

Long Term Care Ombudsman Policy and Procedures

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The Hawaii Office of Long-Term Care Ombudsman Program
Policies and Procedures

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Chapter 100 Administration of the Office of Long-Term Care Ombudsman Program

Section 101 Establishment of the State OLTCO Program

Policy

The State Office of the Long-Term Care Ombudsman (OLTCO) is a statewide program that advocates to protect the health, safety, welfare, and rights of residents in licensed Long-Term care (LTC) facilities. The OLTCO is a separately identifiable, distinct entity headed by the State Long-Term Care Ombudsman (SLTCO), who carries out, with staff and volunteer Long-Term Care Ombudsmen (LTCO), all functions and duties as set forth in the Older Americans Act (42 USC 3001-3058ee and 45 CFR 1321 and 1327) and Hawaii Revised Statutes § 349-21 to 25.

Section 102 Administration of the State OLTCO Program

Policy

The Hawaii OLTCO is a part of the Hawaii Executive Office on Aging (EOA), federally referred to as the State Unit on Aging (SUA). The OLTCO is administered as a separately identifiable, distinct entity within the EOA.

The EOA administers the OLTCO in conformity with the Older Americans Act (OAA) and all applicable federal and state laws. The EOA provides an administrative home for the OLTCO, providing operational support for the business affairs of the program. The EOA's oversight extends to hiring the SLTCO, evaluating the SLTCO's performance, and ensuring that the SLTCO manages the program in compliance with state and federal laws as well as State of Hawaii's policies and procedures. However, the EOA does not direct or become involved in the complaint investigation or systems advocacy work of the OLTCO. The SLTCO is directly responsible for the hiring of the OLTCO staff, in accordance with state regulations and provisions of the labor contract between the state and the applicable employee bargaining unit, and EOAs organizational reporting structure. The SLTCO is also responsible for the management of the OLTCO program budget. The OLTCO follows the EOA personnel guidelines with respect to personnel issues. The EOA does not have personnel policies or practices which prohibit staff and volunteers of the OLTCO from performing the duties, or from adhering to the access, confidentiality and disclosure requirements of section 712 of the OAA. The EOA ensures that OTLCO staff have opportunities for training to maintain expertise to effectively perform the duties required under the OAA.

The EOA shall ensure that the OLTCO has sufficient authority and access to facilities, residents, and information needed to fully perform all functions, responsibilities, and duties of the OLTCO. The EOA shall integrate the goals and objectives of the OLTCO into the State Plan and coordinate activities of the plan to promote collaboration and diminish duplicative efforts. The EOA shall ensure that there are mechanisms to prohibit, and investigate allegations of interference, retaliation and reprisals by Long-Term care facilities, and individuals, resulting from actions taken by the OLTCO including providing for appropriate sanctions with respect to interference, retaliation and reprisals. The EOA shall ensure the OLTCO has legal counsel that is adequate, available, and has competencies relevant to the legal needs of the OLTCO and of residents of LTC facilities.

Procedure

In consultation with the EOA, the SLTCO has the legal authority to establish policies and procedures to carry out the OLTCO in accordance with the OAA. The SLTCO as head of the OLTCO, shall be able to independently make determinations and establish policy positions of the OLTCO, without necessarily representing the determinations or policy positions of the EOA.

Section 103 Functions of the State OLTCO Program under the OAA

Policy

The SLTCO shall ensure the OLTCO fulfills the following functions for residents of LTC facilities:

1. Identify, investigate, and resolve complaints made by, or on behalf of, residents that may adversely affect the health, safety, welfare, or rights of residents.
2. Provide services to protect the health, safety, welfare, and rights of the residents.
3. Inform residents about means of obtaining services provided by the OLTCO.
4. Ensure that residents have *regular and timely access* to the services provided through the OLTCO, including timely responses from the OLTCO to requests for information and complaint resolution for both residents and complainants.
5. Represent the interests of residents before governmental agencies, assure that individual residents have access to, and pursue administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents.
6. Analyze, comment on, and monitor the development and implementation 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 LTC facilities and services in Hawaii.

Chapter 200 Roles and Responsibilities of the State Long-Term Care Ombudsman

Section 201 Employment of the State Long-Term Care Ombudsman

Policy

The EOA is responsible for hiring the SLTCO. Appropriate EOA staff as determined by the EOA Director, and key stakeholders may be asked to assist in interviews of SLTCO candidates. The EOA Director shall make the final hiring decision. The EOA shall ensure that the SLTCO is full-time and is a permanent position in which the duties of the OLTCO constitute the entirety of the SLTCO's work. The EOA ensures the SLTCO is free from conflicts of interests under the OAA and meets minimum qualifications which shall include, at a minimum, demonstrated expertise in:

1. LTC services and supports or other direct services for older persons or individuals with disabilities.
2. Consumer-oriented public policy advocacy experience.
3. Leadership and program management skills including experience in managing budgets and supervision of employees.
4. Negotiation and problem resolution skills.

Procedure

- A. Recruitment, hiring and supervision of the SLTCO are conducted in accordance with state regulations and provisions of the labor contract between the state and the applicable employees bargaining unit.
- B. If the OLTCO is housed under the EOA, then the EOA Director shall provide supervision of the SLTCO.
- C. Because EOA is "attached" to the Department of Health (DOH), the DOH Personnel Office coordinates recruitment and hiring to ensure compliance with applicable state regulations and union contract provisions.
- D. Once the SLTCO gives notice of resignation or retirement, the EOA may begin recruitment in accordance with State procedures.
- E. The interview panel to hire a SLTCO shall consist of the EOA Director or designee, and may include one member of the Policy Advisory Board for Elderly Affairs (PABEA) and may include one volunteer ombudsman who is familiar with the responsibilities and commitments of the OLTCO. A member who has a financial interest in a LTC facility in the state, or who has any other conflict of interest, may not participate in the hiring of the SLTCO.
- F. Once the new SLTCO has accepted the position, he or she must successfully complete the LTCO training under the supervision and guidance of the EOA Director. At a minimum, training must include:
 - 1) Orientation to Hawaii Revised Statutes Chapter 349 and the Older Americans Act and 45 CFR parts 1321 and 1327.
 - 2) Review of the National Ombudsman Resource Center (NORC) website with the NORC Director or designated staff.
 - 3) Completion of the online modules posted on the NORC.
 - 4) Completion of updated LTCO training on the NORC website.
 - 5) National Ombudsman Reporting System (NORS) training on the NORC website.
 - 6) Attendance at yearly NORC training for SLTCO.
 - 7) Review of OLTCO policies and procedures.
 - 8) Review of EOA policies and procedures.
- G. The new SLTCO will be given a copy of the OLTCO budget for the current fiscal year, Office of Management and Budget (OMB) performance measures for the program and the most recent NORS report.
- H. The EOA Director will conduct an annual performance appraisal of the SLTCO.
- I. In the event of the SLTCO's misconduct or poor work performance, the EOA will follow the disciplinary guidelines prescribed by the State and in compliance with applicable collective bargaining agreements.

Section 202 Role in Administration and Management of the OLTCO Program

Policy

The SLTCO shall provide leadership and management of a unified statewide OLTCO. The SLTCO shall have the authority to establish policies and procedures, in consultation with the EOA, to carry out the OLTCO in accordance with the OAA and Hawaii Revised Statutes § 349-21 to 25.

Procedure

- A. The SLTCO shall determine the designation, refusal to designate, suspension and de-designation of any LTCO. The SLTCO shall ensure that all LTCO have successfully completed required training prior to receiving designation by the SLTCO.
- B. The SLTCO shall monitor the performance of all designated LTCO to ensure that the duties of the OLTCO are carried out, including investigations of alleged misconduct by an LTCO.
- C. The SLTCO shall monitor and track achievement of OLTCO program goals and outcomes by utilizing data from the LTCO program reporting system, as required by the Administration for Community Living (ACL), to evaluate performance annually and identify areas for improvement and training needs.
- D. The SLTCO or designee shall be responsible for monitoring the files, records and other information maintained by the OLTCO to ensure the quality and timeliness of data entry. Neither the SLTCO nor a designee shall disclose identifying information of any complainant or LTC facility resident to individuals outside of the OLTCO, except as otherwise specifically provided in the OAA. The SLTCO shall have the sole authority to make determinations concerning the disclosure of files, records, and information maintained by the OLTCO.
- E. The SLTCO shall independently make determinations and establish policy positions of the OLTCO, without necessarily representing the determinations or policy positions of the EOA including disclosure of information maintained by the OLTCO as well as recommendations to changes in federal, state and local laws, regulations, policies and actions pertaining to the health, safety, welfare, and rights of resident of LTC facilities.
- F. The SLTCO will work with media outlets to raise public awareness of issues relating to elder safety and welfare, residents' rights, including laws, regulations, policies, practices that promote quality Long-Term care and resident self-determination. The SLTCO may work with appropriate EOA staff to promote the needs and rights of beneficiaries served by the OLTCO. The SLTCO does not have to obtain permission from any government official to work with media outlets.
- G. The SLTCO shall review the OLTCO policies and procedures at least once every 5 years or sooner if revisions are necessary.

Section 203 Development and Administration of the OLTCO Budget

Policy

The SLTCO will develop the annual OLTCO budget in collaboration with OLTCO staff and the EOA accountant. The SLTCO manages the program's operating budget with information and assistance from the EOA accountant. The OLTCO will follow all state regulations relating to travel and procurement.

Procedure

- A. The EOA accountant will email the SLTCO a copy of the Title VII notice of grant award when issued by the ACL and provide the estimated personnel and fringe costs for the year. The balance, if any, will be added to the OLTCO budget. Preparation of the

program budget should occur approximately one year before the actual fiscal year (i.e. FY 2016 budget process begins in July 2014).

- B. If program revenue is insufficient to cover anticipated program expenditures, the SLTCO shall inform the EOA director and discuss options such as a request for incremental funding or a reduction in operating costs, staffing, or services.
- C. The SLTCO may request year-to-date balance statements from the EOA accountant as needed to track program expenditures and unspent funds.

Section 204 Systems Advocacy Responsibility

Policy

The OLTCO shall ensure that the interests of residents in LTC facilities are represented to governmental agencies and policy-makers. The SLTCO shall have the authority to analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other government policies and actions that pertain to LTC facilities including the adequacy of such services as well as the health, safety, welfare, and rights of residents.

All LTCO shall be excluded from any State lobbying prohibitions. The EOA shall not require a right to review or pre-approve policy positions or communications of the OLTCO.

Procedure

- A. The SLTCO shall monitor and comment on federal, state, and local laws, regulations and other governmental actions regarding the health, safety, welfare, and rights of residents in LTC facilities.
 - 1) Advocate for modification of laws, regulations, and other government policies and actions, pertaining to the rights and well-being of residents of LTC facilities.
 - 2) Testify at public hearings relating to LTC issues.
 - 3) Facilitate public comment on the laws, regulations, policies, and actions relating to the concerns of residents in LTC facilities.
 - 4) Work with other governmental and/or nonprofit agencies to develop strategies that address systemic problems affecting residents in LTC facilities.
- B. The SLTCO shall provide leadership to statewide systems advocacy efforts of the OLTCO on behalf of LTC facility residents.
 - 1) Coordinate with and promote the development of citizen organizations consistent with the interests of residents.
 - 2) Promote and provide technical support as requested by resident and family councils to protect the well-being and rights of residents in LTC facilities.
- C. The SLTCO shall provide information to public and private agencies, legislators, the media, and other persons regarding the problems, concerns and recommendations of residents in LTC facilities.

Section 205 Duty to Complete Annual Reports

Policy

The SLTCO shall independently develop the annual report required for state funding and under the OAA, utilizing data from the OmbudsManager reporting system and other relevant sources. The SLTCO shall meet with the EOA Director to review the report and the SLTCO will take into consideration any suggestions or changes made by the EOA Director. The EOA Director shall conduct a final review of the report, prior to submission to the ACL.

Procedure

- A. OLTCO report to Administration on Community Living (ACL).
 - 1) The OAA requires the completion of a report to the ACL by January 31 of each year using the *National Ombudsman Reporting System (NORS)*. This report includes the following items:
 - a. Description of the activities carried out by the OLTCO in the year for which the report is prepared, including an analysis of OTLCO program data.
 - b. Description of the problems experienced by, and the complaints made by or on behalf of, residents in Long-Term care.
 - c. Policy, regulatory, and/or legislative recommendations for:
 - o improving quality of the care and life of the residents.
 - o protecting the health, safety, welfare, and rights of the residents.
 - d. Resolving resident complaints and identified problems or barriers.
 - e. An analysis of the success of the OLTCO, including success in providing services to residents of assisted living facilities, adult residential care homes, expanded adult residential care homes and community care foster family homes.
 - f. Describe barriers that prevent the optimal operation of the OLTCO.
 - 2) The OLTCO shall make the annual report available to the public and submit it to:
 - a. The Assistant Secretary on Aging, Administration for Community Living.
 - b. The Governor of the State of Hawaii.
 - c. The Hawaii State Legislature.
 - d. The Executive Office on Aging.
 - e. Other stakeholders, including members of the media, PABEA, Kupuna Caucus, and other senior advocacy organizations.
- B. The SLTCO will provide the EOA with requested OLTCO data to allow the EOA to complete their annual report under the OAA. The SLTCO will work with the EOA to incorporate the needs and public comments of residents of LTC facilities in the HI State Plan on Aging to Department of Health and Human Services (DHHS) and ACL.

Section 206 Inter-Agency Coordination Leadership

Policy

Through adoption of memoranda of understanding and other means, the SLTCO shall lead state-level coordination between the OLTCO and other entities with responsibilities for the health, safety, well-being or rights of residents of LTC facilities, but not limited to:

- The EOA
- Senior Medicare Patrol (SMP)
- Aging and Disability Resource Centers (ADRC)
- State Independent Living Centers
- Adult Protective Services (APS)
- Hawaii Disability Rights Center
- Mental Health America of Hawaii
- Kupuna Caucus
- University of Hawaii Elder Law Program (UHELP)
- City/County Prosecutors Offices
- County Police Departments
- FBI
- Department of Health, Office of Health Care Assurance (OHCA)
- Mountain Pacific (QIO)
- Healthcare Association of Hawaii
- Long-Term Care Social Workers Association of Hawaii
- John A. Burns School of Medicine
- Members of Resident and Family Councils
- AARP
- Kokua Council
- PABEA
- HARA
- Community Ties of America
- ARCH, CCFFH and AL Associations

Chapter 300 Duties, Training, Designation and De-Designation of LTCO

Section 301 Duties of Long-Term Care Ombudsman

Policy

A LTCO may be an employee, intern, or volunteer who has been trained and designated to perform the official duties of the OLTCO. All LTCO are expected to adhere to the Long-Term Care Ombudsmen's *Code of Ethics* and conduct themselves in a professional and fair-minded manner with residents, administrators, other state personnel, and the public.

All LTCO are representatives of the OLTCO and are responsible for carrying out the duties under the OAA and state law, including:

1. Identify, investigate, and resolve complaints made by or on behalf of residents of LTC facilities that may adversely affect their health, safety, welfare, or rights.
2. Provide services to protect the health, safety, welfare, and rights of residents.
3. Ensure that residents have *regular and timely access* to the services provided through the OLTCO.
4. Ensure that residents and complainants receive timely responses to requests for information and complaints.
5. Promote, provide technical support for the development of, and provide ongoing support as requested by resident and family councils in LTC facilities.
6. Provide information and referrals to members of the public.

Section 302 Recruitment and Background Checks for LTCOP Employees

Policy

Recruitment for vacant positions shall begin when positions are vacated or notice of retirement is provided, in accordance with State employment procedures. Recruitment will follow the equal opportunity employing practices of the EOA. All applicants will be screened for conflicts of interest and have a criminal background check.

Procedure

- A. EOA will work with the SLTCO to recruit and hire LTCO staff in accordance with State employment procedures.
- B. All applicants shall complete an application, provide references and be screened for conflicts of interest. If an applicant is being considered for hire, the supervisor shall check personal and professional references prior to making the recommendation to hire.

Section 303 Recruitment and Background Checks for LTCO Volunteers

Policy

The OLTCO will recruit volunteers on an ongoing basis. All potential volunteers must fill out an application, be screened for conflict of interest, complete an interview, and pass a background and reference check. The SLTCO or designee will screen out potential volunteers who do not appear fit by reason of behavior, attitude, or past history.

Procedure

- A. The SLTCO or designee can advertise for volunteers in all media, including online sites specifically dedicated to volunteer recruitment. Recruitment should occur in areas where volunteers are needed.
- B. The OLTCO requires all volunteer applicants to fill out an OLTCO volunteer application form, a conflict of interest form, and all other applicable volunteer forms as deemed necessary by the SLTCO and EOA.
- C. The SLTCO or designee shall review applications to screen for potential conflicts of interest.

- D. The SLTCO or designee will interview the volunteer in person to explain the program and the volunteer's duties, listen to the individual's reason for wanting to volunteer, and identify any issues/behaviors that would preclude a successful volunteer experience.
- E. References, both personal and professional, will be conducted.
- F. TB clearance is required.
- G. At any time during training, the volunteer or the SLTCO or designee may decide that designation as a LTCO is not a good fit for the volunteer. If the decision is by the SLTCO or designee, they will notify the volunteer in writing.

Section 304 Training of Long-Term Care Ombudsmen

Policy

The SLTCO will ensure that all designated LTCO meet the OTLCO training requirements under the OAA. LTCO are prohibited from carrying out the duties of the office until they have completed the required training and been designated as a LTCO by the SLTCO. The EOA will ensure opportunities for training are provided for the SLTCO and LTCO to maintain expertise to serve as effective advocates for residents of LTC facilities.

All LTCO, whether employees or volunteers, will complete the OLTCO program training curriculum which follows recommendations made by the National Ombudsman Resource Center (NORC) for LTCO training Best Practices. The curriculum will include a minimum of 28 hours of coursework and field training.

Procedure

- A. Employee LTCO Training Requirements.
 - 1) The SLTCO or designee will teach the 20-hour training curriculum to the new employee which will include, but not be limited to the following four parts:
 - a. Overview of the Long-Term Care Ombudsman Program;
 - b. The Aging Process;
 - c. Resident Rights; and,
 - d. Facility Visits and Case Resolution.
 - 2) After completion of the classroom curriculum, the new employee will complete field training with the SLTCO. It will include approximately 8 hours of supervised one-on-one training over two days. The second, or final visit will be led by the new employee to demonstrate competency of LTCO skills. The SLTCO or new employee may request additional visits be completed before the employee is designated as a LTCO by the SLTCO. This field training should also include attendance at both a resident and family council meeting, but may have to take place on a different day.
 - 3) The new employee will meet with the SLTCO to determine individual training goals for the first year of employment. These goals will include at a minimum:
 - a. Completion of the NORC online LTCO training. Completed tests will be reviewed by the SLTCO.
 - b. Completion of the NORS training curriculum with the SLTCO. Completed tests will be reviewed by the SLTCO.

- c. Review of the NORC website with the SLTCO.
 - d. Review of the OLTCO P&P with the SLTCO.
 - e. Training on the use of OmbudsManager with the SLTCO or designee.
 - f. Review of the OLTCO procedures for completing paperwork for travel, timesheets, mileage reimbursement, facility visits, intakes, requesting IT support.
 - g. Attending each of the OLTCO trainings and monthly volunteer meetings.
- 4) The OLTCO orientation and training shall include the following:
- a. List of agencies to visit to learn about resources and develop networks (see appendix for list of potential agencies).
 - b. List of other training opportunities.
 - c. Public Access Room for training on the Legislative process.
 - d. Office of Health Care Assurance for the Survey Process.
 - e. Meeting with Deputy Attorney General regarding legal questions.
 - f. Meeting with Adult Protective Services regarding elder abuse.
- 5) All LTCO employees will participate in at least 20 hours of continuing education arranged by the SLTCO or designee. Each LTCO employee will individually meet with the SLTCO to determine an annual training plan for these 20 hours.

B. Volunteer LTCO Training Requirements

- 1) The SLTCO or designee will teach the 20-hour training curriculum which includes, but is not limited to the following four parts:
- a. Overview of the Long-Term Care Ombudsman Program;
 - b. The Aging Process;
 - c. Resident Rights; and
 - d. Facility Visits and Case Resolution.
- 2) After completion of the classroom curriculum, field training will be completed under the supervision of the SLTCO or designee. It will include at least 8 hours of supervised visits. The final visit will be led by the volunteer to demonstrate competency of LTCO skills. The SLTCO, designee, or volunteer may request additional visits be completed before the volunteer is designated as a LTCO by the SLTCO.
- 3) Volunteers will participate in 10 monthly continuing education trainings provided by the OTLCO. Outside training sessions can be used as a substitute provided that prior approval was given by the SLTCO or designee.

Section 305 Designation LTCO

Policy

The SLTCO has the sole authority to designate or refuse individuals to serve as LTCO including staff and volunteers. All LTCO shall meet the following requirements:

- 1. Complete an interview with the SLTCO or designee after the application process is completed.
- 2. Be free of remedied conflicts of interest.
- 3. Satisfactory completion of all required initial classroom and supervised field training.

4. Approval by the SLTCO as qualified to carry out the activity on behalf of the OLTCO.
5. Participation in at least 30 hours of continuing education opportunities yearly, led by or approved by the OSLTCO.

Procedure

Volunteers

The SLTCO or designee will provide a letter, designation certificate, facility poster, and name badge to each LTCO volunteer within 10 working days of successful completion of the LTCO training program. The SLTCO or designee will enter the newly designated LTCO volunteer into OmbudsManager.

Section 306 De-Designation or Refusal to Designate LTCO

Policy

The SLTCO shall de-designate or refuse to designate a LTCO for the following reasons:

1. Voluntary separation from OLTCO (moved, unable to volunteer any longer, etc.).
2. Failure to pass, or refusal to take, annual background check or annual TB test.
3. Has a conflict of interest that cannot be adequately removed or remedied.
4. Deliberate failure of the individual to disclose any conflict of interest.
5. Violation of confidentiality requirements.
6. Falsifying records or providing false information.
7. Violation of the LTCO Code of Ethics.
8. Failure to follow OLTCO policies and procedures.
9. Refusal to follow the direction of SLTCO or designee.
10. Failure to act in accordance with applicable federal and state laws, regulations, and policies.
11. Annual performance review shows failure to satisfactorily perform duties of the OLTCO including LTCO's failure to maintain frequency of facility visits, participate in monthly meetings, or complete and submit monthly reports.

Procedure

The process for de-designation or refusal to designate includes:

- A. For voluntary de-designation situations, the LTCO shall notify the SLTCO or designee in writing as soon as possible.
- B. For involuntary de-designation situations, the SLTCO or designee shall consider remedial actions which could be taken to avoid the de-designation. The SLTCO or designee shall provide written notice of the decision to de-designate which shall include:
 - 1) Specific reasons for de-designation.
 - 2) Effective date of the decision.
 - 3) A copy of the OLTCO grievance procedure.
- C. The SLTCO or designee will recover the name badge and facility poster from volunteers.
- D. The SLTCO or designee shall notify the facility the LTCO was responsible for visiting.

Section 307 Supervision of LTCO

Policy

The SLTCO has a responsibility to ensure that all LTCO, including employees and volunteers, are supervised on a regular basis.

Procedure

Volunteers

- A. The SLTCO or designee will provide ongoing technical assistance to support volunteers in completing facility visits and resolving issues for residents.
- B. The SLTCO or designee will make monthly contact with LTCO volunteers to review facility visit reports and provide appropriate feedback.
 - 1) Follow up with volunteers if monthly report is not received.
- C. The SLTCO or designee will complete an annual evaluation of each LTCO volunteer including:
 - 1) Shadowing of a facility visit.
 - 2) Passing an annual TB clearance and criminal background check.
 - 3) Renewal of volunteer code of ethics, conflict of interest and confidentiality
 - 4) acknowledgement and agreement forms annually.
- D. The SLTCO or designee will maintain an online file for each LTCO volunteer that includes:
 - 1) The application and notes from references.
 - 2) Copy of criminal background check information.
 - 3) Copy of TB clearance.
 - 4) Copy of designation certificate and letter.
 - 5) Annual performance evaluations which includes renewed conflict of interest, confidentiality and code of ethics forms.
 - 6) Copies of any correspondence or other documents associated with the volunteer.

Chapter 400 Organizational and Individual Conflicts of Interest

Policy:

The SLTCO shall consider both the organizational and individual conflicts of interest that may impact the effectiveness and credibility of the work of the OLTCO. It is the duty of the SLTCO to identify any organizational conflicts. It is the duty of all LTCO staff and volunteers to identify and report any conflicts of interest to the SLTCO.

Section 401 Identification of Conflicts of Interest

Policy

1. Identification of organizational conflicts. Organizational conflicts include any conflicts that may impact the effectiveness and credibility of the work of the OLTCO. Organizational conflicts of interest include, but are not limited to, placement of the OLTCO, or requiring that an ombudsman perform conflicting activities, in an organization that:
 - Is responsible for licensing, surveying, or certifying long-term care facilities;

- Is an association (or an affiliate of such an association) of LTC facilities, or of any other residential facilities for older individuals or individuals with disabilities;
- Has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a LTC facility;
- Has governing board members with any ownership, investment or employment interest in LTC facilities;
- Provides long-term care to residents of LTC facilities, including the provision of personnel for LTC facilities or the operation of programs which control access to or services for LTC facilities;
- Provides long-term care coordination or case management for residents of LTC facilities.
- Sets reimbursement rates for LTC facilities;
- Provides adult protective services;
- Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of LTC facilities;
- Conducts preadmission screening for LTC facility placements;
- Makes decisions regarding admission or discharge of individuals to or from LTC facilities; or
- Provides guardianship, conservatorship or other fiduciary or surrogate decision-making services for residents of LTC facilities.

Procedure

Annually the SLTCO shall review the program to determine if there are any organizational conflicts of interest for the OLTCO.

Policy

2. Identification of individual conflicts. Individual conflicts of interest for LTCO and members of their immediate family include, but are not limited to:
 - Direct involvement in the licensing or certification of a LTC facility.
 - Ownership, operational, or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed LTC facility.
 - Employment of an individual by, or participation in the management of, a LTC facility or by the owner or operator of any LTC facility.
 - Receipt of, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a LTC facility.
 - Accepting gifts or gratuities of significant value from a LTC facility or its management, a resident or a resident representative of a LTC facility in which the LTCO provides services.
 - Accepting money or any other consideration from anyone other than the OLTCO, for the performance of an act in the regular course of the duties of the LTCO without SLTCO approval.
 - Serving as guardian, conservator or in another fiduciary or surrogate decision-making capacity for a resident of a LTC facility in which the LTCO provides services.
 - Serving residents of a LTC facility in which an immediate family member resides.

In no circumstance shall the SLTCO appoint a LTCO who:

- Has direct involvement in the licensing or certification of a LTC facility.
- Has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a LTC facility.
 - Divestment within a reasonable period may be considered an adequate remedy to this conflict.
- Has been employed by or participating in the management of a LTC facility within the previous twelve months.
- Receives, or has the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a LTC facility.

Procedure

- A. All individuals seeking designation as a LTCO staff or volunteer shall be screened by the SLTCO or designee before beginning training as an LTCO or during the hiring process.
- B. Annually all employees and volunteers of the OLTCO shall sign the LTCO conflict of interest free form declaring they are free of any conflicts which would interfere with the performance of their duties as a LTCO.

Section 402 Remediation of Conflicts of Interest

Policy

After a conflict of interest has been identified, the SLTCO or designee shall be responsible to ensure the removal or remediation of such conflict. A conflict can be sufficiently remedied only when the existence of the conflict does not interfere with any duties of the OLTCO and where the conflict is not likely to alter the public's perception of the OLTCO as an independent advocate for residents of LTC facilities.

Procedure

- A. Where an actual or potential conflict of interest within the OLTCO has been identified, the SLTCO shall be notified immediately. The SLTCO shall identify organizational conflicts of interest in the OLTCO program and describe steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary of the ACL through the National Ombudsman Reporting System. The ACL shall determine whether the appropriate actions taken were sufficient or if the conflict still exists.
 - 1) The SLTCO may consult with outside sources, such as the National Ombudsman Resource Center (NORC) or the National Association of State Long-Term Care Ombudsmen (NASOP), for expert input to resolve any questions about potential conflict of interest.
 - 2) Where organizational conflicts have been identified, the following steps shall be taken where the conflict can be sufficiently remedied:
 - a. A written remedial plan shall be developed within 30 calendar days of the identification of the conflict.

- b. The SLTCO may choose to develop a memorandum of agreement (MOA) with the organization. The MOA should set forth the roles, responsibilities and appropriate working relationships between the respective programs that clarify the remediation of the conflict of interest. The document should be signed by the SLTCO and the EOA Director or designee as deemed appropriate based on the infrastructure of the housing entity. Where individual conflicts have been identified, a written remediation plan shall be developed within 15 calendar days of the identification of the conflict. The plan must identify the conflict and provide assurances which shall minimize to the greatest extent possible the negative impact of the conflict of interest. The plan must be signed by both the LTCO and SLTCO or designee.
 - Where the individual is an applicant for a position as a paid LTCO, a plan shall be developed before the individual is hired for the position.
 - Where the individual is an applicant for a position as a volunteer LTCO, a plan shall be developed before the individual is designated as a LTCO.
 - Where the individual is already a designated LTCO, a plan shall be developed as soon as possible or within 15 days to remediate the conflict of interest.
 - Failure to identify and report to the SLTCO a known individual conflict of interest shall be sufficient grounds for refusal to designate a potential LTCO, to de-designate a LTCO, or after due process, remove OLTCO staff from the OLTCO Program, as deemed necessary by the SLTCO.
 - Failure to remedy a conflict of interest or the existence of a conflict of interest that cannot be remedied shall be sufficient grounds for the de-designation of the volunteer LTCO, or after due process, remove OLTCO staff from the OLTCO Program, as deemed necessary by the SLTCO.

Chapter 500 Grievance Procedure

Policy

The SLTCO or designee shall investigate allegations of misconduct by any LTCO in the performance of the duties of the OLTCO.

Procedure

- A. Complaints against LTCO staff or volunteers will be investigated by the SLTCO or designee within 10 business days of receipt of complaint by the OLTCO. All complaints should be in writing and contain:
 - 1) The nature of the complaint and specific facts supporting the allegation and the desired resolution of the complainant.
 - 2) Depending on the severity of the grievance, the SLTCO may suspend the LTCO until there is an investigation and/or resolution of the grievance, within applicable State employment practices and in compliance with relevant collective bargaining agreement.
 - 3) The SLTCO shall discuss the complaint with the LTCO within 5 working days of receipt of complaint.

- 4) The SLTCO will provide the complainant with a written response within 10 working days. The response will follow the OLTCO confidentiality policies regarding OLTCO records.
 - 5) All LTCO designation decisions of the SLTCO will be final.
- B. Complaints against the SLTCO will be investigated by the EOA Director or designee within 10 business days of the receipt of the complaint. All complaints should be in writing and contain:
- 1) The nature of the complaint and specific facts supporting the allegation and the desired resolution of the complainant.
 - 2) Depending on the severity of the grievance, the EOA Director may suspend the SLTCO until there is an investigation and/or resolution of the grievance, within applicable State employment practices and in compliance with relevant collective bargaining agreement.
 - 3) The EOA Director shall discuss the complaint with the SLTCO within 5 working days of receipt of complaint.
 - 4) The EOA Director will provide the complainant with a written response within 10 working days. The response will follow the OLTCO confidentiality policies regarding OLTCO records.
 - 5) All decisions of the EOA Director must be in compliance with State employment practices and in compliance with relevant collective bargaining agreement.
- C. Complaints regarding the decision to refuse, suspend or remove the designation of a LTCO will be reviewed by the SLTCO or designee within 10 business days of receipt of complaint by the OLTCO. All complaints should be in writing and contain:
- 1) The specific facts supporting the individual's complaint against the refusal, suspension or de-designation.
 - 2) The SLTCO may discuss facts presented by the complaint as necessary to clarify the specific details of the complaint.
 - 3) The SLTCO will provide the complainant with a written response within 10 working days.
 - 4) All designation decisions of the SLTCO will be final, but in the case of LTCO staff, must be in accordance with State employment practices and in compliance with relevant collective bargaining agreement.

Chapter 600 Legal Counsel for the OLTCO Program

Section 601 Legal Counsel for the OLTCO

Policy

The OLTCO shall have access to legal counsel that is adequate and readily available in order to provide consultation and/or representation as needed to assist the OLTCO in the performance of their official functions, responsibilities, and duties. The legal counsel shall be without conflict of interest (as defined by the State ethical standards governing the legal profession). Legal representation by a licensed attorney shall not by itself constitute sufficiently adequate legal counsel. Legal counsel shall have competencies relevant to the legal needs of the program and of residents including Federal and State laws protecting the rights of residents and governing laws of

LTC facilities. The communications between the OLTCO and legal counsel are subject to attorney-client privilege.

Procedure

- A. A Deputy Attorney General shall provide legal representation to the OLTCO that is adequate and readily available in order to provide consultation and/or representation as needed to assist the OLTCO in the performance of their official functions, responsibilities, and duties, including, but not limited to:
 - 1) complaint resolution.
 - 2) systems advocacy.
 - 3) legal representation, arranged by or with the approval of the SLTCO, to any LTCO against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties.
- B. Only the SLTCO shall contact the Deputy Attorney General to obtain advice for programmatic legal issues. Staff or volunteer LTCO will not contact the Deputy Attorney General without the consent and supervision of the SLTCO.
- C. When LTCO are contacted by an attorney, they should follow the OLTCO disclosure policies and procedures. If an attorney asks for confidential information, including records, do not acknowledge whether the OLTCO has a case without consent from the resident or complainant. The LTCO should obtain the attorney's contact information and inform the SLTCO of the situation.
- D. The SLTCO will keep the Deputy Attorney General apprised of OLTCO interactions with outside counsel.
- E. A LTCO may have information that is relevant in a court case. However, testifying can interfere with the perception of a LTCO as an independent advocate. If an attorney or other person indicates a wish for a LTCO to testify in a hearing or disposition, the LTCO should inform the SLTCO of the situation as soon as possible.
- F. Upon receipt of a subpoena, the LTCO shall notify the SLTCO, who will notify the EOA Director, and provide a copy of the original order. The SLTCO will contact the appropriate legal counsel to pursue a motion to quash.
- G. If a LTCO receives a request to participate in a hearing, they should contact the SLTCO as soon as possible.
- H. If a LTCO receives or is threatened with a suit in relation to the performance of official duties, they should immediately notify the SLTCO.

Section 602 Legal Counsel for Residents of LTC

Policy

The OLTCO shall work with the State or County Legal Services Developer to ensure residents of LTC facilities have access to legal counsel that is adequate and readily available to provide consultation and/or representation as needed. The legal counsel shall be without conflict of interest (as defined by the State ethical standards governing the legal profession). Legal representation by a licensed attorney shall not by itself constitute sufficiently adequate legal counsel. Legal counsel shall have competencies relevant to the legal needs of the program and of

residents including Federal and State laws protecting the rights of residents and governing laws of LTC facilities.

Procedure

- A. The SLTCO and the State or County Legal Services Developer shall coordinate with the Hawaii Disability Rights Center, the University of Hawaii Elder Law Program, Legal Aid Society of Hawaii, Office of the Public Guardian, Hawaii Bar Association, Mediation Center of the Pacific, the Kupuna Caucus and other agencies to promote the availability of legal counsel to residents of LTC facilities in order to:
 - 1) provide consultation and representation as needed in order to protect the health, safety, welfare, and rights of residents in LTC facilities.
 - 2) assist residents in seeking administrative, legal, and other appropriate remedies.
- B. LTCO may make supervised referrals to legal services regarding resident complaints that require legal assistance for residents of LTC facilities.

Chapter 700 Immunity, Willful Interference and Retaliation

Section 701 Immunity

Policy

A person who, in good faith, makes a complaint is immune from civil or criminal liability that might otherwise exist for making the complaint. The SLTCO or any LTCO is immune from civil or criminal liability for the good faith performance of official duties under the Older Americans Act and HRS 349-22.

§96-6 Investigation of complaints. (a) The ombudsman may investigate any complaint which the ombudsman determines to be an appropriate subject for investigation under section 96-8. (b) The ombudsman may investigate on the ombudsman's own motion if the ombudsman reasonably believes that an appropriate subject for investigation under section 96-8 exists. [L 1967, c 306, §7; HRS §96-6; am L 1974, c 46, §4; gen ch 1985]

Section 702 Prohibition of Interference and Retaliation

Policy

The SLTCO shall work with EOA to ensure that no person shall willfully interfere with any LTCO in the performance of official duties.

The SLTCO shall work with EOA to ensure that no person shall intentionally discriminate or retaliate in any manner against any resident, family member, legal representative of a resident, employee of a facility, or any other person due to filing a complaint with or providing information to the OLTCO program.

In accordance with HRS 349-24 *“any individual, including any long-term care facility or long-term care facility employee, who willfully interferes with or impedes the long-term care ombudsman or designee in the performance of the long-term care ombudsman’s or designee’s duties pursuant to*

this part shall be guilty of a misdemeanor. Each separate act of willful interference and each day during which any willful interference continues shall constitute a separate offense.”

Procedure

- A. The SLTCO or designee shall investigate any report of willful interference or retaliation.
- B. When SLTCO or designee believes that willful interference or retaliation was attempted or has occurred, the SLTCO will inform the offending individual of the sanctions provided by law. When appropriate, the SLTCO will advise the administrator of the facility of the situation and the sanctions.
- C. If the issues is not resolved, the SLTCO or designee may inform the licensing agency (Office of Health Care Assurance) of the interference or retaliation in a licensed facility.
- D. If the interference or retaliation continues, the SLTCO or designee shall inform OLTCO legal counsel about the interference and provide supporting documents. The SLTCO shall request a letter from OLTCO legal counsel be sent to the person who is retaliating and if appropriate to their employer.

Chapter 800 Access to Residents and Records and Information

Section 801 LTCO Access to Residents and Records and Information

Policy

LTCO shall have timely access to residents, facilities, and appropriate records (regardless of format and including, upon request, copies of such records) needed to perform the functions and duties under the Older Americans Act and in accordance with HRS 349-22.

1. LTCO shall have access to enter all long-term care facilities at any time during a facility's:
 - regular business hours
 - regular visiting hours
 - at any other time when access may be necessary to resolve a complaint
2. LTC facilities shall provide the name and contact information of the resident representative when requested by a LTCO
3. LTCO shall obtain informed consent from a resident or resident representative to access and review the medical, social and other records:
 - Informed consent may be given in writing, orally, visually, or using auxiliary aids and services
 - Informed consent must be documented as soon as possible in the OLTCO database. Signed consent forms should be scanned and attached to the case file
 - If the resident representative refuses to consent to the access information request, the LTCO may still access the information if:
 - access is necessary to investigate a complaint
 - the LTCO has reasonable cause to believe that the resident representative is not acting in the best interests of the resident
 - the LTCO obtains the approval of the SLTCO

4. LTC facilities shall provide the administrative records, policies, and documents available to the general public when requested by a LTCO
5. LTCO shall have access to, and, upon request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities
6. 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 OLTCO, including but not limited to residents' medical, social, or other records, a list of resident names and room numbers, or information collected during a State or Federal survey or inspection process
7. If a LTC facility denies timely access to facilities, residents, and appropriate records, the LTCO should take the following steps:
 - Review the LTCO access statutes with the facility staff
 - If this does not work, the LTCO should immediately contact the SLTCO or designee, who will then contact the administrator/owner of the facility
 - If this is not successful, then the SLTCO or designee will contact the licensing agent for the facility to request their assistance in resolving the matter

Section 802 LTCO Access to Records of a Resident Unable to Give Consent

Policy

Where the resident is unable to communicate informed consent, and has no resident representative, the LTCO shall:

1. Take appropriate steps to investigate and work to resolve the complaint to protect the health, safety, welfare and rights of the resident; and
2. Determine whether the complaint was resolved to the satisfaction of the complainant. In determining whether to rely upon a resident representative to communicate or make determinations on behalf of the resident related to complaint processing, the LTCO shall ascertain the extent of the authority that has been granted to the resident representative under court order (in the case of a guardian or conservator), by power of attorney or other document by which the resident has granted authority to the representative, or under other applicable State or Federal law.

Chapter 900 Disclosure and Maintenance of OLTCO Information

Section 901 Disclosure of Resident and Complaint Personal Information

Policy

All OLTCO information including files, records and other information should be maintained in a confidential manner. The SLTCO shall have the sole authority to make determinations concerning the disclosure of the files, records, and other information maintained by the OLTCO program regardless of the format of such file, record, or other information; the source of the request; or the sources of funding to the OLTCO program. LTCO are excluded from mandatory abuse reporting requirements without informed consent or a court order.

The disclosure of the identity of the complainant without informed consent from the complainant is prohibited unless required by court order. The disclosure of the identity of any resident without informed consent from the resident or their representative is prohibited with the following two exceptions:

1. Disclosure is required by a court order
2. Disclosure to the agency with regulatory oversight of the facility, Adult Protective Services, law enforcement and/or for administrative, legal or other remedies, if the following conditions are met:
 - the resident is unable to communicate consent and resident has no resident representative or there is reasonable cause to believe that that the resident representative has acted in a way that may adversely affect the resident
 - the LTCO has reasonable cause to believe that an action or inaction may adversely affect the resident's health, safety, welfare or rights
 - there is no evidence indicating that the resident would not wish the action to be taken
 - the LTCO has reasonable cause to believe the action is in the resident's best interest,
 - and, the LTCO obtains the approval of the SLTCO or designee

Procedure

- A. The LTCO may not disclose whether a complaint has ever been received about an individual, the content of a complaint or the outcome of an investigation without informed consent from the resident or their representative including requests to testify and subpoenas. LTCO should simply state "OLTCO records and information are confidential and may not be released without the informed consent of the resident or the resident's legal representative or by court order."
- B. The LTCO should seek informed consent from the resident first. Only when the resident is unable to provide informed consent should the LTCO seek informed consent from the resident's representative. LTCO shall make every effort to obtain written consent from the resident or their representative. If informed consent is given orally, then it should be specifically documented in the case file as soon as possible. If the resident is unable to give informed consent and does not have a resident representative, the LTCO must get approval of the SLTCO before disclosing any resident's identifying information.
- C. LTCO should seek informed consent from the complainant for the release of their personally identifying information. If informed consent is given orally, then it should be specifically documented in the case file as soon as possible. If consent is refused, documents should be redacted to protect complainant.
- D. Requests to the OLTCO to share records or information must be in writing and include an explanation of the need for the information, how it will be used and who else will be given access to the information. The SLTCO shall respond to all requests to share information within five (5) working days.
- E. When determining whether to disclose information, the SLTCO should consider whether the disclosure could have the following effects:
 - 1) retaliation against residents or complainants
 - 2) deter individuals from contacting the OLTCO for assistance in the future

- 3) damage working relationships between the OLTCO, facilities and/or regulatory agencies
- F. A LTCO should immediately contact the SLTCO when a court order, subpoena or request to testify is received. The SLTCO will then consult with the OLTCO legal counsel for assistance in protecting the identity of residents and complainants. The LTCO shall inform the resident (and/or the resident’s representative) and the complainant of any court order requiring the release of personally identifying information or records.
- G. All information to be released (including email correspondence, calendar entries or other documents) must be reviewed by the SLTCO who may redact information to protect the privacy of other residents or for other purposes.

IF the request is made by...	THEN the SLTCO or designee shall...
A resident	Release any records generated by the OLTCO which are directly relevant to that resident provided that the identities of other residents or complainants who have not provided informed consent for the release of their names are not revealed
The resident representative	Release any records generated by the OLTCO which are directly relevant to that resident provided that both of the following conditions are met: 1) the SLTCO has no reason to believe that the release shall conflict with the wishes or interest of the resident; <u>and</u> 2) the identities of other residents or complainants who have not provided informed consent for the release of their names are not revealed
Complainant or the public	Release the records only if both of the following conditions are met: 1) the resident has provided informed consent (If the resident is unable to provide informed consent, the resident’s representative may provide informed consent) <u>and</u> 2) the identities of other residents or complainants who have not provided informed consent for the release of their names are not revealed
A court order	1) Inform the resident (and/or resident representative) <u>and</u> the complainant of the court order 2) release any records directly responsive to a court order 3) Provide an explanation to the court regarding the importance of not revealing the identity of residents and complainants and/or requesting the court to seal the OLTCO records where the SLTCO determines that the release of records would be inconsistent with the wishes or interests of the resident.
A subpoena	1) The SLTCO shall review the request to determine whether the release of all or part of the records would be consistent with the wishes or interest of the relevant resident(s). 2) Inform the resident (and/or resident representative) and the complainant of the subpoena 3) Where the SLTCO determines that the release of records would be inconsistent with the wishes or interest of the resident, the SLTCO should request OLTCO legal counsel make a motion to quash the subpoena

Section 902 Disclosure of OLTCO Program Information

Policy

Data collected in the OLTCO program reporting system can be helpful to consumers making decisions about placement in a long-term care facility, other agencies with responsibilities to residents of long-term care facilities, researchers, and other parties. The OLTCO staff may respond to requests for information that are not case specific.

Procedure:

- A. Requests for administrative records, policies, and documents of long-term care facilities should be directed to the Long-Term care facility unless it is part of a case file request made by the resident or resident representative.
- B. Requests for licensing and certification records regarding long-term care facilities should be directed to the licensing agency unless it is part of a case file request made by the resident or resident representative.
- C. Requests to the OLTCO to share OLTCO data should include an explanation of the need for the information and how it will be used.
- D. When determining whether to disclose OLTCO data, the OLTCO staff should consider whether the release of the data:
 - 1) is large enough to protect the identity of residents and complainants
 - 2) will deter individuals from contacting the OLTCO for assistance in the future
 - 3) would damage working relationships between the OLTCO, facilities and/or regulatory agencies
- E. Aggregate information of OLTCO activities performed or complaint processing information may be provided by a LTCO staff upon request to any party with the following limitations:
- F. Complaint histories may include the type of issue investigated and whether or not the OLTCO verified the complaint. However, information which could be used to identify a specific complainant or resident cannot be provided, including: specific dates, resident-identifying information, or complainant-identifying information.
- G. When providing a complaint history of a specific facility, the information must relate to only those complaints for which investigation findings are complete (not on-going), and include complaints received at the facility during a period of one year or more, to avoid identification of specific complaints.

Section 903 Maintenance of Case Files and Other OLTCO Information

Policy

The SLTCO shall manage the files, resident records, and other information of the OLTCO program, whether in physical, electronic, or other formats, including information maintained by OLTCO pertaining to the cases and activities of the OLTCO program. Such files, records, and other information are the property of the OLTCO.

Procedure:

- A. All open case files, notes and other documents that include personally identifiable information shall be stored in a locked file cabinet.
- B. Personal information may only be stored on laptops that are encrypted and require a password.
- C. Personal information may only be emailed using a secure email system. All other information should be faxed.
- D. When closing a case, all documents in the file including notes shall be entered into OmbudsManager and the paper copies shredded. Any paper case files not stored in OmbudsManager due to size will be stored in a locked file cabinet for 7 years and then shredded.

Chapter 1000 Response to Complaints

Section 1001 Intake, Screening, Assignment

Policy

OLTCO provides information and referrals as well as complaint investigation for residents in LTC facilities. The OLTCO must screen and assign incoming complaints for investigation to ensure that all complaints falling under OLTCO jurisdiction are investigated or referred to a more appropriate agency for investigation. The OLTCO must also prioritize complaints so that any case potentially involving imminent harm to a resident of a LTC facility is investigated first. Regardless of the source of the complaint, the focus of the OLTCO is on the desires of the resident of a LTC facility.

Procedures

- A. The OLTCO will respond to all requests for assistance and inquiries within 72 hours. The OLTCO will provide adequate telephone coverage during business hours. If a message is left, the LTCO staff will attempt to contact the caller the same day the message is left but no longer than 2 working days.
- B. Timelines for response to urgent complaints is as follows:

IF a complaint involves....	THEN the timeline for response if....
<ul style="list-style-type: none">• Abuse or neglect with imminent risk to resident	<ul style="list-style-type: none">• As soon as possible but no longer than 24 hours
<ul style="list-style-type: none">• Abuse or neglect without immediate risk to resident	<ul style="list-style-type: none">• Within 3 working days
<ul style="list-style-type: none">• Discharge from a facility	<ul style="list-style-type: none">• As soon as possible but no longer than 3 working days
<ul style="list-style-type: none">• Other types of complaints	<ul style="list-style-type: none">• Within 5 working days

- C. The SLTCO or designee will respond to individuals who come in person to the OLTCO, incoming telephone calls and website intakes. The SLTCO or designee will provide information, referral and consultations as needed.
- D. All intake data will be entered into OmbudsManager as an activity or case within 5 working days.

- E. The OLTCO is not designed to serve as an emergency response system. Emergency situations should be referred to “911” for immediate response.

Section 1002 Informed Consent

Policy

The LTCO should contact the resident as the first step in determining whether action should be taken. If a resident wishes to resolve a complaint, then the LTCO must obtain informed consent. If a resident is unable to communicate informed consent, the LTCO may rely on the communication of informed consent of a resident representative so long as the LTCO has no reasonable cause to believe that the resident representative is not acting in the best interests of the resident. Communication of informed consent may be made in writing, orally or visually (including using auxiliary aids and services) and such consent must be documented by the LTCO in OmbudsManager.

LTCO should support a resident’s right to self-determination, even when another person is named as agent in a valid durable power of attorney document. While legal guardians do have the right to make decisions on behalf of the resident, the LTCO should still advocate for the resident’s wishes.

Procedure

- A. The LTCO shall personally discuss the complaint with the resident (and, if the resident is unable to communicate informed consent, the resident’s representative) to:
 - 1) Determine the perspective of the resident (or resident representative) regarding the complaint
 - 2) Request the resident (or resident representative) to communicate informed consent to investigate the complaint and document in OmbudsManager.
- B. Advise the resident (or resident representative) of the resident’s rights
- C. Where the resident is unable to communicate informed consent, and has no resident representative, the LTCO shall obtain approval of the SLTCO before taking appropriate steps to investigate and work to resolve the complaint in order to protect the health, safety, welfare and rights of the resident.
- D. In determining whether to rely upon a resident representative to communicate or make determinations on behalf of the resident, the LTCO shall ascertain the extent of the authority that has been granted to the resident representative under court order (in the case of a guardian or conservator), by power of attorney or other document by which the resident has granted authority to the representative.
- E. If at any time the resident (or resident representative) withdraws consent, the LTCO will cease action on the case and attempt to determine why the individual changed their mind (i.e. if retaliation occurred or circumstances changed).

Section 1003 Referral to Another Agency

Policy

The LTCO may provide information regarding the complaint to another agency in order for such agency to substantiate the facts for regulatory, protective services, law enforcement, or other purposes with informed consent of the resident (or resident representative), the complainant approval of the SLTCO, or a court order. Where the goals of a resident or resident representative are for regulatory, protective services or law enforcement action, LTCO should assist the resident (or resident representative) in contacting the appropriate agency and filing a complaint.

Procedure

- A. The LTCO may provide information regarding the complaint to another agency in order for such agency to substantiate the facts for regulatory, protective services, law enforcement, or other purposes so long as the LTCO adheres to the disclosure requirements.
- B. Where the goals of a resident or resident representative are for regulatory, protective services or law enforcement action, LTCO should assist the resident (or resident representative) in contacting the appropriate agency and filing a complaint.
- C. Where the goals of a resident or resident representative can be served by disclosing information to a facility representative and/or making referral to another agency, the LTCO may assist the resident (or resident representative) in:
 - 1) contacting the appropriate facility representative or agency
 - 2) provide information on how a resident or representative may obtain contact information of such facility representatives or agency
 - 3) disclose the information for which the resident has provided written informed consent to an appropriate facility representative or agency

Section 1004 Investigation and Verification

Policy

The purpose of a LTCO investigation is to verify whether the complaint is accurate (or generally true) and to seek a resolution that satisfies the resident. The LTCO shall offer privacy to the resident when providing information, investigating and resolving complaints. The LTCO should remain objective when investigating a complaint.

Procedure

- A. After receiving informed consent from the resident (or resident representative), the LTCO may complete the steps as needed to verify the complaint and work with the resident to determine action needed for resolution:
 - 1) A review of previous complaints against the facility in OmbudsManager
 - 2) An interview of the complainant
 - 3) Unannounced facility visits to review facility conditions and residents' appearance
 - 4) Interviews of administrators/caregivers
 - 5) Interviews of residents. LTCO should strive to interview any residents who might have witnessed or been affected by the alleged incident(s). Interviews with

multiple residents may uncover more information and will also help protect the identity of the resident on whose behalf the complaint has been made.

- 6) Interviews of guardians, family members, resident representatives, care coordinators and other involved parties (as appropriate).
 - 7) With informed consent of the resident, review of the resident's facility file
 - 8) A review of evidence collected by other agencies such as the licensing agency, Medicaid Fraud Control Unit (MFCU), or APS.
- B. LTCO may not share complaint investigation information with other agencies without the informed consent of the resident (or resident representative).
- C. When the case involves investigation of a regulatory agency, the SLTCO will consult the OLTCO legal counsel for direction during the investigation and generation of the report.

Section 1005 Complaint Resolution

Policy

With respect to identifying, investigating and resolving complaints, and regardless of the source of the complaint, LTCO serve the residents of a long-term care facility. The LTCO shall investigate a complaint for the purposes of resolving the complaint to the resident's satisfaction while protecting the health, welfare, and rights of the resident. The LTCO may identify, investigate and resolve a complaint impacting multiple or all residents of a facility. The LTCO must support and maximize resident participation in the process of resolving the complaint. The LTCO shall advocate for the residents' wishes to the extent that he/she can express them, even if there is limited decision-making capacity.

Procedure

- A. The LTCO shall personally discuss the complaint with the resident (and/or the resident representative if the resident is unable to communicate informed consent) in order to:
- 1) Advise the resident (and/or resident representative) of the resident's rights;
 - 2) Determine the wishes of the resident (or resident representative) with respect to resolution of the complaint, including whether the allegations are to be reported and, if so, whether LTCO may disclose resident identifying information or other relevant information to the facility and/or appropriate agencies.
 - 3) Work with the resident (or resident representative) to develop a plan of action for resolution of the complaint;
- B. Follow up on open cases weekly to ensure timely resolution of complaint.

Section 1007 Resolution Follow Up

Policy

LTCO shall follow up with the resident (or resident representative) to determine whether the complaint was resolved to the satisfaction of the resident.

Procedure

- A. The LTCO will follow up with the resident (or resident representative) within 5 working days of last action on the case.
- B. If a resident is unable to communicate perspective on the extent to which the matter has been satisfactorily resolved, the LTCO may rely on the communication of the resident representative so long as the LTCO has no reasonable cause to believe that the resident representative is not acting in the best interests of the resident.
- C. Where the resident is unable to communicate informed consent, and has no resident representative, the LTCO shall determine whether the complaint was resolved to the satisfaction of the complainant.

Section 1008 Complaint Documentation

Policy

The OLTCO will use the OmbudsManager database to document complaints and cases. To ensure the confidentiality of case information, only staff that have been designated by the SLTCO shall have access to OmbudsManager. The purpose of complaint documentation is to record all actions conducted to complete an investigation, all evidence found during an investigation, and the resolution of the complaint. Accuracy and timeliness are important to ensure that all LTCO have access to up-to-date case information. All case information should be written in a clear and objective manner.

Procedure

- A. Documentation in OmbudsManager should follow the basic principles for NORS coding.
- B. LTCO should document their activities within the following time frames:
 - 1) Volunteers shall complete monthly reports within 3 working days of facility visit and the LTCO staff or SLTCO shall enter this information into OmbudsManager within 5 working days of final edit of report.
 - 2) LTCO staff shall document all activities and case information in OmbudsManager within 5 working days of action.
 - 3) LTCO will close open cases within 5 working days of last action and document resolution using the OLTCO case closure summary format. LTCO will attempt to resolve complaints and close cases within 60 days of receipt of complaint.
- C. All communications and documents relating to cases should be attached electronically into the OmbudsManager case file so that all OLTCO staff have access to the information.
 - 1) The only exception to the OmbudsManager file is when supporting evidence is too large to scan and store (i.e. documents over 20 pages such as shower logs, medical records, etc.) or documents in a format (i.e. in Excel) that cannot be pasted into OmbudsManager. These files shall be kept in a locked file and access shall be managed by the SLTCO.

Chapter 1100 LTCO Activities

Section 1101 Technical Assistance to LTCO Volunteers

Policy

The LTCO staff will provide administrative and technical assistance to LTCO volunteers to support them in carrying out all the duties of the OLTCO Program.

Procedure

- A. The LTCO staff will contact each LTCO volunteer in response to the completion of their monthly facility visit report and provide feedback as necessary to ensure the report contains adequate information within 5 working days of receipt of report.
- B. LTCO volunteers can contact the SLTCO for technical assistance at any time.
- C. LTCO volunteers will share information about complaints to LTCO staff or SLTCO as soon as possible, but no longer than 5 working days after initial intake, in their assigned facilities to determine plan of action to resolve issues, including follow up visits with residents.

Section 1102 Consultation and Information to Individuals

Policy

OLTCO provides information, referrals and consultations in LTC facilities and as resources allow, in the community. The OLTCO provides regular and timely access to OLTCO services. Regardless of the source of the request, the focus of the OLTCO is on the desires of the residents.

Procedure

- A. The OLTCO will respond to all requests for assistance and inquiries within 48 hours if possible. If a message is left, the LTCO will attempt to make contact with the caller the same day the message is left but no longer than two (2) working days.
- B. OLTCO training videos, books or other resources can be loaned to facilities as needed. All materials must be checked out of the lending library by providers in order to keep track of materials.
- C. The OLTCO is not designed to serve as an emergency response system. Emergency situations should be referred to "911" for immediate response.

Section 1103 Consultation and Information to LTC Facilities

Policy

OLTCO may also respond to requests for consultation and technical assistance from facilities, so long as the focus is always kept on the rights and needs of residents.

Procedure

- A. The OLTCO will respond to all requests for assistance and inquiries within 48 hours if possible. If a message is left, the LTCO staff will attempt to make contact with the caller the same day the message is left but no longer than two (2) working days.

- B. OLTCO training videos, books or other resources can be loaned to facilities as needed. All materials must be checked out of the lending library by providers in order to keep track of materials.

Section 1104 Facility Visits

Policy

LTCO shall have a regular presence in long-term care facilities to monitor the condition of residents, provide information regarding the OLTCO program, and ensure regular and timely resident access to a LTCO. LTCO may make unannounced visits to Long-Term care facilities at any time during a facility's regular business hours or regular visiting hours, and at any other time determined necessary by the SLTCO. Facility visits should be unannounced to ensure an accurate representation of the facility.

Procedure

- A. Each facility visit will include at a minimum:
 - 1) LTCO will identify themselves to facility staff upon entering building, explain the purpose of the OLTCO and request resident information as well as the contact information of resident representatives. All LTCO will wear OLTCO identification during facility visits.
 - 2) LTCO will check to see that the OLTCO poster is current and hanging in a place where residents and family members are able to read it. LTCO will also provide LTCOP brochures as well as resident rights information to residents and their families.
 - 3) LTCO will attempt to visit with all residents in smaller facilities (under 10 residents) or with at least five (5) residents in larger facilities. LTCO meets with each resident in a private setting, if possible, to ensure confidentiality and prevention of retaliation. LTCO will contact the resident representatives of any residents unable to communicate needs or wishes.
 - 4) LTCO will obtain informed consent from any resident (or resident representative) before investigating and resolving a complaint. Written consent is preferred using the OLTCO consent form. Informed consent must be noted in journal entries in OmbudsManager and signed consent forms should be scanned and uploaded as an attachment.
 - 5) The LTCO will attempt to meet with the facility administrator or designated staff before leaving facility for an exit interview to discuss any concerns brought up during that visit following the OLTCO disclosure policies and procedures.
- B. It is the goal for LTCO to complete quarterly visits to each LTC facility in their designated region that are licensed. At a minimum, LTCO should complete annual visits to all licensed facilities in their region.
- C. LTCO will determine the priority for facility visits (FV) in the following order:
 - 1) Nursing Homes and Assisted Living Facilities
 - 2) Community Care Foster Family Homes, Expanded Adult Residential Care Homes, and regular Adult Residential Care Homes

- a. Focused Facility Visits (FFV) shall be determined at staff meetings from OLTCO intakes (including referrals from APS, licensing or other agencies) or when the SLTCO feels additional visits are needed.
 - b. Dates for completion of FFV will be noted.
 - c. The OLTCO has no jurisdiction over unlicensed homes and refers those complaints or concerns to the licensing branch (Office of Health Care Assurance)
- D. Each facility visit will be documented in OmbudsManager
- 1) Within 5 working days of completion of visit, the data will be entered into OmbudsManager by the SLTCO, LTCO staff, LTCO or designee.
 - 2) LTCO volunteers will document their facility visit using the report form (online, by fax or over the phone) within five (5) days of completion of their facility visit.
 - a. OLTCOVC will review and work with LTCO volunteers to ensure FV is complete within one week of receipt of initial report
 - b. OLTCOVC will input information into OmbudsManager within five (5) days of receipt of report from LTCO volunteer.
 - 3) Cases for all complaints resulting from facility visits will be opened as soon as possible but no longer than five (5) working days of facility visit or receipt of LTCO report.

Section 1105 Training to Facility Staff

Policy

OLTCO may provide training or training resources to LTC facilities regarding residents' rights, LTCOP services, working with individuals with dementia, advance directives, fall prevention, emergency preparedness, etc. OLTCO will schedule facility training to ensure that there are adequate LTCO available to cover complaint intakes.

- 1. Training offered by LTCO staff or LTCO will be on topics and using curricula approved by the SLTCO.
- 2. Facilities may be referred to other training resources, such as the Alzheimer's Association, University of Hawaii Elder Law Program, APS, etc.
- 3. The OLTCO also maintains a library of videos and books that may be lent to facilities. OLTCO training videos, books or other resources must be checked out of the lending library by providers to keep track of materials.

Section 1106 Work with Resident Councils

Policy

The OLTCO shall support the development of resident councils in LTC facilities as a way of supporting self-advocacy and empowerment of residents. The OLTCO's support may consist of providing technical assistance to residents and facilities. It may also consist of attendance or facilitation at meetings, if invited by council members. Federal nursing home law requires facilities to provide space and a staff liaison to councils. There are only state laws for assisted living. Those laws do not require assisted living facilities to establish resident councils but if they

have a council, the OLTCO will provide the same services to assisted living as provided to nursing homes.

Procedure

- A. The SLTCO or designee shall contact the presidents of each resident council at least once per year to inform them of:
 - 1) the purpose of the OLTCO
 - 2) the OLTCO's willingness to assist and support resident councils
 - 3) the availability of the OLTCO to do presentations at resident council meetings and a list of topics that might be of interest to the council.
- B. If invited, the LTCO shall make it a priority to be present at resident council meetings.
- C. The SLTCO or designee may contact SNF/ICF and assisted living administrators to offer assistance in starting councils where they do not exist.
- D. The SLTCO shall maintain in the program library videos and pamphlets explaining the role of councils and how they function.

Section 1107 Work with Family Councils

Policy

The OLTCO shall support the development of family councils in LTC facilities as a way of supporting self-advocacy and empowerment of family members. The OLTCO's support may consist of providing technical assistance to family members and facilities. It may also consist of attendance or facilitation at meetings, but only if invited. Federal nursing home law requires facilities to provide space and a staff liaison to councils. There are only state laws for assisted living. Those laws do not require assisted living facilities to establish family councils but if they have a council, the OLTCO will provide the same services to assisted living as provided to nursing homes.

Procedure

- A. The SLTCO or designee shall contact the presidents of each family council at least once per year to inform them of:
 - 1) the purpose of the OLTCO
 - 2) the OLTCO's willingness to assist and support family councils
 - 3) the availability of the OLTCO to do presentations at family council meetings and a list of topics that might be of interest to the council.
- B. If invited, the LTCO shall make it a priority to be present at family council meetings.
- C. The SLTCO or designee may contact SNF/ICF and assisted living administrators to offer assistance in starting councils where they do not exist.
- D. The SLTCO shall maintain in the program library videos and pamphlets explaining the role of councils and how they function.

Section 1108 Community Education

Policy

The OLTCO may provide education to the community about the OLTCO, the rights of residents, how to choose a LTC facility and other topics related to Long-Term care and residents.

Procedure

- A. The SLTCO will screen requests for community education and assign LTCO to provide presentations or staff display tables according to availability of LTCO time.
- B. Priority should be given to education on resident rights or improving the quality of provider care, such as licensing orientations or care coordinator trainings. Volunteer recruitment is also a priority.

Section 1109 Participation in Facility Surveys

Policy

The SLTCO or LTCO should attempt to be present, in person or telephonically, during exit interviews for LTC facility surveys conducted by state surveyors. The SLTCO's presence raises awareness of the OLTCO's role as advocate and communicates the OLTCO's interest in quality of care.

Procedure

- A. The SLTCO will coordinate with OHCA to provide surveyors with complaint and facility visit information prior to the survey as requested by OHCA.
- B. The SLTCO will work to ensure the LTCO receives enough notice prior to the completion of the survey to arrange their schedule in order to attend the survey exit interview.
- C. The SLTCO will enter notes of the survey into OmbudsManager within five (5) working days of the survey exit interview, if someone from the OLTCO attended the exit interview. When Licensing and Certification sends the CMS 2567 report to the SLTCO, the report is entered as an attachment into OmbudsManager.

Section 1110 Documentation of OLTCO Activities

Policy

The SLTCO, LTCO staff or designee documents all activities required by the OAA in OmbudsManager. Documentation of activities serves several purposes, including providing data for the annual NORS report to the AOA/ACL, for state reports to the EOA or legislators, and for managing the work of the OLTCO. Additionally, data from facility visits to LTC facilities is shared with other state agencies at their request.

The following activities must be recorded in OmbudsManager for the annual NORS report to the Administration on Aging/Administration for Community Living.

1. Training provided to staff and volunteers.
2. Technical assistance provided to volunteers.

3. Training for facility staff.
4. Consultation to facilities
5. Information and consultation to individuals.
6. Facility coverage.
7. Participating in facility surveys.
8. Work with resident councils.
9. Work with family councils.
10. Community education.
11. Work with media (press releases and interviews).
12. Monitoring / work on laws, regulations, government policies and actions.

Procedure

- A. Documentation in OmbudsManager should follow the basic principles for NORS coding.
- B. All documentation for OLTCO activities shall be entered into OmbudsManager within 10 working days of completion of activity except for facility visits. Each facility visit will be documented in OmbudsManager.
- C. For each entry in OmbudsManager, fields that are blue and marked with an “N” need to be completed for the NORS report.
- D. Training provided to LTCO volunteers shall be documented in OmbudsManager once per event even if more than one staff provided the training.
- E. Training for facility staff shall be entered in OmbudsManager under “Activities: 3. Training for facility staff.” The number of staff, the time spent providing training, the topic, and the name of the facility should be noted.
- F. Consultations provided to facility staff shall be entered in OmbudsManager under “Activities: 4. Consultations to facilities.” The name of the facility, the topic of the consultation, and the time spent on the consultation should be noted. This category is only for consultations provided to LTC facility staff. All other consultations (with care coordinators, OPA) are considered consultations to individuals.
- G. After completing a facility visit, the LTCO shall document conditions of the home and residents. Any concerns that residents raise, or that the LTCO identifies, should be documented, as well as resolutions attempted or achieved. Facility visit notes may be scanned and attached into OmbudsManager under “Activities: 6. Facility coverage.”
- H. The SLTCO shall log work to monitor laws, regulations and practices into OmbudsManager under “Activities: 12. Monitoring / work on laws, regulations, government policies and actions.”

Chapter 1200 Situations Involving Abuse, Neglect or Exploitation

Section 1201 OLTCO Duties Regarding Abuse, Neglect or Exploitation

Policy

LTCO are directed to investigate and resolve complaints that may adversely affects the health, safety, welfare or rights of residents in LTC facilities. LTCO are not mandatory reporters and may

only share abuse, neglect and exploitation allegations with other agencies if the resident (or resident representative) gives informed consent.

Procedure

- A. The LTCO shall not report suspected abuse, neglect or exploitation of a resident when a resident (or resident representative) has not communicated informed consent except when the LTCO has reasonable cause to believe that the resident representative is not acting in the best interests of the resident and the LTCO has obtained approval from the SLTCO.
- B. If the resident would like to make a report to the licensing agency or APS, the LTCO should support the resident through the process.

Section 1202 LTCO Witnesses Allegations of Abuse, Neglect or Exploitation

Policy

LTCO are not mandatory reporters and may only share abuse, neglect and exploitation allegations with other agencies if the resident (if appropriate, the resident representative) gives informed consent. Exceptions may apply in certain situations.

Procedure

If the LTCO personally witnesses suspected abuse, gross neglect, or exploitation of a resident, the LTCO shall seek communication of informed consent from such resident to disclose resident-identifying information to appropriate agencies:

- A. Where such resident can communicate informed consent the LTCO shall follow the direction of the resident.
- B. Where the resident is unable to communicate informed consent, and has a resident representative available to provide informed consent, the LTCO shall follow the direction of the resident representative.
- C. Where the resident is unable to communicate informed consent, and has no resident representative available to provide informed consent, the LTCO shall open a case with the LTCO as the complainant, follow the OLTCO's complaint resolution procedures, and shall refer the matter and disclose identifying information of the facility to the appropriate agency for substantiation of abuse, gross neglect or exploitation in the following circumstances:
 - 1) The LTCO has no evidence indicating that the resident would not wish a referral to be made;
 - 2) The LTCO has reasonable cause to believe that disclosure would be in the best interest of the resident; and
 - 3) The LTCO obtains the approval of the SLTCO. The LTCO shall request by phone to the SLTCO or designee. Approval shall be immediately documented in an email to the LTCO by the SLTCO or designee.

Chapter 1300 LTCO's Role in Emergency Preparedness, Response and Recovery

Section 1301 OLTCO Functions and Responsibilities in Emergencies

Policy

The OLTCO works to promote the health, safety, welfare, and rights of the residents before, during, and after an emergency.

Procedure

- A. LTCO Functions and Responsibilities
 - 1) Maintain knowledge of emergency preparedness through training.
 - 2) Follow emergency plans of OLTCO and of the EOA.
 - 3) Follow instructions of public health officials and first responders, including evacuation orders, orders to shelter-in-place, and restrictions on accessing dangerous locations.
 - 4) To the extent possible, continue OLTCO services to impacted residents.
 - 5) Determine extent of impact on residents and LTC facilities in service area, while minimizing disruption to public health, first responders and facility management and staff in the provision of emergency response to residents.

Section 1302 Training for Emergencies

Policy

The SLTCO ensures that LTCO are knowledgeable about their roles and responsibilities and possess appropriate skills related to emergency preparation and response. The OLTCO will offer training to all LTCO at least annually.

Procedure

- A. Training at a minimum includes the responsibilities of LTCO before, during, and after emergencies. Description of the responsibilities of the OLTCO including:
 - 1) Public health agencies, first responders, emergency management agencies, including description of expectations for coordinating with such entities at the local level by LTCO prior to, during, and after an emergency or disaster.
 - 2) Nursing homes, assisted living, CCOHs, Expanded ARCHs and ARCHs before, during, and after emergencies, including review of laws and regulations governing facility preparedness and response.
 - 3) Licensing agencies before, during and after emergencies.
 - 4) Description of available federal, state, and local resources, including information clearinghouses and registries, and how and when they can appropriately be accessed.
 - 5) Personal safety, individual preparedness plans, and preparation guidance.
 - 6) Description of all hazards emergency types of natural and human-caused disasters and public health emergencies most anticipated in the geographic area.

- 7) Other types of facility-wide all hazard emergencies affecting residents, that include but are not limited to extreme weather and temperatures, power outages, water-contamination, and fires.
- B. Training tools will include emergency preparedness checklists; resource lists of local emergency preparedness and response resources; and overview of the incident command structure.

Section 1303 OLTCO Continuity of Operations

Policy

The SLTCO, in alignment with EOA's plan, prepares the OLTCO to function as fully as possible during an emergency and remain capable of fulfilling its resident-centered responsibilities.

Procedure

- A. The OLTCO implements the continuity of operations plan to meet operational needs at the state, local and individual level.
- B. LTCO reminded to review and re-stock their individualized go kits annually.
- C. The OLTCO maintains and regularly updates paper information to include, at a minimum paper contact lists for:
 - 1) LTCO (staff and volunteer), public health, and emergency management agency, and local healthcare coalition contact lists
 - 2) Resident rights and OLTCO regulations and/or policies
 - 3) OLTCO training manual as well as policy and procedure manual
 - 4) OLTCO program forms (i.e. intake, consent, disclosure)
- D. The OLTCO annually assesses the need for applicable communication resources and develops guidelines for their use by the LTCO in order to maintain communication before, during (if possible) and after a disaster.

Section 1304 OLTCO Procedures Before, During and After an Emergency

Policy

The OLTCO will work with the EOA Director and the Department of Health Emergency Preparedness Branch to prepare for any emergency.

Procedure

- A. Before an anticipated emergency, the SLTCO shall:
 - 1) Implement appropriate emergency plans; including coordination with other entities.
 - 2) Work to ensure situational awareness, coordination and collaboration with all relevant agencies (i.e., public health and emergency management agencies, healthcare coalitions, etc.) coordination of LTCO across the state
 - 3) Communicate with LTCO to determine their capacity to carry out OLTCO services and
 - 4) Facilitate coordination among local entities, where applicable, and needed to respond to resident needs.

- B. During and after an emergency, the SLTCO shall:
 - 1) Obtain information regarding affected facilities and/or geographic areas and impact of the emergency on facility residents in order to guide resource allocation (e.g., additional staff, power outage restoration, water distribution, transportation, if evacuated, etc.).
 - 2) Coordinate with entities engaged in the emergency response.
 - 3) Maintain communications with LTCO in the impacted geographic area.

Section 1305 OLTCO Coordination with Other Entities for Emergencies

Policy

The SLTCO coordinates, in alignment with EOA's plan, with relevant entities before, during, and after emergencies to represent the interests of residents. The SLTCO analyzes the level of need for involvement of the OTLCO in multi-state, state, regional, and local emergency planning.

Procedure

- A. The SLTCO communicates and coordinates with relevant state officials and regional representatives of federal agencies (e.g. HHS (ASPR, ACL), FEMA) regarding ongoing emergency planning, to prepare for anticipated emergencies and to coordinate response during an emergency.
- B. The SLTCO is responsible for communicating and coordinating with other SLTCO as necessary (i.e., nearby states or regions) regarding emergency planning, information sharing, and resource sharing when residents are anticipated to be relocated across state lines.
- C. The SLTCO facilitates resident access to response and recovery efforts and resources when needed.
- D. The SLTCO advises partnering organizations on outreach and effective service provision to improve accessibility for residents.
- E. The SLTCO analyzes strengths, weaknesses, opportunities, and challenges faced in the response to the emergency in order to facilitate improvements and to plan for future emergencies and shares the findings with appropriate agencies.
- F. The SLTCO conducts systems-level advocacy to address gaps in resident-centered emergency preparedness including development and maintenance of information clearinghouses and registries.

Section 1306 SLTCO Functions and Duties as it relates to Emergencies

Policy

The OLTCO is prepared to provide resident-centered ombudsmen services during an emergency. The SLTCO assesses OLTCO procedures and standards applicable to the delivery of ombudsmen services under normal operating conditions and determines if it needs to adjust in response to emergencies.

Procedure

Complaint processing

- A. The SLTCO assesses complaint intake, response, investigation, referral, and resolution procedures and standards applicable under normal operating conditions and determines if it needs to adjust in response to emergencies to maintain the complaint processing and resolution. The complaint process during emergencies shall continue to reflect the primacy of the resident's goals, wishes and determination of satisfaction with the resolution.
- B. The OLTCO maintains complaint-processing practices regarding privacy and confidentiality. Informed consent is obtained to the greatest extent possible with consideration of the unique impact of the specific circumstances of each emergency.
- C. The SLTCO shall provide technical assistance and support to LTCO on working with entities not familiar with complaint processes and resident rights such as emergency shelters, and first responders.
- D. The SLTCO shall provide training, and technical assistance to assure the competency of LTCO to process complaints frequently associated with emergency response and recovery.
- E. The SLTCO develops procedures and facilitates LTCO visitation to residents for services, both in emergency shelters and in facilities, as soon after the emergency as possible and continuing on a regular basis until facilities recover.

Education and Outreach to Residents and Families

The SLTCO provides technical assistance and resources to assist LTCO in education and outreach to residents and families in order to raise resident and family awareness about emergency planning.

- A. Such education can be provided during facility visits, resident or family councils, or through other mechanisms.
- B. The OLTCO shall require LTCO to support resident and family councils in emergency preparedness
- C. During or immediately after an emergency, the OLTCO shall utilize a variety of methods to disseminate regular updates on the status of an emergency and OLTCO contacts through a variety of communication tools, depending on the circumstances of the emergency.
- D. During or immediately after an emergency, the SLTCO shall make available to LTCO and to residents and families materials describing how the LTCO can be a resource to residents and facility staff to facilitate access to recovery services.

Consultation with Providers

The SLTCO consults with Healthcare Association of Hawaii (HAH) and other provider associations, and representatives of the OLTCO consult with local providers, on emergency planning.