

State-Specific Information to Include

Initial Certification Training Curriculum for Long-Term Care Ombudsman Programs

The curriculum is not a stand-alone, complete package containing everything an individual needs to be designated as a representative. The federal training standards¹ require states to add their state-specific information for certain topics. To assist trainers, we have identified the required state-specific information to address within the introduction of each module in the **Trainer Guide** and in this comprehensive list.

We understand that including entire sections of program policies and procedures, or relevant state statute or regulations, may not be feasible if the text is too long to insert directly into the training materials. However, it is important to refer to applicable state-specific information as indicated. States may determine the most appropriate way to incorporate the information (e.g., review the information verbally, add text directly, include a link to relevant policies and procedures, law, and/or regulations).

Within the **Trainer Guide** you will find the **bold, blue arrow (→)** to indicate where the information should be discussed or added.

State-Specific Information

NOTE: *Section 1 is the same in each Module.*

Section 1: Welcome and Introduction

- Explain training requirements in your state if they exceed federal requirements.

Module 1 – The State Long-Term Care Ombudsman Program: Roles, Responsibilities, and Authorities

Section 2: An Overview & History of the Long-Term Care Ombudsman Program

- Describe additional qualifications for designation of a representative of the Office if they exceed federal requirements (optional).
- Share information relevant to the history of the Long-Term Care Ombudsman program (LTCOP) in your state.

Section 3: Long-Term Care Ombudsman Program Requirements and Management

¹ Final Long-Term Care Ombudsman Program Training Standards https://ltombudsman.org/uploads/files/support/2019_LTCOP_Training_Standards.pdf

- Include information about your State Long-Term Care Ombudsman program requirements.
- If your state has local Ombudsman entities, explain how many, where they are located, and include a program map, program contact list, or name a few for reference.

Section 5: Long-Term Care Ombudsman Program Role and Responsibilities

- Compare your state to the Figure 2 chart *Functions, Responsibilities, and/or Duties*. Indicate where state responsibilities of the Ombudsman and representatives of the Office are the same and different (e.g., where there might be additional policies and procedures, such as representatives' role in systems advocacy). When applicable, add another column for others who may have a role within the program (e.g., interns).

Section 6: Conflicts of Interest

- If applicable, include state-specific conflicts of interest not mentioned in the LTCOP Rule.
- Explain your state's process for identifying and remedying or removing individual conflicts of interest, including any required paperwork.

Module 2 – The Resident and the Resident Experience

Section 2: Resident Demographics

- Share state-specific nursing facility demographics. The [Minimum Data Set \(MDS\) 3.0 Resident Assessment Instrument \(RAI\) Frequency Report](#)² summarizes information from the MDS for residents currently in nursing facilities. The MDS 3.0 is a federally mandated assessment of all residents in Medicare and Medicaid certified nursing facilities. Nursing facilities conduct MDS assessments upon admission, throughout the resident's stay, and upon discharge. Data from the assessments is transmitted electronically using the MDS national database at the Centers for Medicare & Medicaid Services (CMS). You can search for information by state and use it for demographics.
- Provide state-specific information for residential care communities:
 - Types of residential care communities
 - Any requirements for providing specific services for residents (e.g., dementia care)
 - Demographic data
- Review state-specific information about individuals with intellectual and developmental disabilities and where individuals with such disabilities live (e.g., in the community, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID), group homes, or personal care homes).

Module 3 – Putting the Resident First

Section 2: Person-Centered Care

² <https://www.cms.gov/Research-Statistics-Data-and-Systems/Computer-Data-and-Systems/Minimum-Data-Set-3-0-Public-Reports/Minimum-Data-Set-3-0-Frequency-Report>

- Add state-specific regulations regarding person-centered care in nursing facilities and residential care communities, if applicable.

Section 3: Decision-Making

- Add state-specific policies and procedures about working with residents when decisional capacity is unclear.
- Include state-specific definitions of relevant advance care planning documents, such as Living Will, Health Care Directive, Physicians Orders for Life Sustaining Treatment (POLST), or Physician/Medical Orders for Scope of Treatment (POST/MOST), or cardiopulmonary resuscitation (CPR) directive.
- Include state-specific laws and/or policies and procedures about communicating with resident representatives.
- Include state-specific laws and/or policies and procedures about communicating with a guardian or conservator. Explain any state-specific information necessary for trainees including whether a representative should speak to their supervisor in cases involving a guardian. List each type of guardianship, conservatorship, etc., and provide links to those documents or state resources when applicable.

Section 7: Resident Councils and Family Councils

- Add state-specific requirements and information about Resident Councils in nursing facilities (NFs) and residential care communities (RCCs), if applicable.
- Add state-specific requirements and information about Family Councils in nursing facilities (NFs) and residential care communities (RCCs), if applicable.

Module 4 – Long-Term Care Settings, Residents’ Rights, and Enforcement

Section 2: Long-Term Care Settings

- Add state-specific long-term care facility types, their definitions, and links to the state rules and/or regulations.

Section 3: Who’s Who in Long-Term Care Facilities

- Add state-specific positions if not included in the list for both nursing facilities and residential care communities (RCCs).
- Add state staffing requirements for nursing facilities, if applicable.

Section 4: Nursing Facility Residents’ Rights in Federal Law

- If your state has additional residents’ rights for nursing facilities based on state regulations, please include them within this section.

Section 5: Regulatory Process for Nursing Facilities

- If your state has additional enforcement requirements for nursing facilities, please include them in this section.
- Explain how and when the Long-Term Care Ombudsman program (LTCOP) is notified of an annual survey. For example, is the state Office and/or the local Ombudsman entity notified?
- Explain state program requirements for sharing complaints and concerns with the survey agency prior to and/or during a survey. For example, does your state have an offsite survey form for the LTCOP to complete prior to a survey?
- Explain how to access the annual survey findings.
- Include your program's process for participation before, during, and after the resident meeting.
- Add pertinent state-specific information about complaint investigations (e.g., how to access the findings of the investigations).

Section 6: Residents' Rights in Residential Care Communities

- Add information on residential care communities (RCCs) as defined in your state including types of RCCs, characteristics and level of services provided, and residents' rights, as applicable in state law.
- If your state has a Medicaid waiver that pays for assisted living, adult foster care, a personal care home, or any other non-nursing facility, or non-residential setting, then include the Centers for Medicare & Medicaid Services (CMS) Home and Community-Based Services (HCBS) settings requirements, as applicable.

Section 7: Regulatory Process for Residential Care Communities

- Explain how and when the Ombudsman program is notified of an RCC annual inspection. For example, is the state Office or the local Ombudsman office notified? Is the LTCOP notified prior to the surveyor's entrance to the facility or the same day?
- Explain your program's process for participation before, during, and after an RCC inspection.
- Explain state program requirements for sharing complaints and concerns with the survey agency prior to and/or during an RCC survey. For example, does your state have an offsite survey form for the LTCOP to complete prior to a survey?
- Add pertinent state-specific information about RCC complaint investigations. Information may include whether your program is notified in advance of complaint investigations and how to access the findings of the investigations.
- Explain how to access RCC inspection results.

Module 5 – Access & Communication

Section 2 Access

- Share state-specific regulations regarding residents of nursing facilities and/or residential care communities right to access the Long-Term Care Ombudsman program (LTCOP).
- Include state-specific policies and procedures regarding Ombudsman program access to residents' medical, social, administrative, and other records, including the requirements and steps

to obtain consent to access resident records, even when a resident is unable to communicate informed consent and has no resident representative.

- Include state-specific policies and procedures regarding LTCOP access to facilities after regular visiting hours and any other time when access may be required by the circumstances to be investigated.
- Include state-specific policies and procedures regarding LTCOP access to residents.
- Include state-specific policies and procedures about LTCOP access to facility records, including administrative records, policies, and documents, to which the residents and public have access. If applicable, provide information about state laws that may provide additional access than what federal requirements provide.
- Include state-specific policies and procedures on what to do when access is impeded or denied.
- Add state laws, regulations, or policies pertaining to willful interference and any other penalty information.

Section 3: Confidentiality and Disclosure

- Include state-specific policies and procedures related to confidentiality.
- Include state-specific policies and procedures on disclosure of resident information and program records, including required steps to disclose the information and records.
- Include state-specific policies and procedures for when a resident is unable to communicate informed consent to disclose information and the LTCOP believes that an action, inaction, or decision may adversely affect the health, safety, welfare, or rights of the resident. Include steps when the resident has a representative who is not acting in the best interest of the resident, and when the resident does not have a representative.

Section 4: Communication Strategies

- Insert state-specific policies and resources related to the use of interpreters and auxiliary aids.

Module 6 – Facility Visits

Section 2: Conducting a Facility Visit

- Explain your program policies for field observation (e.g., shadowing, mentoring, etc.) if different than the minimum federal requirements.
- Include your program's policies and procedures regarding conducting visits (e.g., frequency of visits, actions to take during visits, visits to specific long-term care settings, etc.).

Module 7 – Long-Term Care Ombudsman Program Complaint Processing: Intake and Investigation

Section 3: Complaint Intake and Initial Plan Development

- Describe your complaint intake process, response time to complaints, and include additional information that your state may collect during intake.

Section 4: Complaint Investigation

- Include your program policies and procedures on obtaining a written release of information form for accessing records.

Section 6: Common Complaints

- Include state-specific data by running reports from your own data system or the Older Americans Act Performance System (OAAPS).
- Add state-specific information on discharges related to residential care communities. Include applicable state laws and regulations.

Module 8 – Long-Term Care Ombudsman Program Complaint Processing: Analysis, Planning, Implementation, and Resolution

Section 3: Implementation and Resolution

- Reiterate your program's policies and procedures regarding systems advocacy.

Module 9 – Challenging Complaints & Referral Agencies

Section 2: Difficult Cases

- Include state-specific requirements for each type of residential care community (RCC) regarding reporting and investigating allegations of abuse, neglect, and exploitation (ANE). Clarify whether all RCC staff and other contracted service providers are mandated reporters.
- Indicate the state agency(ies) responsible for investigating ANE for each facility type.
- Include your procedures for filing complaints with the state survey agency for each type of facility. Include the contact information of the State Survey Agency(ies), information to be included in the referral, and required forms (paper or electronic) as applicable.
- Explain whether Adult Protective Services (APS) investigates ANE in long-term care facilities in your state. It could depend on the facility type or where the ANE allegedly occurred, or whether the alleged perpetrator is a staff member, a family member, or a visitor. Explain the relationship your program has with APS, including when and how you would make a referral.
- Explain your state's policies and procedures on when and how a referral would be made to law enforcement, including the Medicaid Fraud Control Unit and any other offices within the Attorney General's office.

Section 3: Additional Referral Agencies

- Include the name(s) of the legal assistance program(s) in your area and discuss when and how you would make a referral.
- Include the name of the Protection and Advocacy (P&A) entity in your area and explain the relationship your program has with the P&A, including when and how you would make a referral.
- Add state-specific contact information for the entity or entities that provide guardianship or conservatorship, other than private guardians/conservators. Those entities could be state or county guardians, for example.
- Include state-specific information about when and how to contact the Aging and Disability Resource Center (ADRC) in your area.
- Include state-specific information about the Money Follows the Person program (if applicable in your state).
- Include the contact information for the agency responsible for Home and Community-Based Services (HCBS) in your area and explain the relationship your program has with them, including when and how you would make a referral.
- Include the contact information for the Centers for Independent Living (CILs) in your area and explain the relationship your program has with the CILs, including when and how you would make a referral.
- Include information about the State Health Insurance Assistance Program (SHIP) in your state and explain the relationship your program has with SHIP, including when and how you would make a referral.
- Include information about the Senior Medicare Patrol program (SMP) in your area and explain the relationship your program has with the SMP, including when and how you would make a referral.

Module 10 – Documentation

Section 2: Long-Term Care Ombudsman Program Reporting Requirements

- Include information your state collects if it is beyond federal requirements.
- Explain your state-specific process for documentation training. Include whether you use the National Ombudsman Reporting System (NORS) training and/or your own state program training session. Let the trainees know when additional training is offered and expected to be completed.
- Explain state-specific requirements for opening and closing a case, including timelines.
- Include state-specific staff and volunteer documentation requirements for activities. Explain the deadline representatives have for entering information into the system after an activity has been conducted (e.g., you have 10 days to enter completed activities, or all activities must be entered at the end of the month).

Section 4: Conclusion

- Add the next steps trainees can expect to take to complete the certification process.

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