the use of practice guidelines to improve the quality and effectiveness of medical and other interventions.</li> </ul>	<p><u>OSLTCO MISSION AND GOALS</u></p> <p>OSLTCO's mission is to ensure dignity, quality of life and care for all residents in long-term care facilities primarily serving the elderly by empowering residents and advocating on behalf of those unable to act for themselves. To fulfill this mission, and in accordance with the Federal Older Americans Act the State Older Californians Act, and other State mandates, the OSLTCO will:</p> <ul style="list-style-type: none"> <li>• Maintain an ongoing presence in nursing facilities;</li> <li>• Identify, investigate, and seek to resolve complaints, including elder abuse, to the resident's satisfaction or expressed wishes;</li> <li>• For the most vulnerable resident who is unable to express his/her wishes, identify, investigate, and seek to resolve complaints, including elder abuse, made on his/her behalf;</li> <li>• Identify and seek to remedy consistently improper practices in long-term care facilities, and includes coordinating and follow-up with other agencies on complaints;</li> <li>• Represent the resident before governmental entities and seek administrative, legal and other remedies;</li> <li>• Monitor nursing facility data;</li> <li>• Cross-train ombudsmen and L&amp;C staff at all levels;</li> <li>• Witness the Advance Health Care Directive and property transfers of more than \$100;</li> <li>• Provide information to public and private entities regarding resident issues and concerns.</li> </ul>

## INFORMATION SHARING AGREEMENT

### Section H. HEADQUARTERS INTERACTIONS

L&C and OSLTCO will maintain communications by convening pre-scheduled quarterly meetings between State Long-Term Care Ombudsman and the Assistant Deputy Director of L&C.

L&C and OSLTCO will establish protocols for dealing with any situations that were not successfully resolved at the local level and require additional intervention for resolution.

#### L&C WILL:

1. Policy and Data Related Issues – Maintain communications by participating in quarterly meetings with OSLTCO.
2. Policy & Data Related Issues – Assign program staff to serve as an ongoing liaison between L&C and OSLTCO to handle routine requests for policy/program interpretations, training information, and requests for data regarding State and local programs.
3. Policy Issues – Provide to OSLTCO on a regular basis, information on training available, survey process updates, changes in procedures of operations at the State or local level and any new information regarding the L&C program.
4. Policy Issues – Provide directly to the State Long-Term Care Ombudsman of OSLTCO, as appropriate, copies of all changes in laws, regulations and procedures that impact the OSLTCO and/or licensed long-term care facilities.
5. Data Related Issues – Provide to OSLTCO annually, an electronic EXCEL file of the Automated Certification and Licensing Administrative Information Management System (ACLAIMS) so that updated lists of nursing and intermediate care facilities can be generated.
6. Data Related Issues – Distribute Certified Nurse Assistant Adverse Actions to OSLTCO on a regular basis.

#### OSLTCO WILL:

1. Policy & Data Related Issues – Schedule quarterly meetings between the OSLTCO and L&C.
2. Policy & Data Related Issues – Assign staff from OSLTCO to serve as liaison to respond to routine requests for policy/program interpretations, program operations information and requests for data regarding State or local programs.
3. Policy Issues – Provide to L&C on a regular basis changes to Ombudsman laws, regulations, and procedures that might impact L&C or licensed facilities.
4. Data Related Issues – Provide directly to the Assistant Deputy Director of L&C the Ombudsman Program directory and all updates.

INFORMATION SHARING AGREEMENT

Section III. DISTRICT OFFICE INTERACTIONS

L&C District Offices and the local Ombudsman Program will maintain communications by convening prescheduled meetings between the local Coordinator and the District Administrator on a quarterly basis, or more frequently as needed, and when requested by either party to discuss and resolve issues.

L&C District Offices and the local Ombudsman Program provide each other with pertinent local information necessary to maintain successful communications (e.g., changes in address, phone and fax numbers, office hours, etc.).

L&C District Offices and the local Ombudsman Program will follow the specific guidelines established for Temporary Suspension Orders (TSOs) as specified herein, whenever residents must be relocated due to a closure, temporary evacuation, or natural disaster.

L&C District Offices and the local Ombudsman Program will facilitate, when appropriate, the involvement of the local Ombudsman Program personnel as trainers in relevant training provided to the L&C District Office staff. L&C personnel will in turn train Ombudsman Program staff on pertinent issues.

L&C DISTRICT OFFICE STAFF WILL:

1. Provide the local Ombudsman Program with timely notices of upcoming Citation Review Conferences.
2. Contact the local Ombudsman Coordinator, or his/her designee, for interpretations of the statutes, regulations and procedures governing the Ombudsman Program. Ask that the Assistant Deputy Director of L&C consult with the OSLTCO for verification of interpretations as needed.
3. Invite local Ombudsman Program staff to provider meetings such as "rap sessions."
4. Allow L&C District Office staff to participate in Ombudsman training as requested and when space is available.
5. Provide copies of L&C District Office "Survey Reports (2567s)" and the "Plan of Corrective Action" to the local Ombudsman Program when specifically requested.
6. Transmit to the local Ombudsman Program, when specifically requested, pertinent OBRA Adverse Action/Non-Compliance information.
7. Provide to the local Ombudsman Program on a regular basis, administrative action reports on Citation Review Conferences, Transfer/Discharge Hearings, and copies of all AA and A citations.

LOCAL OMBUDSMAN PROGRAM STAFF WILL:

1. Notify the L&C District Administrator of any alleged unlicensed long-term health care facilities, continued operation of a facility after denial of application, or revocation of suspension of license that comes to their attention.
2. Contact the L&C District Office Administrator, or his/her designee, for interpretations of the statutes, regulations, and procedures governing the L&C program. Request that the OSLTCO consult with the L&C Assistant Deputy Director for verification of interpretations as needed.
3. Participate in joint meetings with L&C District Office and provider groups as appropriate and as space is available.
4. Allow local Ombudsman Program staff to participate in L&C training as requested and when space is available.

INFORMATION SHARING AGREEMENT

Section IV. COMPLAINT HANDLING

L&C DISTRICT OFFICE WILL:

- Give priority to local Ombudsman Program complaints according to Division 8.5, Chapter 9, Section 9721 of the Welfare and Institutions Code.
- 2. Forward to the local Ombudsman Program office copies of related inspection reports and plans of correction and notify the office of any citations and civil penalties levied against the long-term care facility.
- 3. Record the Ombudsman Complaint Number on the DHS Complaint Report Form (ACL 121-R001) and the Complaint Investigation Report. When the local Ombudsman Program is contacted with the investigation results, L&C District Office will reference both the DHS and the Ombudsman Complaint numbers.
- 4. Ensure that complaints received from the local Ombudsman program will be discussed with the program during the investigation process.
- 5. Provide follow-up and progress reports, in writing, on complaints referred by the local Ombudsman Program. For serious cases, follow-up should be by phone call followed by documentation. The follow-up should include both the DHS and the Ombudsman Complaint Number.

THE LOCAL OMBUDSMAN PROGRAM WILL:

- 1. The office may refer any complaint to any appropriate state or local government agency. The following state licensing authorities shall give priority to any complaint referred to them by the office, except that any complaint alleging an immediate threat to resident health and safety may be given first priority:
  - (1) Licensing and Certification Division of the State Department of Health Services (DHS).
  - (2) Community Care Licensing Division of the State Department of Social Services (DSS).
  - (3) Board of Examiners of Nursing Home Administrators.
  - (4) Board of Registered Nurses.
  - (5) Medical Board of California.
  - (6) Board of Pharmacy.
  - (7) Board of Vocational Nurse and Psychiatric Technician Examiners.
- 2. Refer all complaints that appear to be infractions of licensing regulations to the local L&C District Office on a Complaint From Long-Term Care Ombudsman (CDA #223). Serious complaints, including those involving abuse and/or neglect, shall be reported by telephone immediately, or as soon as practically possible, and in writing within two working days.
- 3. The local Ombudsman program will resolve all other complaints. If the L&C District Office's involvement might facilitate resolution, the local Ombudsman will consult with the L&C District Office.
- 4. If the local Ombudsman Program disagrees with the findings of an L&C complaint investigation, the local Ombudsman will attempt to resolve the disagreement with the L&C District Office. If the matter cannot be resolved, either the local Ombudsman or the L&C District Office will forward the issue to their Headquarters to be discussed at the quarterly meeting between OSLTCO and L&C. OSLTCO and L&C will share the resolution made at this meeting with the local Ombudsman Program and the L&C District Office.

INFORMATION SHARING AGREEMENT

Section V. ABUSE REPORTING

L&C DISTRICT OFFICE WILL:

Report all complaints received of alleged abuse of elders or dependent adults in a long-term care facility, except a State mental health or a State developmental center, to the local Ombudsman Program or the local law enforcement agency as required in Division 9, Chapter 11, Section 15630 of the Welfare and Institutions Code.

2. If the source of the abuse report is the Ombudsman, L&C will not report the same incident to the Ombudsman.
3. Require complaint intake staff and evaluators/surveyors to advise mandated reporters of the requirement to report allegations of abuse to the local Ombudsman Program or local law enforcement.
4. Take enforcement action against long-term health care facilities in accordance with federal and State statutes and regulations.
5. Notify the appropriate professional licensing or certification board or agency if the alleged abuse involved licensed or certified facility staff.

THE LOCAL OMBUDSMAN PROGRAM WILL:

1. Report all confirmed allegations of abuse of an elder or dependent adult in long-term health care facilities to the L&C District Office within one (1) working day of the occurrence or knowledge thereof. (The name of the victim and witnesses will be withheld.)
2. Notify the appropriate professional licensing or certification board or agency if the alleged abuse involved licensed or certified facility staff.
3. If the source of the abuse report is L&C, the Ombudsman will not report the same incident to L&C.
4. Except in an emergency, the local Ombudsman Program shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practical.

**Section VI. CERTIFICATION SURVEY PROCESS INTERACTION**

**L&C DISTRICT OFFICE WILL INSTRUCT ITS SURVEY TEAMS TO:**

1. Consult with the local Ombudsman Program in preparation for routine facility surveys. However, it is understood by both parties that the L&C District Office cannot divulge the fact that it is preparing for an inspection in order to maintain the unannounced nature of the inspection.
2. Consult with the local Ombudsman Program about concerns expressed by residents or family members and the names of residents or family members for potential inclusion in the sample, or for inclusion in the closed record review. Also, inquire if complaints have been received about the facility, the nature of the complaints, and if complaints are pending validation.
3. Notify the local Ombudsman Program on the first day of the survey of the scheduled time for the group interview and the exit interview, and any changes thereto.

**THE LOCAL OMBUDSMAN PROGRAM WILL:**

1. Provide assistance, consultation and information to the L&C District Office survey team during the survey process in accordance with applicable Centers for Medicare and Medicaid Services (CMS) regulations, survey procedures and guidelines.
2. Provide information, as appropriate, to the L&C District Office survey team regarding complaints received, appropriate interviewees, and other pertinent observations.
3. Provide Ombudsman attendance at exit conferences, resident interviews, and resident council meetings, as requested.



INFORMATION SHARING AGREEMENT

Section VII. TEMPORARY SUSPENSION ORDERS AND CLOSURES

**L&C HEADQUARTERS WILL:**

Inform and consult with OSLTCO as soon as possible when it learns of an LTC facility that may be facing closure or the need to relocate residents as a result of financial problems, operation issues, or natural disasters.

**L&C DISTRICT OFFICE WILL:**

1. Contact the local Ombudsman Program when the TSO or closure has been served and provide any detailed information available. If the local Ombudsman Program cannot be reached directly, the toll-free Ombudsman Crisis Line will be contacted at (800) 231-4024.
2. Provide direct supervision to all parties involved in a TSO through communication with the TSO coordinators.
3. Co-facilitate with the local Ombudsman Program meetings with residents' families to discuss any issues encountered during or after the TSO or closure. These issues should then be communicated to the L&C Assistant Deputy Director. The State Long-Term Care Ombudsman will be notified of the situation as appropriate.

**OSLTCO WILL:**

Notify the local Ombudsman Program of his/her certified designee of the pending TSO or closure.

**THE LOCAL OMBUDSMAN PROGRAM WILL:**

1. Once notified of the pending TSO or closure, contact the L&C District Office and share any additional information available pertaining to the facility. The confidentiality of this information will be observed.
2. In cooperation with the L&C District Office staff, have the opportunity to be present at the facility during the TSO or closure to help minimize the resident's transfer trauma, assist with communications between the residents, licensee and other agencies involved.
3. Co-facilitate, with the L&C District Office, meetings with residents' families to discuss any issues encountered during or after the TSO or closure. These issues should then be communicated to the State Long-Term Care Ombudsman. The L&C Assistant Deputy Director will be notified of the situation as appropriate.