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MARYLAND LONG-TERM CARE  
OMBUDSMAN PROGRAM  
POLICY AND PROCEDURES  
MANUAL

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2017





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## APPENDICES

To access the appendices, please visit [www.aging.maryland.gov](http://www.aging.maryland.gov) or click the links below.

### **Appendix A.**

[Long-Term Care Ombudsman Code of Ethics](#)

### **Appendix B.**

[Individual Conflict of Interest Form](#)

### **Appendix C.**

[Organizational Conflict of Interest Form](#)

### **Appendix D.**

[Confidentiality Form](#)

### **Appendix E.**

[Ombudsman Volunteer Application](#)



## PART I. INTRODUCTION TO THE LONG-TERM CARE OMBUDSMAN PROGRAM

### 100. General

#### 100.1 Authorization

The Maryland State Long-Term Care Ombudsman Program (SLTCOP) is authorized under the federal Older Americans Act (OAA), OAA §711-713, and the Annotated Code of Maryland, Human Services Article §10-901 et seq.

#### 100.2 Purpose

The SLTCOP protects and improves the quality of care and quality of life for residents of long-term care facilities through advocacy for and on behalf of residents and through the promotion of community involvement in long-term care facilities.

#### 100.3 Philosophy

The SLTCOP is a resident-centered advocacy program. The resident is the client, regardless of the source of the complaint or request for service. A long-term care ombudsman (LTCO) will make every reasonable effort to assist, represent, and intervene on behalf of the resident. LTCO work is resident focused and consent driven. When the work is related to a specific resident or residents, the resident, or resident representative when applicable, must give consent for LTCO action.

#### 100.4 Applicability

These policies and procedures are for the State Long-Term Care Ombudsman Program (SLTCOP), host agencies, the Maryland Department of Aging (MDoA), and other parties involved in the operation of the SLTCOP.





## **101. Definitions**

### **101.1 Abuse**

Means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.

### **101.2 Area Agency on Aging (AAA)**

Means an agency designated by the MDoA to arrange for the provision of aging services in its planning and service area.

### **101.3 Area Plan**

Means a plan developed by an Area Agency on Aging for its relevant planning and service area as set forth in the Older Americans Act.

### **101.4 Case**

Means each inquiry brought to, or initiated by, the ombudsman on behalf of a resident or group of residents involving one or more complaints, which requires opening a case and includes ombudsman investigation, strategy to resolve, and follow-up (from the NORS definition from the ombudsman resource center 3 Cs handout).

### **101.5 Certification**

Means the process as defined in Section 215.

### **101.6 Community Education**

Means presentations on long-term care issues to community groups, groups of residents, or families of residents.

### **101.7 Complainant**

Means an individual or a party who files a complaint with the SLTCOP on behalf of a resident. Anyone can be a complainant; including the SLTCO and representatives of the Office.

### **101.8 Complaint**

Means a concern brought to, or initiated by, the ombudsman for investigation and action:

- (i) on behalf of one or more residents; and
- (ii) relating to the health, safety, welfare, or rights of a resident.



101.9 Complaint Processing

Means the act of taking a complaint through the prescribed procedures for addressing a complaint.

101.10 Conflict of Interest

Means that other interests intrude on, interfere with, threaten to negate, or give the appearance of interfering with or negating the ability of the SLTCO, state level staff of the Office, local ombudsmen, volunteers, or local long-term care ombudsman offices to advocate without compromise on behalf of residents of long-term care facilities.

101.11 Consultation

Means providing information and assistance to an individual or a facility.

101.12 Department

Means the Maryland Department of Aging (MDoA).

101.13 Designation

Means the process by which the SLTCO appoints a local ombudsman host agency or a Representative of the Office to assist in providing the SLTCOP services.

101.14 Exploitation

Means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, who uses the resources of an individual for monetary or personal benefit, profit, or gain or that results in depriving an individual of rightful access to, or use of, benefits, resources, belongings, or assets.

101.15 Family Council

Means a group, composed of the friends and relatives of a long-term care facility's residents, to: (a) protect and improve the quality of life in the facility and in the long-term care system as a whole, and (b) give families a voice in decisions that affect them and their relatives/friends who are residents.

101.16 Guardian

Means a person or entity appointed by a court to make personal decisions for and exercise the legal rights and powers of another individual. An individual can have a guardian of person or



property. The role and authority of a guardian is determined by the court that appointed the guardian.

101.17            Host Agency

Means the entity designated by the SLTCO to provide ombudsman services in a particular service area.

101.18            Immediate Family

Means a member of the household or a relative with whom there is a close personal or significant financial relationship.

101.19            Information and Assistance

Means a service that provides individuals with information about resources and community supports regarding long-term care, long-term care issues, or the needs and rights of long-term care residents. The SLTCOP provides information and assistance to the general public, residents, facility staff, community organizations, other agencies, and any other person or entity.

101.20            Issues and Systemic Advocacy

Means activities supporting and promoting ideas and solutions that benefit residents of long-term care facilities as a whole.

101.21            Legal Representative

Means an individual who serves as: a guardian; an agent under a valid power of attorney; an agent under a durable power of attorney for health care; a representative payee; an attorney retained by the individual or agent of the individual; a surrogate; or a personal representative of the estate of a deceased resident. See also resident representative definition.

101.22            Local Long-Term Care Ombudsman Office (LLTCOO)

Means an office of the host agency that provides ombudsman services at the local level. In Maryland, there are 19 local offices – one in each AAA.

101.23            Long-Term Care Facility

Means a nursing home or an assisted living facility.



101.24 Long-Term Care Ombudsman (LTCO)

Means the SLTCO and an individual who has been certified and designated by the SLTCO. An LTCO may be employed by the host agency or Office or be a volunteer, intern, or Senior Community Services Employment Program participant of a host agency or the Office.

101.25 Neglect

Means the failure of a caregiver or fiduciary to provide the goods or services necessary to maintain the health or safety of a resident of a long-term care facility.

101.26 Non-Complaint Visit

Means a routine visit to a long-term care facility by the SLTCO or a representative of the Office to provide residents with access to an LTCO and to observe and assess the general condition of the residents or the physical plant of the facility, or both. This type of visit is not in response to a complaint. Also referred to as regular, routine, or advocacy visit.

101.27 Non-Designated Staff

Means staff who have not completed the requirements for designation. Included in this definition are volunteers, interns, Senior Community Service Employment Program participants, clerical staff, and other staff of the SLTCOP who have not been designated as an LTCO.

101.28 Office of the State Long-Term Care Ombudsman (the Office)

Means the organizational unit in Maryland that is headed by the SLTCO and carries out the SLTCOP in accordance with federal and state laws and regulations. It is a distinct entity within the MDoA.

101.29 Ombudsman Manager

Means the LTCO position in the host agency that oversees the LLTCOO.

101.30 Ombudsman Service(s) Plan

Means a plan developed by any entity in response to a request for proposals to provide ombudsman services in a local service area.

101.31 Representatives of the Office of the State Long-Term Care Ombudsman  
(Representative(s) of the Office)

Means the individuals designated by the SLTCO as an LTCO to fulfill the duties of the SLTCOP. The SLTCO is not a representative of the Office.



101.32 Resident Council

Means a group of long-term care residents whose purpose is to make or change the rules, policies, and practices of the facility in which they live to more nearly reflect their preferences.

101.33 Resident Representative

Means any of the following:

- (1) An individual chosen by the resident to act on the resident's behalf to support decision-making; access to medical, social, or other personal information of the resident; manage financial matters; or receive notifications;
- (2) A person authorized by federal or state law (including, but not limited to, agents under power of attorney, representative payees, and other fiduciaries) to act on the resident's behalf to support decision-making; access to medical, social, or other personal information of the resident; manage financial matters; or receive notifications;
- (3) A legal representative;
- (4) A surrogate as defined by the Maryland Health Care Decisions Act, Maryland Health General Article, Title 5 subtitle 6;
- (5) A court-appointed guardian of person or property of the resident.

Nothing in this definition is intended to expand the scope of authority of any resident representative beyond the authority specifically authorized by the resident, federal or state law, or a court of competent jurisdiction.

101.34 Resolved

Means when referring to a complaint that the complaint was addressed to the resident's satisfaction. If the resident cannot communicate his/her satisfaction, the LTCO may seek resolution to the satisfaction of the resident's representative or the complainant if consistent with the rights and interests of the resident.

101.35 Senior Community Services Employment Program (SCSEP) Participant

Means a member of the Senior Community Services Employment Program (SCSEP). SCSEP provides adults over the age of fifty-five with work experience and volunteer opportunities within their community.

101.36 State Long-Term Care Ombudsman (SLTCO)

Means the individual who heads the Office and personally or through Representatives of the Office carries out the responsibilities of the SLTCOP in accordance with federal and state laws and regulations.



101.37 State Long-Term Care Ombudsman Designee (SLTCO Designee)

Means a person, such as an assistant SLTCO, to whom the SLTCO has delegated certain SLTCO duties and responsibilities other than the standard required duties and responsibilities of an LTCO.

101.38 State Long-Term Care Ombudsman Program (SLTCOP)

Means the program through which the functions and duties of the Office are carried out. The SLTCOP is composed of the SLTCO, the Office, LLTCOOs, and Representatives of the Office.

101.39 State Long-Term Care Ombudsman Program Staff (SLTCOP staff)

Means any individual, paid or unpaid, working for, volunteering for, or training in the SLTCOP. This includes the SLTCO, Representatives of the Office, and non-designated staff.

101.40 Volunteer Management

Means recruiting, training, managing, and providing technical assistance to volunteers assisting the SLTCOP in carrying out its responsibilities.

101.41 Willful Interference

Means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or impede the SLTCO or Representatives of the Office from performing any of their functions or duties.



## **PART II. ADMINISTRATION OF THE LONG-TERM CARE OMBUDSMAN PROGRAM**

### **200. Program Structure**

#### **200.1 Maryland Department of Aging Role**

In accordance with the federal Older Americans Act, the Maryland General Assembly established the Office of the State Long-Term Care Ombudsman in the Maryland Department of Aging (MDoA). Section 10-902 of the Maryland Human Services Articles establishes the Long-Term Care Ombudsman Program in the Maryland Department of Aging.

#### **200.2 State Ombudsman Role**

The SLTCO shall ensure that all residents of long-term care facilities in the state have access to the services of the State Long-Term Care Ombudsman Program (SLTCOP) and that each service area in the state has a designated local long-term care ombudsman office (LLTCOO).

#### **200.3 Host Agency and LLTCOO Roles**

The host agency in each service area must have an agreement with the MDoA. The host agency is to provide personnel management, but not programmatic oversight, as well as fiscal and administrative support for the LLTCOO. The LLTCOO is to provide ombudsman services in the service area.

### **201. Designation and Revocation of Designation of Host Agencies and LLTCOOs**

#### **POLICY**

The SLTCO designates host agencies and LLTCOOs within host agencies to provide ombudsman services throughout Maryland.

#### **PROCEDURES**

##### **201.1 Criteria for Designation as a Host Agency**

In order to be eligible for designation by the SLTCO as a host agency, the agency must:

- a. be a public or nonprofit entity;
- b. not be an agency or organization responsible for licensing or certifying long-term care services;



- c. not be an association (or an affiliate of an association) of providers of long-term care or residential services for older persons;
- d. have no financial interest in a long-term care facility;
- e. have demonstrated capability to carry out the responsibilities of the host agency;
- f. have no unremedied conflict of interest; and
- g. meet all applicable requirements of the MDoA and the Office.

#### 201.2 Process for Designation of a Host Agency

As of the effective date of these procedures, any entity providing ombudsman services under an agreement with the MDoA (e.g., Maryland's 19 AAAs) is designated as a host agency.

#### 201.3 Process for Designation of an LLTCOO

The SLTCO shall, in agreement with the host agency, designate the LLTCOO within the host agency.

#### 201.4 Process for Designation of an Entity Other Than an AAA as a Host Agency

If an agreement for ombudsman services is not to be with or through an AAA, the designation of a host agency shall occur as follows:

- a. The MDoA and the Office shall issue a request for proposal (RFP) seeking an entity to host an LLTCOO to provide ombudsman services within a particular service area. The RFP shall identify the criteria for designation as a host agency and shall request submission of documents supporting the entity's claim to meet these criteria.
- b. The Office shall require that all of the responding entities that meet the criteria for designation develop an Ombudsman Services Plan setting forth:
  - i) the goals and objectives of such entity in providing ombudsman services,
  - ii) a description of how each required ombudsman service shall be provided by such entity, including its staffing plan for the LLTCOO, and
  - iii) a description of the resources the entity will provide to assist in the operation of the LLTCOO.
- c. The SLTCO shall review each submitted Ombudsman Services Plan and shall choose the entity most appropriate to serve as the host agency based on the submitted Ombudsman Services Plans and on the criteria for designation. In considering which entity is most appropriate to designate as the host agency, the SLTCO will consult with the AAA serving the relevant service area.
- d. The SLTCO shall notify the responding entities of its determination within forty-five (45) days.
- e. The MDoA and the Office shall enter into an agreement with the selected host agency to host an LLTCOO to provide ombudsman services. Such agreement must:





- i) specify the service area;
  - ii) require the host agency to adhere to all applicable federal and state laws, regulations, and policies, and
  - iii) provide that designation by the SLTCO continues for the duration of the agreement and subsequently renewed agreements unless the host agency's designation is revoked by the SLTCO.
- f. The effective date of the host agency's agreement with MDoA and the Office to provide ombudsman services shall be the effective date of the designation.

## **202. Revocation of Designation of a Host Agency**

### **POLICY**

The SLTCO may revoke an entity's designation as a host agency for cause.

### **PROCEDURES**

#### **202.1 Criteria for Revocation**

The SLTCO may refuse to designate or may revoke an entity's designation as a host agency for cause. Cause may be, but is not limited to, one or more of the following reasons:

- a. failure of the entity to continue to meet the criteria for designation;
- b. existence of an unresolved conflict of interest;
- c. failure of the entity to disclose any conflict of interest;
- d. violation of SLTCOP confidentiality requirements by any person employed by, supervised by, or otherwise acting as an agent of the entity;
- e. failure of the entity to provide adequate ombudsman services, including, but not limited to, failure to perform enumerated responsibilities, failure to fill a vacant ombudsman position within a reasonable time, or failure to use funds designated for the LLTCOO for ombudsman services;
- f. failure of the entity to adhere to the provisions of the agreement for the provision of ombudsman services; or
- g. failure of the entity to adhere to applicable federal and state laws, regulations, and policies.

#### **202.2 Process for Revocation of a Host Agency's Designation**

- a. The process to revoke a host agency's designation shall be as follows:
  - i) The SLTCO shall send notice of the intent to revoke the designation at a specified date to the host agency. If an AAA has an agreement with a host



agency, the SLTCO shall also send a copy of the notice to the AAA. The notice shall include the reason for revocation.

- ii) If requested by the SLTCO, the host agency shall provide for the continuation of ombudsman services until a new host agency for the service area is designated.
- iii) The MDoA and the Office shall terminate the agreement to host an LLTCOO to provide ombudsman services at the end of the time specified in the notice of revocation.

### 202.3 Host Agency Designation Revocation

If a host agency has its designation revoked:

- a. the host agency shall surrender, as determined by the SLTCO, intact to the SLTCO or the SLTCO Designee all SLTCOP case records, documentation of all LTCO activities, and complaint processing as required by the ombudsman reporting system;
- b. the host agency shall, at the discretion and direction of the MDoA, surrender any equipment purchased with funds designated for ombudsman services; and
- c. the host agency shall surrender the balance of any advanced federal or state monies for ombudsman services to the MDoA.

## 203. Designation of Long-Term Care Ombudsmen

### POLICY

The SLTCO designates individuals as ombudsmen to serve in the SLTCOP and to represent the Office of the SLTCO.

### PROCEDURES

#### 203.1 Criteria for Designation as an LTCO

To be designated as an LTCO, an individual must:

- a. apply to an LLTCOO or the SLTCOP to become an LTCO;
- b. have demonstrated capability to carry out the responsibilities of an LTCO;
- c. be free of unresolved conflicts of interest;
- d. meet the minimum qualifications for the applicable LTCO position;
- e. satisfactorily complete the applicable LTCO certification training requirements;
- f. be awarded a certification certificate signed by the SLTCO; and
- g. agree to fulfill LTCO responsibilities.



## 203.2 Minimum Qualifications for a Long-Term Care Ombudsman

- a. In order to be hired into an employed LTCO position after the effective date of these policies and procedures, an individual shall have:
  - i) a Bachelor's degree in social work, sociology, gerontology, administration, or related field, AND two years of professional experience in advocacy, aging, or a related field;
  - ii) a license as a registered or practical nurse AND two years of experience in long-term care, gerontology, or related field; or
  - iii) a certificate in paralegal studies or a law degree AND two years of experience in aging services or a related field.
- b. Comparable education and experience may be substituted at the discretion of the SLTCO on recommendation of the Ombudsman Manager.
- c. Volunteers do not have to meet the requirements of 203.2a to be LTCOs.

## 203.3 Host Agency Process for Hiring an LTCO

- a. Before providing an offer of employment to an individual for the purpose of serving as an LTCO, the host agency shall:
  - i) submit a completed SLTCOP Conflict of Interest form (located in Appendix B) for each candidate;
  - ii) provide the SLTCO with an opportunity to review the resume(s) of the candidate(s) being considered for employment for conflict of interest and appropriate qualifications;
  - iii) use interview questions provided by the SLTCO during the interview process; and
  - iv) when permitted by federal and state law, indicate to the SLTCO the results of any criminal background check performed on candidate(s).
- b. The SLTCO shall promptly notify the host agency of any concerns related to the candidate's ability to meet minimum qualifications or other certification or designation requirements.
- c. If the SLTCO has concerns about the future designation of any candidate, the SLTCO may request an interview with the candidate and shall inform the host agency of any concerns that the host agency should consider prior to hiring the candidate(s).

## 203.4 Requests for Substitutions or Variances

Requests for substitutions or variances related to the minimum qualifications for an LTCO must be made in writing and approved by the SLTCO prior to the hiring or promotion of the employee in question.



## 203.5 Notification of Designation

The SLTCO shall send written notification of an individual's designation as an LTCO to the individual being designated, the host agency, and the Ombudsman Manager.

## **204. Refusal to Designate an Individual as a Long-Term Care Ombudsman or Revocation of Designation of a Long-Term Care Ombudsman**

### **POLICY**

The SLTCO may refuse to designate or may revoke the designation of an individual as an ombudsman.

### **PROCEDURES**

#### 204.1 Criteria for Refusal to Designate an Individual as an LTCO and Revocation of Designation

The SLTCO may refuse to designate an individual as an LTCO or may revoke the designation of an LTCO for cause. Cause may be, but is not limited to, one or more of the following reasons:

- a. failure of the individual to meet or maintain the criteria for designation;
- b. failure of an individual to disclose any conflict of interest;
- c. violation of confidentiality requirements;
- d. failure to provide adequate and appropriate services to long-term care residents;
- e. falsifying records;
- f. failure to adhere to the Ombudsman Code of Ethics (Appendix A);
- g. failure to follow direction of the SLTCO regarding LTCO policies, procedures, and practices;
- h. a change in employment duties which are incompatible with LTCO duties;
- i. separation from the SLTCOP, such as voluntary relinquishment of LTCO responsibilities, removal from employment by the host agency, an extended absence preventing fulfillment of job responsibilities; or
- j. failure to act in accordance with applicable federal and state laws, regulations, and policies.

#### 204.2 Process for Refusal to Designate an Individual as an Ombudsman or Revocation of an Ombudsman's Designation

- a. Prior to refusing to designate or revoking designation, the SLTCO shall consult with the Ombudsman Manager and the host agency to consider remedial actions that could be taken to avoid the refusal to designate or the revocation.
- b. Refusal to designate



The SLTCO shall provide written notice of a refusal to designate an individual to the individual, the Ombudsman Manager, and the host agency. Such notice shall:

- i) specify the reason(s) for the refusal to designate, and
  - ii) set forth the effective date of such refusal.
- c. Revocation of designation  
The SLTCO shall provide written notice of the revocation of the designation of an LTCO to the LTCO, the Ombudsman Manager, and the host agency. Such notice shall:
- i) specify the reason(s) for the intended revocation, and
  - ii) set forth the effective date of the revocation.
- d. If the refusal to designate an individual as an LTCO or the revocation of an LTCO's designation results in the absence of ombudsman services in the relevant service area, the host agency and the SLTCO shall arrange for the provision of ombudsman services until an LTCO is designated.

## **205. Roles and Responsibilities in Administering the Program**

### **POLICY**

The MDoA carries out the SLTCOP through the Office of the State Long-Term Care Ombudsman.

### **PROCEDURES**

#### **205.1 Maryland Department of Aging Responsibilities**

The MDoA:

- a. provides for a full-time SLTCO whose qualifications include:
  - i) expertise and experience in the fields of long-term care and advocacy;
  - ii) expertise in other services for older persons or individuals with disabilities, consumer-oriented public policy advocacy, leadership and program management skills, and negotiation and problem resolution skills;
  - iii) no conflicts of interest;
  - iv) the capacity to fulfill the responsibilities of SLTCO; and
  - v) the applicable MDoA personnel requirements for SLTCO.
- b. provides funding for an SLTCOP in accordance with an allocation formula and maintenance of effort requirements;



- c. ensures legal representation for the SLTCO and local LTCO;
- d. provides support to the Office to enable it to fulfill its responsibilities consistent with all applicable federal and state laws, regulations, and policies, including access to facilities and residents;
- e. administers any agreements between the MDoA and a host agency;
- f. provides technical assistance for and monitors the performance of the SLTCOP;
- g. administers the SLTCOP in accordance with all applicable federal and state laws, regulations, and policies;
- h. permits the Office to function as a distinct entity, separately identifiable, and located within the MDoA;
- i. provides opportunities for training for SLTCO and representatives of the Office to maintain expertise to serve as effective advocates for residents;
- j. provides personnel supervision and monitoring of the SLTCO, Representatives of the Office and other Office staff who are employees of the MDoA, and Office interns and volunteers to ensure that the SLTCOP is performing all functions, responsibilities, and duties set forth in the OAA;
- k. integrates the goals and objectives of the Office into the State plan;
- l. coordinates the goals and objectives of the Office with those of other programs established under Title VII of the OAA and other state elder rights, disability rights, and elder justice programs, including, but not limited to, legal assistance programs provided under section 306(a)(2)(C) of the OAA, to promote collaborative efforts and diminish duplicative efforts;
- m. ensures that the goals and objectives of the LLTCOOs are included in area plans on aging;
- n. provides elder rights leadership in coordination with the Office; and
- o. ensures that mechanisms are in place to prohibit and investigate allegations of interference, retaliation, and reprisals and provide appropriate sanctions with respect to those allegations.

## 205.2 State Long-Term Care Ombudsman Responsibilities

### **POLICY**

The SLTCO is responsible for providing leadership and management for the SLTCOP.

### **PROCEDURES**

The SLTCO, as head of the Office, is responsible for:

- a. leadership and management of the SLTCOP, which requires:
  - i) providing leadership, planning, and direction for the SLTCOP;
  - ii) providing program management and development;
  - iii) managing program resources, including fiscal resources;
  - iv) monitoring LLTCOOs;



- v) evaluating the SLTCOP performance;
  - vi) setting policies, procedures, and standards for administration of the SLTCOP and LTCO practice;
  - vii) coordinating with and promoting the development of citizen organizations consistent with the interests of residents;
  - viii) providing technical assistance to Representatives of the Office, MDoA, and host agencies; and
  - ix) adhering to the Ombudsman Code of Ethics (Appendix A).
- b. designation of LTCOs, host agencies, and LLTCOO, which requires:
- i) prohibiting any Representative of the Office from carrying out any LTCO service without being designated;
  - ii) prohibiting any entity or host agency from operating an LLTCOO without being designated to participate in the SLTCOP.
- c. long-term care issues or systemic advocacy, which requires:
- i) advocating for policy, regulatory, or legislative changes in long-term care on behalf of residents, including:
    - A) providing information and recommendations to the public, private agencies, governmental officials, legislators, and the media;
    - B) attending hearings and other forums where issues and policies affecting residents are being discussed;
    - C) providing testimony as appropriate regarding the impact on residents of current or proposed policies, regulations, or laws;
    - D) representing residents' needs and perspectives in public forums, even when the SLTCO's position differs from the position the MDoA or other agencies might be taking on the same issue or proposal;
    - E) analyzing, commenting on, recommending change, and monitoring 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 residents with respect to long-term care facilities and services statewide and nationally; and
    - F) facilitating public comment on laws, regulations, policies, and actions.
  - ii) coordinating with statewide and national advocacy organizations involved in long-term care issues consistent with the interests of residents;
  - iii) maintaining awareness of current issues and trends in long-term care;
  - iv) providing leadership to statewide systemic advocacy efforts of the Office on behalf of long-term care facility residents, including



coordination of systemic advocacy efforts carried out by Representatives of the Office.

- v) taking public policy positions, in accordance with the following protocol:
  - A) Except in exigent circumstances in which either a court or a legislative body requires faster responses, before the Office or the SLTCO publicly announces a new position on any matter of public policy, the position shall be provided to the MDoA at least two calendar weeks in advance. If within the two week period the MDoA advises the Office or SLTCO that it does not agree with the statement, then the statement must contain a prominent disclosure that makes clear:
    - 1) that the statement reflects the views of the Office only,
    - 2) that it does not reflect the views of the state, and
    - 3) that MDoA does not agree with the statement.
  - B) If the MDoA does not take a position on the statement within the two week period, the statement must include a prominent disclaimer that makes clear:
    - 1) that the position is that of the Office only, and
    - 2) that it does not necessarily reflect the views of the MDoA or the state of Maryland.
  - C) In exigent circumstances in which either a court or a legislative body requires the Office or SLTCO to publicly announce a new policy position in a period of less than two weeks, then the SLTCO shall give as much notice as possible to the MDoA of the deadline and shall provide the MDoA with the new policy position as promptly as possible.
  - D) If the MDoA advises the Office or SLTCO with 24 hours of the deadline that it does not agree with the new policy statement, then the statement must contain a prominent disclosure that makes clear:
    - 1) that the statement reflects the views of the Office only,
    - 2) that it does not reflect the views of the state, and
    - 3) that the MDoA does not agree with the statement.
  - E) If the MDoA does not take a position on the new policy statement before the deadline, the statement must include a prominent disclaimer that makes clear:
    - 1) that the position is that of the Office only, and
    - 2) that it does not necessarily reflect the views of the MDoA or the state of Maryland.
- d. inter-agency coordination, including coordinating ombudsman services and cooperating with protection and advocacy systems, Adult Protective Services, AAA programs, aging and disability resource centers, state Medicaid Fraud Control Unit, victim assistance programs, courts of competent jurisdiction, state legal assistance developer and legal assistance programs, state agencies licensing





and certifying long-term care facilities, legal assistance provided under the OAA, law enforcement, and other appropriate agencies.

- e. maintaining SLTCOP information including files, records, and other information including LTCO records and LTCO reporting system, which requires:
  - i) that records are not released, disclosed, duplicated, or removed without the written permission of the SLTCO or SLTCO Designee;
  - ii) maintaining, in collaboration with the MDoA, a statewide uniform reporting system to collect and analyze data relating to residents, complaints, and conditions in long-term care facilities, for the purpose of identifying and resolving significant problems and submitting such data to appropriate entities as required by the OAA; and
  - iii) preparing and distributing the SLTCOP annual report as required by the OAA, including the following information:
    - A) the activities of the SLTCOP during the year covered in the report;
    - B) an analysis of SLTCOP data;
    - C) an evaluation of the problems experienced by and the complaints made by or on behalf of residents;
    - D) policy, regulatory, and/or legislative recommendations for improving quality of care and quality of life for residents and resolving resident complaints and identified problems or barriers;
    - E) recommendations for protecting the health, safety, welfare, and rights of residents and resolving resident complaints and identified problems or barriers;
    - F) a description of the barriers that prevent optimal operation of the SLTCOP; and
    - G) a description of the successes of the SLTCOP, including success in providing services to residents of assisted living facilities and nursing homes.
  - iv) distributing the annual report to: the ACL, the Governor, the Office of Health Care Quality, legislators, other appropriate governmental agencies and entities, and other interested persons in accordance with Maryland Human Services Article, Section 10-909.
- f. information and assistance, which requires:
  - i) providing information and referrals regarding long-term care issues and the SLTCOP to the general public, residents, community organizations, and other agencies.



### 205.3 State Ombudsman Responsibilities to Long-Term Care Residents

The SLTCO shall, personally or through Representatives of the Office:

- a. identify, investigate, and resolve complaints made by or on behalf of residents, and relating to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of residents (including the welfare and rights of residents with respect to the appointment and activities of resident representatives, guardians, and representative payees) of:
  - i) providers, or representatives of providers, of long-term care services;
  - ii) public agencies; or
  - iii) health and social service agencies;
- b. provide services to assist residents in protecting their health, safety, welfare, and rights;
- c. inform residents about means of obtaining services provided by the SLTCOP, long-term care service providers, public agencies, or health and social service agencies or other services to assist residents in protecting their health, safety, welfare, and rights;
- d. ensure regular and timely access to ombudsman services for residents and complainants;
- e. ensure that residents and complainants receive a timely response from LTCO;
- f. represent the interests of residents before governmental agencies, ensure that individual residents have access to, and pursue (as the SLTCO determines necessary and consistent with resident interests) administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents;
- g. analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions pertaining to the health, safety, welfare, and rights of residents, with respect to the adequacy of long-term care facilities and services in the state;
- h. recommend changes in such laws, regulations, policies, and actions as the Office determines appropriate in fulfilling its responsibility to represent residents;
- i. facilitate public comment on laws, regulations, policies, and actions;
- j. provide information to public and private agencies, legislators, the media, and other persons regarding problems and concerns of residents and recommendations related to the problems and concerns;
- k. provide technical support for the development of resident and family councils to protect the wellbeing and rights of residents; and
- l. prohibit inappropriate disclosure of the identity of any complainant or resident identified in LTCO files or records.



#### 205.4 State Ombudsman Responsibilities to Local Ombudsman Offices

The SLTCO shall provide an LLTCOO with:

- a. certification training materials, support, and ongoing training;
- b. program management oversight and services to enable the LLTCOO to fulfill the ombudsman program's mission;
- c. administrative assistance, technical assistance, and supervision as needed related to complaint handling and other ombudsman services;
- d. timely review, comment on, and approval of the LLTCOO area plan comments; and
- e. monitoring and evaluation of the LLTCOO.

#### 205.5 State Ombudsman Responsibilities to the AAA

The SLTCO shall assist the AAA in developing and refining the portions of their area plan that concern the SLTCOP.

#### 205.6 State Ombudsman Responsibilities to the Host Agency

The SLTCO shall provide the host agency with:

- a. administrative and technical assistance to assist the host agency in its support of the LLTCOO, including:
  - i) information and resources to assist the host agency in supporting and promoting the LLTCOO;
  - ii) SLTCOP data and data analysis;
  - iii) monitoring the LLTCOO; and
  - iv) guidance on the host agency's role in the SLTCOP.
- b. assistance with screening LTCO applicants for employment and for LTCO certification and designation, including:
  - i) providing a conflict of interest screening tool;
  - ii) providing timely responses to requests for review of applications and for minimum qualification substitutions;
  - iii) providing examples of interview questions, and
  - iv) participating in interviews of applicants as members of an interviewing team, at the host agency's request.
- c. assistance with arrangements for temporary provision of ombudsman services when LTCOs of the host agency are unavailable or an LTCO position is vacant.



## **206. Host Agency Responsibilities**

### **POLICY**

A host agency is designated by the SLTCO to provide personnel and fiscal management, and other support services for the LLTCOO and to ensure the provision of ombudsman services in the service area defined in the area plan or other agreement between the host agency and the MDoA. Programmatic oversight of the LLTCOO is provided by the SLTCO.

### **PROCEDURES**

#### **206.1 General Host Agency Responsibilities**

The host agency shall:

- a. be the sole provider of ombudsman services in its defined service area;
- b. support the LLTCOO in accordance with the provisions of its agreement to provide ombudsman services;
- c. provide the personnel management, but not the programmatic oversight of the Representatives of the Office, including employees, interns, SCSEP participants, and volunteers;
- d. not have personnel policies or practices that prohibit the Representatives of the Office from performing their duties, or from adhering to the access, confidentiality, and disclosure requirements of section 712 of the OAA as implemented through the federal and state ombudsman regulations and these policies and procedures;
- e. provide SLTCOP staff necessary to:
  - i) deliver the required ombudsman services; and
  - ii) maintain or exceed the level of services provided in the service area during the previous fiscal year;
- f. ensure that any mail addressed to the SLTCOP should not be opened by anyone other than SLTCOP staff;
- g. ensure that LLTCOO data are provided to the Office in the format required by the SLTCO as required by the Office;
- h. prohibit inappropriate access to LTCO records located within the host agency including the disclosure of the identity of any complainant, complaint, or resident identified in LTCO files or records;
- i. ensure LTCO attendance at all SLTCOP training;
- j. provide professional development opportunities for LLTCOO staff;
- k. provide staff support as needed for the operation of the LLTCOO such as custodial, fiscal management, clerical, and telephone coverage;
- l. inform the SLTCO prior to dismissal of a local LTCO;



- m. arrange, in consultation with the SLTCO for temporary provision of ombudsman services in the service area when LTCO staff positions are vacant or the staff will be unavailable for an extended period of time;
- n. request a waiver from the SLTCO if, due to demonstrable and unusual circumstances, it anticipates it will be unable to comply with any of these responsibilities;
- o. perform each of its responsibilities in administering the SLTCOP in accordance with all applicable federal and state laws, regulations, and policies; and
- p. coordinate with the SLTCO on the employment of LTCO.

## **207. Local Long-Term Care Ombudsman Responsibilities**

### **POLICY**

An ombudsman is designated by the SLTCO to provide ombudsman services.

### **PROCEDURES**

#### **207.1 General Long-Term Care Ombudsman Responsibilities**

Local LTCO are responsible for:

- a. identifying, investigating, and resolving complaints made by or on the behalf of residents that relate to action, inaction, or decisions that may adversely affect the health, safety, welfare, and rights of the residents;
- b. providing ombudsman services to protect the health, safety, welfare, and rights of residents;
- c. ensuring that the residents in the service area of the host agency have regular and timely access to the services provided by the SLTCOP;
- d. ensuring that residents and complainants receive timely responses to requests for information and assistance with complaints and other issues;
- e. in coordination with the SLTCO, representing the interests of residents before governmental agencies and ensuring that individual residents have access to administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- f. pursuing (as the LTCO determines necessary and consistent with resident interest) administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- g. reviewing and, if necessary, commenting on any existing and proposed laws, regulations, and other governmental policies and actions, that pertain to the rights and wellbeing of residents in coordination with the SLTCO;
- h. facilitating the ability of the public to comment on the laws, regulations, policies, and actions;



- i. promoting and providing technical support for the development of and providing ongoing support as requested by resident and family councils;
- j. documenting local LTCO activities and case work as required by the SLTCO;
- k. adhering to the Ombudsman Code of Ethics (Appendix A);
- l. prohibiting inappropriate access to LTCO records in the possession of the LLTCOO;
- m. carrying out other activities that the SLTCO deems appropriate; and
- n. performing each responsibility in accordance with all applicable federal and state laws, regulations, and policies.

## **208. Local Long-Term Care Ombudsman Manager Responsibilities**

### **POLICY**

An Ombudsman Manager oversees the LLTCOO.

### **PROCEDURES**

#### **208.1 General Ombudsman Manager Responsibilities**

Within the relevant LLTCOO, the Ombudsman Manager is responsible for:

- a. overall management and development of the LLTCOO, including knowledge of and opportunity to make requests regarding the use of funds designated for LLTCOO use;
- b. supervision of all other local LTCO, interns, SCSEP participants, clerical staff, and volunteers;
- c. ensuring that any non-designated staff, volunteers, interns, SCSEP participants, or clerical staff work under the direct supervision of a designated LTCO and does not process complaints;
- d. ensuring that administrators of long-term care facilities in the service area are aware of the names and contact information for the LTCO(s) assigned to serve residents of the facility (This requirement may be met through communication by letter, phone call, e-mail, or visit to the facility. The Ombudsman Manager shall ensure that this information is updated due to change in staff or volunteer assignment or withdrawal of designation of an LTCO.);
- e. submitting to the SLTCO the local information for the National Ombudsman Reporting System (NORS) report and any additional reporting requirement of the Office;
- f. ensuring that the LLTCOO satisfactorily accomplishes its annual goals as discussed in its annual assessment with the Office;
- g. arranging, in consultation with the SLTCO, and the host agency if applicable, for the provision of ombudsman services in the service area when the LLTCOO is temporarily unable to provide coverage;



- h. ensuring that documentation is entered into the SLTCOP software system accurately and timely;
- i. communicating nonconfidential information necessary for the host agency to perform its responsibilities; and
- j. carrying out other activities that the SLTCO deems appropriate.

#### 208.2 Supervision of Non-designated Staff

- a. SLTCOP staff who have not been designated to be ombudsmen must be supervised by an LTCO and sign the SLTCOP confidentiality agreement before performing any work in the program.
- b. If there is not a designated ombudsman in the LLTCOO to provide the supervision, the host agency shall contact the SLTCO.

### **209. Conflicts Of Interest**

#### **POLICY**

The organizational placement of the SLTCOP and the individuals who carry out the duties of the Program must be free from conflicts of interest.

#### **PROCEDURES**

##### 209.1 Identifying a Conflict of Interest

- a. A conflict of interest exists in the SLTCOP when other interests intrude upon, interfere with, or threaten to negate the ability of the SLTCOP to advocate without compromise on behalf of long-term care facility residents. Conflicts of interest can affect the effectiveness and credibility of work of the Office. Types of conflict of interest include:
  - i) conflicts of loyalty – incentives, often related to financial or employment considerations that may shape one’s judgment or behavior in ways that are contrary to the interest of residents;
  - ii) conflicts of commitment – goals or obligations that direct one’s time or attention away from the interest of residents; and
  - iii) conflicts of control – limitations or restrictions that effectively impede one’s ability to take actions to advocate for the interest of residents.



## 209.2 Organizational Conflicts

Organizational conflicts of interest include, but are not limited to, placement of the Office or LLTCOO, or requiring that an SLTCOP staff member perform conflicting activities, in an organization that:

- a. is responsible for licensing, surveying, or certifying long-term care facilities;
- b. is an association, or affiliate of an association, of long-term care facilities or of any other residential facilities for older adults or individuals who have disabilities;
- c. has ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility;
- d. has governing board members who have any ownership, investment, or employment interest in a long-term care facility;
- e. provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care facilities or the operation of programs that control access to or services for long-term care facilities;
- f. provides long-term care coordination or case management for residents of long-term care facilities;
- g. sets reimbursement rates for long-term care facilities;
- h. provides Adult Protective Services;
- i. is responsible for determining eligibility for Medicaid or other public benefits for residents of long-term care facilities;
- j. conducts preadmission screening for admission to long-term care facilities;
- k. makes decisions regarding individuals' admissions to or discharge from long-term care facilities; and
- l. provides guardianship or other fiduciary or surrogate decision-making services for residents of long-term care facilities.

## 209.3 Individuals Involved in Appointment or Employment of SLTCO

Any individual involved in the appointment of the SLTCO, and said individual's immediate family members, shall be free from unresolvable conflicts of interest.

## 209.4 Individual Ombudsman Conflicts of Interest

Conflicts for an SLTCO, Representatives of the Office, and members of their immediate family include, but are not limited to, the following:

- a. employment by a long-term care facility in the service area or by the owner or operator of any long-term care facility in the service area;
- b. participation in the management of a long-term care facility by the individual or a member of his/her immediate family;





- c. ownership, operational or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility or long-term care service;
- d. involvement in the licensing or certification of a long-term care facility or provision of a long-term care service;
- e. 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 long-term care facility;
- f. accepting any gifts or gratuities from a long-term care facility or its management or a resident, or a resident representative, of a long-term care facility in which the SLTCO or Representative of the Office provides services (except where there is a personal relationship with a resident or resident representative which is separate from the individual's role as a Representative of the Office);

Note: An LTCO should adequately compensate a facility for food provided by the facility with the exception of sample portions of food tested as part of a complaint process.

- g. accepting money or any other consideration from anyone other than the Office or a host agency for the performance of an act in the regular course of the SLTCOP, without the SLTCO approval;
- h. provision of services with conflicting responsibilities while serving as an LTCO, such as roles that are considered an organizational conflict;
- i. serving as a guardian or in another fiduciary or surrogate decision-making capacity for a resident of a long-term care facility in which the SLTCO or Representative of the Office provides services;
- j. employment by Adult Protective Services;
- k. serving residents of a facility in which an immediate family member resides;
- l. residing in a long-term care facility; and
- m. participating in activities that:
  - i) negatively affect the ability of the LTCO to serve residents, or
  - ii) are likely to create a perception that the LTCO's primary interest is other than as a resident advocate.

## 209.5 Establishing Freedom from Conflict of Interest

- a. Freedom from conflict of interest shall be established by the LLTCOO and the Office through interviews of all prospective SLTCOP staff, and through a signed conflict of interest form prescribed by the Office and other appropriate means. Any individual seeking to become an LTCO shall disclose to the LLTCOO and the Office all information concerning past employment, membership, or interests that may affect, or could reasonably be expected to affect, that individual's ability to carry out the duties of an LTCO without a conflicting interest.



- b. All SLTCOP staff shall complete a conflict of interest form prior to joining the SLTCOP, annually thereafter, and when the individual's circumstances change in a way that might be considered a potential conflict of interest.
- c. The person who appoints the SLTCO shall complete a conflict of interest form annually and when the individual's circumstances change in a way that might be considered a potential conflict of interest.
- d. Organizational conflict of interest forms must be completed by the MDoA and each host agency with the assistance from the LLTCOO and the SLTCO.

## **210. Remediating a Conflict of Interest**

### **210.1 General**

When an actual or potential conflict of interest within the SLTCOP has been identified, the SLTCO shall be notified. All LTCO, LLTCOOs, and host agencies have a duty to notify the SLTCO of any actual or potential conflict of interest of which they have knowledge. The SLTCO shall determine whether appropriate actions can be or have been taken to sufficiently remedy or remove the conflict. A conflict can be sufficiently remedied only if the remedy produces a situation that does not interfere with any duties of the SLTCOP and if the conflict, as remedied, is not likely to alter the perception of the SLTCOP as an independent advocate for residents.

### **210.2 Remediating Organizational Conflicts**

When organizational conflicts that can be sufficiently remedied have been identified, the following steps shall be taken :

- a. a written remedial plan shall be developed within thirty (30) calendar days of identification of the conflict and sent to the SLTCO.
- b. the remedial plan must identify the conflict and provide assurances of the steps that will be taken to minimize to the greatest extent possible the negative impact of the conflict on the SLTCOP. Examples of such assurances could include:
  - i) no governing board member with a conflict of interest will be involved with or influence any decision:
    - A) to hire or terminate the employment of an LTCO; or
    - B) concerning the long-term care facilities assigned to the LTCO.
  - ii) any governing board members of the host agency who have a conflict of interest:
    - A) must disclose the conflict to the governing board and to the SLTCO; and
    - B) must abstain from discussing and voting on issues related to the



operation of the LLTCOO.

- iii) the host agency's policies and procedures adequately set forth procedures to remedy conflicts of interest and ensure that LTCOs can fulfill their duties without interference.
  - iv) a memorandum of agreement between the SLTCOP and the host agency, which has sub-components that provide services with conflicting responsibilities to the SLTCOP, that adequately sets forth and segregates the roles, responsibilities, and appropriate working relationships of the respective host agency sub-components.
- c. The conflict has not been sufficiently remedied, unless the SLTCO approves the remedial plan and both the SLTCO and the organization sign the plan.
  - d. A remedial plan, with signatures by the agency and the SLTCO, is a public document available from the SLTCO upon request.

### 210.3 Remediating Individual Ombudsman Conflicts

When an individual conflict has been identified, the following steps shall be taken to see if the conflict can be sufficiently remedied:

- a. Develop a written remedial plan.
  - i) When the individual is an applicant for a position as an LTCO, a plan shall be developed before the individual is hired for the position.
  - ii) When the individual is an applicant for designation as an LTCO volunteer or intern, a plan shall be developed before the individual takes any actions on behalf of the SLTCOP.
  - iii) When the individual is an LTCO, a plan shall be developed within thirty (30) calendar days of notifying the SLTCO of the conflict.
- b. The remedial plan must identify the conflict and provide assurances of the steps that will be taken to minimize to the greatest extent possible the negative impact of the conflict on the SLTCOP. An example of such an assurance could include:
  - i) prohibiting the LTCO with a conflict of interest from serving the residents of the facility with which he or she has a conflict and arranging for another LTCO to serve those residents. Where appropriate, this arrangement could be time-limited.
- c. In order to be finalized and accepted, the remedial plan must be mutually agreed upon and signed by the LTCO or applicant with the conflict of interest, the Ombudsman Manager, and the SLTCO. Copies of the conflict of interest form and approved remedial plan should be kept in the personnel record of the LTCO and provided to the SLTCO.



#### 210.4 Ombudsman Involvement in Activities

In determining whether LTCO participation in community groups, professional associations, or other activities constitutes a conflict of interest, the following questions shall be considered:

- a. Will the SLTCOP benefit from LTCO involvement in this activity?
- b. Will the LTCO be able to represent and assert the views of long-term care residents in this activity?
- c. Will the role of the LTCO in the activity benefit residents?
- d. How will participating in the activity affect the public perception and the residents' perception of the SLTCOP?
- e. Will the LTCO be put in a position of participating in a decision about a resident without the resident's involvement or permission?

#### 210.5 Failure to Identify or Remedy a Conflict of Interest

- a. Failure on the part of an LTCO or host agency to identify and report to the SLTCO a known conflict of interest shall be sufficient grounds for revoking the designation of the host agency or the LTCO.
- b. Existence of any known conflict of interest that is not remedied shall be sufficient grounds for revocation of the designation of the host agency.
- c. Existence of any known conflict of interest that is not remedied shall be sufficient grounds for revocation of the designation of the LTCO.

#### 210.6 Reporting Conflicts of Interest to the Administration of Community Living

The Office will report conflicts of interest as requested by ACL.

### **211. State Long-Term Care Ombudsman Program Records**

#### **POLICY**

Records of the SLTCOP that contain identifying information about residents or complainants are confidential and shall be disclosed only in limited circumstances specifically permitted by applicable law and these procedures.

#### **PROCEDURES**

##### 211.1 SLTCO Access

All SLTCOP client records are the property of the Office. The SLTCO, and SLTCO Designee, shall have access to all SLTCOP records at all times for any purpose.



## 211.2 SLTCOP Staff Access

The SLTCO, and Ombudsman Managers with the permission of the SLTCO, may restrict the access of certain SLTCOP staff to certain program records to protect confidential information.

## 211.3 Response to Requests for SLTCOP Records that Contain Identifying Information of Residents or Complainants

- a. Upon resident's or resident representative's request or with the consent of the resident or of resident representative:
  - i) If a resident requests to see the SLTCOP's records regarding the resident's own complaint and interaction with the SLTCOP, those records should be released to the resident, provided that information identifying residents or complainants who have not provided express consent for the release of their identities is redacted.
  - ii) If a resident representative requests in writing, or with the use of auxiliary aids and services, to see the SLTCOP's records regarding the resident, those records should be released to the resident representative, provided that:
    - A) the resident representative has properly and adequately documented the basis for his or her authority, and
    - B) information identifying residents or complainants who have not expressly consented to the release of their identities is redacted.

However, if a resident representative requests SLTCOP records that are relevant to the resident and an LTCO or Ombudsman Manager has reasonable cause to believe the representative is not acting in concert with that resident's best interests, the LTCO or Ombudsman Manager shall consult with the SLTCO to determine whether the request should be honored.

- b. If another agency or program or any other party who is not a resident or resident representative requests to see the SLTCOP's records regarding a resident, the records may be released only if:
  - i) the resident has provided consent in writing or given consent to an LTCO orally or through the use of auxiliary aids or services and the non-written consent was documented immediately and filed as an SLTCOP record by the LTCO to whom consent was communicated; or
  - ii) the resident representative has provided consent if the resident is unable to consent; and
  - iii) the identities of residents and complainants who have not provided consent for the release of their names are not revealed.



- c. Without resident consent or consent of the resident representative:
- i) When a request is made to any party other than the resident or resident's representative for SLTCOP records and all of the residents and complainants identified in the records have not given the party their consent to release the records, the LTCO shall inform the SLTCO or Ombudsman Manager of the request.
  - ii) The SLTCO shall determine whether any part of the records may be released. The identities of residents or complainants who have not provided or expressed consent for the release of their names shall not be revealed.
  - iii) If a judge or a party to a lawsuit subpoenas SLTCOP records from an LTCO in an LLTCOO, the LTCO who receives the subpoena will send copies to the Ombudsman Manager, local legal counsel, and the SLTCO. The SLTCO may:
    - A) authorize the LLTCOO to release any records directly responsive to a court order,
    - B) approve the LLTCOO seeking a protective order or filing a motion to quash to protect the identity of residents and complainants, or
    - C) approve the LLTCOO requesting the court to seal the SLTCOP records if the SLTCO determines that the release of records would be inconsistent with the wishes or interest of the resident.

#### 211.4 Records Maintenance and Retention

- a. SLTCOP records that contain confidential information may not be released, disclosed, duplicated, or removed by anyone who is not designated as an LTCO without the permission of the SLTCO.
- b. SLTCOP files, records, and other information maintained by the SLTCOP that do not contain confidential information may be released by the SLTCO, SLTCO Designee, or the appropriate Ombudsman Manager.
- c. A request for disclosure of all or part of a record shall be immediately documented by the LTCO to whom the request was communicated and filed as an LTCO record.
- d. All complaint files and records shall be kept permanently.
- e. All other SLTCOP files and records, regardless of the format, including SLTCOP staff files that contain confidentiality forms conflict of interest forms, etc., shall be kept for seven years after no longer active and then destroyed in a manner that protects any confidential information. This section does not address the personnel files that may be kept by the Department or a host agency, which shall be maintained in accordance with the personnel policies and procedure of the Department and host agency.



**212. Legal Counsel**

**POLICY**

Representatives of the Office and the SLTCO shall have access to adequate legal counsel. Residents of long-term care facilities should be provided complete and accurate attorney referral information.

**PROCEDURES**

**212.1 Adequate Legal Counsel**

The provision of adequate legal counsel, without conflict of interest, includes:

- a. advice and consultation services needed to assist the LTCO to protect the health, safety, welfare, and rights of residents and assist the Office and LTCO in the performance of their official duties, functions, and responsibilities, including, but not limited to, complaint resolution and systems advocacy; and
- b. representation, arranged by or with the approval of the SLTCO, in an actual or threatened legal action against any LTCO or the SLTCO brought or threatened to be brought in connection with the performance of their official duties (Representation shall be by an attorney knowledgeable about federal and state laws relevant to the SLTCOP and protecting the rights of residents, governing long-term care facilities, and other relevant agencies and entities.)

**212.2 Provision of Legal Counsel**

Legal counsel shall be provided as follows:

**TABLE I  
LEGAL COUNSEL**

<b>Party</b>	<b>Advice/Consultation</b>	<b>Representation</b>
<b>SLTCO</b>	Resident issues: Assistant Attorney General assigned to the MDoA;  Program operation: Assistant Attorney General assigned to the MDoA.	If no conflict of interest: Assistant Attorney General assigned to the MDoA.  <b>IF</b> conflict of interest: Substitute Assistant Attorney General designated by the Attorney General or a Deputy Attorney General.



<b>LLTCOO</b>	County Attorney or legal counsel for the LLTCOO’s host agency; in consultation with the Office of the Attorney General.	County Attorney or legal counsel for the LLTCOO’s host agency, in consultation with the Office of the Attorney General.
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**212.3 Office of the State Long-Term Care Ombudsman**

- a. For the SLTCO to obtain advice and consultation, the SLTCO or SLTCO Designee may contact one of the Assistant Attorneys General assigned to MDoA.
- b. For the SLTCO to obtain representation:
  - i) the SLTCO or SLTCO Designee shall advise the MDoA Secretary of a legal action or threatened legal action; and
  - ii) if the SLTCO is sued in his or her own name or threatened with such litigation, the SLTCO should request representation from the Attorney General in accordance with §12-304 et seq. of the State Government Article.
- c. If a conflict of interest exists for the Assistant Attorney General assigned to the SLTCOP, the SLTCO or SLTCO Designee should request the Attorney General to assign another Assistant Attorney General to represent the SLTCOP.

**212.4 Local Long-Term Care Ombudsmen Office**

- a. For legal advice and consultation, an LLTCOO or LTCO shall request assistance from the host agency’s legal counsel after the discussing the situation with the SLTCO.
- b. For an LLTCOO or LTCO to obtain legal representation:
  - i) the LLTCOO shall advise the SLTCO of the legal action or threatened legal action; and
  - ii) the LLTCOO shall notify the host agency so that the host agency’s counsel retained can be notified and contacted by the LLTCOO.

**212.5 Host Agencies**

The host agency shall obtain or retain its own legal counsel to provide legal advice and representation.

**212.6 Residents of Long-Term Care Facilities**





If a resident needs assistance with administrative, legal, or other appropriate remedies and gives consent, an LTCO shall request assistance from or provide referral or contact information to one or more legal resources, including, but not limited to, the following:

- a. Maryland Legal Aid Long-Term Care Assistance Project;
- b. other legal services providers, including Maryland Volunteer Lawyer Services or Disability Rights Maryland;
- c. local lawyer referral services;
- d. local Title III.B legal services provider; or
- e. other elder law attorneys.

Note: The resident or resident representative should always be offered choices in legal representation and may choose their own attorney based on what the legal need is, their financial resources, prior history, and citizenship status. For instance, a resident may have a legal issue unrelated to long-term care, and may need an attorney related to family issues such as divorce or criminal issues.

## **213. Liability**

### **POLICY**

An LTCO is immune from liability for the good faith performance of his or her official duties.

### **PROCEDURES**

#### **213.1 Immunity from Liability**

An LTCO and the SLTCO shall not incur any civil or criminal liability for performing his or her official duties in good faith.

#### **213.2 Liability Insurance**

The MDoA does not provide liability insurance or indemnification for host agencies. Host agencies are expected to retain their own liability policies or self-insure. Host agencies are expected to provide liability coverage for any LTCO.

## **214. Interference and Retaliation**

### **POLICY**

Willful interference with Representatives of the Office and the SLTCO in the performance of their official duties is unlawful.



## PROCEDURES

### 214.1 Interference and Retaliation Prohibited

- a. No person shall willfully interfere with, prevent, or attempt to impede the SLTCO or a Representative of the Office in the performance of official duties. Interference includes any inappropriate or improper influence from any individual or entity, regardless of the source, which will in any way compromise, decrease, or have a negative effect on:
  - i) the objectivity of the investigation or outcome of complaints;
  - ii) the SLTCO and LTCO's role as advocate for the rights and interests of the resident;
  - iii) the fulfillment of the functions, duties, and responsibilities of the SLTCO and Representatives of the Office;
  - iv) the SLTCO and LTCO's work to resolve issues related to the rights, quality of care, and quality of life of residents;
  - v) the LTCO's statutory responsibility to provide such information as the Office determines necessary to public and private agencies, legislators, and other persons regarding the problems and concerns of residents and recommendations related to residents' problems and concerns; and
  - vi) timely access to residents, facilities, and appropriate records, including resident records (with appropriate consent), facility administrative records, policies and documents that are not confidential, and copies of licensing and certification information maintained by the state related to long-term care facilities.
- b. In accordance with Maryland Human Services Article Section 10-910(b) and 42 USC Section 3058g(j), no person shall discriminate or retaliate in any manner against any resident, or relative or guardian of a resident, any employee of a long-term care facility, or any other person due to filing a complaint with, providing information to, or otherwise cooperating in good faith with an LTCO or SLTCO. A person who does discriminate or retaliate shall be guilty of a misdemeanor and subject to fine under the Maryland Annotated Code, Human Services Article, Section 10-910(c).

### 214.2 Procedures for Reporting Interference or Retaliation

- a. Any person who has knowledge of interference or retaliation shall report the information to the SLTCO.
- b. The SLTCO shall review the information provided and conduct further investigation if necessary to confirm the occurrence of the interference or retaliation.
- c. If the SLTCO, based on such review, determines that enforcement action is warranted, the SLTCO shall submit the information to the State's Attorney of the



county or city where the interference or retaliation occurred and the Maryland Attorney General.

## **215. Certification and Orientation Training**

### **POLICY**

Each Representative of the Office should receive adequate training and preparation to effectively carry out the responsibilities of the SLTCOP for or on the behalf of residents in long-term care facilities.

### **PROCEDURES**

#### **215.1 Certification Process for Representatives of the Office**

- a. For individuals employed to be Representatives of the Office, the certification process, which consists of at least forty hours, should begin within the first week of employment and shall be completed within the first year of employment. For volunteers seeking to be Representatives of the Office, the certification process, which consists of at least forty hours, should begin within the first week of volunteering and shall be completed within the first year of volunteering.
- b. The Ombudsman Manager and SLTCO are responsible for ensuring that a newly employed ombudsman candidate completes the requirements for certification.
- c. Designation can be sought when the individual has completed all requirements necessary for certification, is free from conflict of interest, and has demonstrated the capacity to act as a Representative of the Office.
- d. The requirements for certification are as follows:
  - i) Completion of orientation training required by the STLCO;
  - ii) The orientation agenda for each orientation must be approved by the Office at least two weeks prior to orientation date, be based on the curriculum *Equipping Long-Term Care Ombudsmen for Effective Advocacy*, and include components taught by the Office. At a minimum, the following topics must be included in the orientation:
    - A) Aging;
    - B) Abuse investigation;
    - C) Complaint investigation and resolution;
    - D) Documentation;
    - E) State and federal laws and regulations related to the ombudsman program;
    - F) Nursing homes and assisted living facilities (noting the staff, structure, similarities, and differences);
    - G) Financing LTC;
    - H) Survey process and role of OHCQ;



- I) Other agencies, including APS and Medicaid Waiver;
  - J) Legal services for residents;
  - K) Resident decision making capacity;
  - L) Residents' rights;
  - M) Non-complaint visits;
  - N) Role and uniqueness of the ombudsman program;
  - O) History of the ombudsman program;
  - P) Structure of the ombudsman program nationally, in Maryland, and locally;
  - Q) Local policies and forms;
  - R) Next steps;
  - S) Communicating with residents, families, and providers; and
  - T) Informed consent.
- iii) Review of the five modules in the national curriculum *Equipping Long-Term Care Ombudsmen for Effective Advocacy* and completion of the five quizzes, missing no more than one question per quiz;
  - iv) Satisfactory completion of an open note exam provided by the STLCO;
  - v) Completion of a minimum of five mentoring visits with their Ombudsman Manager or other LTCO responsible for providing training and support. Arrangements will be made for the candidates who do not have designated ombudsmen in their LLTCOO. The mentoring visits require that the candidate observes and is observed carrying out the responsibilities and functions of the Office with residents in long-term care facilities (both nursing home and assisted living facilities); and
  - vi) In-depth training on complaint investigation and resolution is required before designation is granted.
- f. The Ombudsman Manager will complete a file on each new LTCO applicant with all the paperwork necessary for certification.
  - g. When a candidate has completed all the requirements for certification, the Ombudsman Manager will submit the certification form and all other necessary paperwork including the exam, results of the module quizzes, conflict of interest, confidentiality, and code of ethics forms to the SLTCO for review.
  - h. The SLTCO will determine if the candidate has completed the certification requirements and can be designated as a Representative of the Office.

## 215.2 Current Tier I Volunteers

- a. Any volunteer who is currently Tier I, after the effective date of these policy and procedures, will be given the option of continuing at the Tier I level, not doing complaint work, or receiving additional training to be able to investigate and attempt to resolve complaints for residents in long-term care facilities.
- b. Any new volunteer who becomes designated as a Representative of the Office will have the training and authority to investigate and resolve complaints on behalf of the residents of long-term care facilities.



- c. Any new volunteer who chooses not to work on complaint investigation and resolution will not be designated as a Representative of the Office.

## **216. Continuing Education**

### **216.1 Employed Representatives of the Office**

- a. All employed representatives of the Office are expected to participate in the monthly SLTCOP conference calls and face to face meetings.
- b. If an LTCO is unable to participate or attend, the LTCO must make arrangements with their LLTCOO or the Office to receive the information provided during the meeting or conference call.
- c. If an LTCO has excessive absenteeism from calls and meetings, the SLTCO will follow up with the LTCO and their supervisor and determine the appropriate course of action, which may include de-designation.
- d. LTCOs are encouraged to attend conferences and webinars relevant to ombudsman work including the annual National Consumer Voice for Quality Long-Term Care conference.
- e. The Office will provide webinar and additional conference information on a regular basis to LLTCOO. The LLTCOO should share this information with their LTCOs.

### **216.2 Volunteer Representatives of the Office**

- a. All LLTCOOs should offer at a minimum quarterly meetings or trainings for their volunteers.
- b. LLTCOOs should meet with their volunteers on a regular basis to discuss ombudsman services. These meetings can be in person or on the phone. The LLTCOO should visit with their volunteers as needed to evaluate their work and to assist with advocacy efforts. These visits should be at a minimum of every six months.
- c. Volunteers are required to attend meetings that are offered by the LLTCOO. If a volunteer cannot attend the meetings because of other obligations, an alternative plan should be developed for that volunteer. If the volunteer is unable or unwilling to attend meetings or to meet with their employed ombudsman mentor, then the volunteer will not be able to fulfill their obligations as required as a Representative of the Office, and this could be grounds for revocation of their ombudsman designation.
- d. Webinars and conferences can be substituted for missing one meeting, or the LLTCOO may offer conference attendance as a substitute for one meeting a year.



## **217. Grievances**

### **POLICY**

The SLTCOP will respond to any concerns or grievances that any individuals or organizations have with the program in accordance with the procedures set forth below.

### **PROCEDURES**

Grievances or complaints against SLTCOP staff should be investigated and resolved promptly.

#### **217.1 A Complaint about an LTCO or Non-designated Staff of a Local Office**

- a. A complaint about a local LTCO or non-designated staff shall be directed to the appropriate Ombudsman Manager.
- b. The Ombudsman Manager shall notify the SLTCO.
- c. The Ombudsman Manager shall investigate the complaint within fourteen (14) working days.
- d. The nature of the complaint and the investigation shall be promptly documented.
- e. The investigation and resolution will be shared with the SLTCO.
- f. A response to the complainant shall be provided within seven (7) working days after the completion of the investigation, and shall include the phone number of the SLTCO if the complainant wishes to take the grievance up to the next level.

#### **217.2 A Complaint about an Ombudsman Manager**

- a. A complaint about an Ombudsman Manager shall be directed to the SLTCO.
- b. The SLTCO shall investigate the complaint within fourteen (14) working days.
- c. The nature of the complaint and the investigation shall be promptly documented.
- d. A response to the complainant shall be provided within seven (7) working days after the completion of the investigation.

#### **217.3 A Complaint about Office Staff other than the SLTCO**

- a. A complaint about Office staff or volunteers shall be forwarded to the SLTCO.
- b. The SLTCO shall investigate the complaint within fourteen (14) working days.
- c. The nature of the complaint and the investigation shall be promptly documented.
- d. A response to the complainant shall be provided within fourteen (14) working days after the completion of the investigation.

#### **217.4 A Complaint about the SLTCO**

- a. A complaint about the SLTCO shall be forwarded to the Secretary of Aging.
- b. The Secretary should promptly investigate the complaint.



- c. The nature of complaint and the investigation should be promptly documented.
- d. A timely response shall be provided to the complainant.

217.5 A Complaint Related to Refusal to Designate or De-designate an LLTCOO or Refusal to Designate, Suspend, or De-designate an LTCO

- a. Complaints related to designation or de-designation shall be forwarded to the SLTCO.
- b. The SLTCO shall investigate the complaint within fourteen (14) working days.
- c. The nature of the complaint and the investigation shall be promptly documented.
- d. A response to the complainant shall be provided within fourteen (14) working days after the completion of the investigation.



## Part III. PROCEDURES FOR OMBUDSMAN PRACTICE

### 300. Complaint Processing

#### POLICY

Processing complaints made by or on behalf of residents of long-term care facilities is the SLTCOP's highest priority service. The resident of, applicant to, or individual discharged from, a long-term care facility is the client, regardless of the source of the complaint.

#### PROCEDURES

##### 300.1 General

The SLTCOP shall identify, investigate, and work to resolve complaints made by or on behalf of residents and serves residents of long-term care facilities. Although the issues and circumstances of the complaints will vary, the following procedures apply to all complaint handling. Whenever questions arise regarding appropriate LTCO practice in handling complaints, the SLTCO should be contacted for guidance.

Additional guidelines are provided in Section 300.9 with respect to handling and reporting suspected abuse, neglect, and exploitation due to the serious nature of these complaints and to comply with laws governing the SLTCOP, including confidentiality requirements and reporting requirements.

##### 300.2 Complaint Intake and Response

- a. Complaints can only be taken by SLTCOP staff. A complaint should be documented in writing and assigned to an LTCO for investigation.
- b. When an LTCO receives information regarding a complaint, the LTCO shall:
  - i) determine:
    - A) the type of complaint (using the uniform complaint categories provided by ACL);
    - B) what outcome the complainant is seeking;
    - C) what attempts, if any, have already been made to resolve the complaint; and
    - D) whether the complaint is appropriate for LTCO activity. Examples of complaints that are not appropriate for LTCO activity include those that:





- 1) do not directly affect a resident or former resident of a long-term care facility;
  - 2) are outside the scope of the mission or authority of the SLTCOP;
  - 3) do not relate to actions, inactions, or decisions of providers of long-term care services, public agencies, or health and social service agencies (for example, an LTCO should not mediate an inter-family dynamic if the long-term care provider is adequately addressing the dynamic's impact on the resident's health, safety, welfare, and rights); or
  - 4) would place the SLTCOP in the position of having an actual or perceived conflict of interest with the interest of a resident or residents.
- E) when the complaint is inappropriate for LTCO activity, whether it should be referred with permission to another agency.

Note: The LTCO may seek resolution of complaints in which the rights of one resident and the rights of another resident or residents appear to be in conflict.

- ii) discuss with the complainant the options for handling the complainant;
  - iii) encourage the complainant to personally take appropriate action, with LTCO assistance if needed;
  - iv) explain that the LTCO's role is to act in accordance with resident wishes; and
  - v) explain the SLTCOP policy of confidentiality.
- c. Complaints may be filed with the SLTCOP by any person, including residents, families and friends of residents, long-term care facility staff, etc.
- d. Complaints may be made anonymously to the SLTCOP. Anonymous complaints must remain anonymous. If the LTCO receiving the complaint is able to communicate directly with the anonymous complainant, the LTCO may explain to the complainant that, in some circumstances, anonymity could limit the ability of the LTCO to investigate and resolve the complaint.
- e. An LTCO shall consider generating a complaint when:
- i) the LTCO has personal knowledge of an action, inaction, or decision that may adversely affect the health, safety, welfare, or rights of residents and no other person has made a complaint on such action, inaction, or decision; and
  - ii) the complaint does not require consent from a particular resident to investigate because the action, inaction, or decision concerns a number of residents (e.g., torn carpet that presents a tripping hazard).



Note: Such actions, inactions, or decisions include facility responses to natural disasters, evacuations, relocations, involuntary change of management, or other unusual events.

- f. Regardless of the source of the complaint, LTCOs are resident focused.
  - i) Regardless of the source of the complaint, the resident of, or applicant to, a long-term care facility is the LTCO's client. Individuals discharged from a long-term care facility or family members of or legal representatives of deceased residents may also be LTCO clients when the complaint relates to the resident's life in a long-term care facility.
  - ii) Regardless of the source of a complaint, an LTCO shall personally discuss the complaint with the resident, or, in the event the resident's capacity is not sufficient to have a discussion, the resident's representative, to:
    - A) determine the resident's perception of the complaint;
    - B) determine the resident's wishes with respect to resolution of the complaint;
    - C) advise the resident of his or her rights;
    - D) receive the resident's consent, verbal or written, before taking action on the resident's behalf; and
    - E) work with the resident in developing a plan of action.

Note: The LTCO should always attempt to speak with the resident even if the resident has a resident representative, to see if the resident is able to express his or her wishes. A resident representative's authority may not be in effect or may not be relevant to the issue at hand. Conversations with a resident, resident representative, or complainant about a complaint should be confidential and occur in a location that allows for confidentiality.

- iii) If the complaint relates to a nursing facility or assisted living regulatory violation, the LTCO shall inform the resident or complainant, or both, that the resident, resident representative, or LTCO may file a complaint with OHCQ. The LTCO shall provide the name of the complainant to OHCQ only with the complainant's consent.
- g. If, at any point during the complaint process, the resident expresses that he or she does not want the LTCO to take further action on a complaint involving the resident, the LTCO shall discontinue working on or investigating the complaint and:
  - i) attempt to determine why the resident refused or withdrew consent (considering factors such as past response of the facility to complaints, the resident's relationship with the staff, and the experience of this resident or other residents in the facility related to this type of complaint);
  - ii) inform the resident that he or she may contact the LTCO regarding the withdrawn complaint or other complaints in the future and provide a



- business card or brochure informing the resident how to contact the SLTCOP; and
- iii) follow up with resident on future visits to the facility.

The LTCO should determine, during subsequent visits to the facility, whether the type of complaint is recurring. If it is recurring, the LTCO shall determine whether the circumstances merit other strategies towards resolution that would not involve or disclose the identity of the resident who refused or withdrew consent (e.g., filing an ombudsman generated complaint).

- h. The LTCO shall advocate for a resident's wishes to the extent that the resident can express them, even if the resident has limited decision-making capacity. When a resident is unable to provide or refuse consent to the LTCO to work on a complaint directly involving the resident, the LTCO shall:
  - i) contact and seek consent from the resident representative, if possible, to determine if the representative wants the LTCO to represent the resident, unless the issue relates to the actions of the resident representative;
  - ii) if there is no resident representative, seek evidence to indicate what the resident would have desired and, when such evidence is available, work to effectuate that desire; or
  - iii) seek permission from the SLTCO to resolve a complaint about a resident or if there is no resident representative to act on the resident's behalf.
- i. An LTCO may provide information regarding a complaint to another agency in order for such agency to substantiate the facts for regulatory, protective services, law enforcement, or other purposes as long as the LTCO complies with these policies and procedures, as well as the Section 712(d) of the OAA and the implementing federal regulations at 45 CFR 1324. In other words, with one exception, an LTCO may only make a referral to other agencies if the LTCO has the consent of the resident or the resident representative. The one exception is that an LTCO can make a referral to an appropriate agency or agencies for regulatory oversight; protective services; access to administrative, legal, or other remedies; or law enforcement action without consent if the following all are true:
  - i) the resident is unable to communicate informed consent and the LTCO has reasonable cause to believe that the resident representative has taken an action, inaction, or decision that may adversely affect the health, safety, and welfare, or rights of the resident;
  - ii) the LTCO obtains permission from the SLTCO to disclose identifying information;
  - iii) the LTCO has no evidence indicating that the resident would not wish a referral to be made; and
  - iv) the LTCO has reasonable cause to believe that it is in the best interest to make the referral.



- j. When the complaint is received by the LTCO after the resident at issue has moved out of the facility or is deceased, the LTCO shall determine whether the complaint is potentially a concern for other residents of the facility. If the complaint is a continuing or a potential concern for other residents of the facility, the LTCO should seek to open a new case with another resident(s) as the complainant or create an ombudsman generated complaint in order to continue to resolve the complaint. If the complaint is not potentially a concern for other residents, the LTCO is not required to, open a case. If a case is not opened, the LTCO shall:
  - i) explain to the complainant the reasons for not opening a case, and
  - ii) notify the complainant of other agencies that may be of assistance in responding to the complaint.

### 300.3 Investigation Process

- a. The LTCO investigates a complaint in order to verify the complaint.
  - i) A complaint is verified when the LTCO determines, after completing an investigation, that the circumstances described in the complaint are substantiated or generally accurate.
  - ii) Because an LTCO works on behalf of residents, the LTCO gives the benefit of any doubt to the resident's perspective.
- b. When an investigation reveals that the complaint is not valid or cannot be validated, the LTCO shall:
  - i) explain to the resident, resident representative, and/or complainant that the LTCO was unable to validate the complaint, and
  - ii) indicate what additional steps, if any, the LTCO plans to take (for example, monitoring the issue during future visits to the facility).
- c. Complaints will be investigated or resolved in accordance with the following ranking, with (i) being the highest priority:
  - i) allegations of serious harm when intervention might make a difference (e.g. the resident is still in the facility or might return to the facility or other residents might be at risk);
  - ii) allegations of a crisis when a delay in intervention might lead to an irreversible situation;
  - iii) allegations of harm or repeated problems that may lead to harm;
  - iv) allegations of systemic harm or failure to act by an agency or individual;
  - v) complaints of harm that can be resolved by another agency only if the SLTCO advocates for intervention;
  - vi) others.



- d. An LTCO shall use his or her best efforts to initiate investigations of complaints in a timely manner to resolve the complaint to the satisfaction of the resident. A response is considered timely as indicated in Table II. A response is an initiation of contact with a complainant. It can be a phone call, an email, a message if the complainant is not available, or a visit.

**TABLE II  
COMPLAINT RESPONSE TIME**

<b>IF a complaint involves...</b>	<b>THEN the standard of promptness for LTCO response is...</b>
allegations of abuse or neglect that indicate that the resident is in an immediately life threatening situation,	within 2 working days.  (The SLTCOP does not serve as an emergency responder. The person taking the complaint and speaking with the complainant should immediately provide information to the complainant about 911, OHCQ, and APS.)
allegations abuse of neglect that indicate that the resident is NOT in an immediately life threatening situation,	within 3 working days.
an actual or threatened transfer or discharge from a facility,	whichever occurs first: within 5 working days or the last day for filing an appeal for a hearing with the Office on Administrative Hearings.
other types of complaints,	within 5 working days.

- i) If the LLTCOO will be unable to initiate investigations in a timely manner (e.g., due to a planned vacation or extended illness), the Ombudsman Manager or host agency, with the SLTCO, shall develop a plan for temporary coverage to meet the standard of promptness.
- ii) The LTCO may indicate to the complainant when the complainant may expect investigative efforts to begin.
- iii) The SLTCOP is not designed to serve as an emergency response system. Emergency situations should be referred to 911 for immediate response.
- iv) If the LLTCOO staff are out of the office (e.g., due to a required training conference or because the host agency office is closed) on the last day of a response period, then the response shall be within the next working day that the LLTCOO staff are in the office.



- d. The LLTCOO shall provide adequate telephone coverage to receive complaints promptly and confidentially during business hours.
- e. The LTCO shall seek the following information during the investigation of the complaint and document the findings in the LTCO case record:
  - i) what has occurred or is occurring;
  - ii) when it occurred and whether the occurrence is on-going;
  - iii) where it occurred;
  - iv) who was involved;
  - v) the effect of the occurrence on the resident(s);
  - vi) the reason for the occurrence; and
  - vii) what, if anything, the facility or other interested parties have done in response to the occurrence.
- f. To verify a complaint, the LTCO shall take one or more of the following steps, as appropriate to the nature of the complaint:
  - i) research relevant laws, rules, regulations, and policies;
  - ii) use personal observation if possible;
  - iii) interview the resident and complainant;
  - iv) interview staff, administration, other residents and families;
  - v) identify relevant agencies and interview and/or obtain information from their staff;
  - vi) consult with persons with expertise related to the matter being investigated; and
  - vii) examine relevant records.
- g. The LTCO is not required to independently verify a complaint in order to seek resolution on behalf of a resident. Resident perception is a sufficient basis on which an LTCO can seek resolution.
- h. Facility visits for purposes of complaint investigation can be unannounced.

#### 300.4 Access to Residents and Residents' Records

According to federal and state laws and regulations, LTCOs have access to long-term care facilities, residents, and appropriate records (regardless of format) and, upon request, copies of such records.

- a. The LTCO shall have immediate access to residents, including access to have a private, confidential discussion with any resident upon resident request.
- b. The LTCO has access to review and make copies of medical and social records of a resident with appropriate consent of the resident or resident representative. There are several reasons an LTCO might need to look at records. The most typical reasons are to determine:



- i) the facts in the matter under investigation as recorded in the facility's documentation;
  - ii) the breadth of a problem or a practice;
  - iii) the involvement of other persons in the matter under investigation; and
  - iv) if the occurrence is a pattern.
- c. When examination of a resident's record is necessary for complaint investigation, the LTCO shall:
  - i) encourage the resident to ask to review his or her own record; or
  - ii) with the consent of the resident or resident representative, review the resident's record; and
  - iii) document, on a form approved by the SLTCO, the consent, oral or written, for the LTCO to review a resident's record.
- d. An LTCO has access to a resident's record without obtaining consent if the following criteria are met:
  - i) the resident has no resident representative and the LTCO has reason to believe the information in the record is necessary to investigate a complaint pertinent to that resident AND the LTCO obtains approval from the SLTCO; or
  - ii) the resident representative refuses to consent and the LTCO has reasonable cause to believe that the representative is not acting in the best interest of the resident AND the LTCO obtains approval from the SLTCO.
- e. LTCOs have access to review and make copies of the administrative records, policies, and documents of a facility to which residents and the general public has access.
- f. LTCOs have access to and receive, on request, copies of all licensing and certification records maintained by OHCQ with respect to long-term care facilities.
- g. Facility visits by LTCOs are unannounced for both complaint investigation and non-complaint visits, unless a scheduled meeting with staff is necessary as part of the investigation process.

### 300.5 Plan of Action

- a. An LTCO shall determine a plan of action to resolve the complaint to the resident's satisfaction.
- b. The plan of action shall be mutually agreed upon by the resident and the LTCO. If the resident is unable to communicate his or her wishes, the LTCO may develop a plan with the resident representative or the complainant if consistent with the right and interests of the resident.



- c. The LTCO shall consider the following factors in developing the plan of action, as appropriate to the nature of the complaint:
  - i) the scope of the complaint;
  - ii) the history of the facility with respect to the resolution of other complaints;
  - iii) available remedies and resources for referral;
  - iv) the person best able to resolve the complaint;
  - v) the likelihood of retaliation against the resident or complainant; and
  - vi) the resolution desired by the resident or resident representative.
  
- d. One or more of the following may be an appropriate action to resolve a complaint:
  - i) explanation: e.g., The findings of the investigation do not indicate a need for a change or require LTCO intervention. The resident or complainant received an explanation that satisfied the initial problem;
  - ii) negotiation: e.g., the LTCO advocates on behalf of or with the resident or complainant in discussing the complaint with the appropriate facility staff or other relevant party to develop an agreement that resolves the complaint;
  - iii) participate in a care plan or family meetings;
  - iv) attend administrative hearings for discharge letters or other legal actions;
  - v) coordination with and/or referrals to appropriate agencies; or
  - vi) systemic advocacy.
  
- e. The LTCO will encourage the resident to address the concerns with staff. If the resident would like LTCO assistance, then the LTCO and the resident shall attempt to resolve an issue directly with the appropriate staff of the facility unless the LTCO and the resident determine that another strategy would be more advantageous to the resident. The LTCO will offer to advocate on the behalf of the resident as a third option with the consent of the resident.
  
- f. Consent of the resident, or when appropriate, the resident representative, is required to explain the results of the investigation to the complainant when the complainant is not the resident or resident representative. If the resident or resident representative is not capable of providing consent and the complainant continues to want to know about the plan of action, the LTCO shall consult with the SLTCO.
  
- g. An LTCO may seek to resolve resident complaints through systemic advocacy when:
  - i) a complaint cannot be resolved due to a current law, policy, or practice;
  - ii) many residents share a similar complaint or are affected by a policy or practice; or
  - iii) other strategies to reach resolution with particular facilities or agency staff have been unsuccessful.





## 300.6 Complaint Referrals

- a. An LTCO shall make a referral to another agency when the resident, or the resident representative if the resident is unable to give consent, gives permission and one or more of the following applies:
  - i) another agency has resources that may benefit the resident (e.g., Adult Protective Services can, in certain circumstances, assist in relocating the resident to another placement or investigating financial exploitation);
  - ii) the action to be taken in response to the complaint is outside of an LTCO's authority and/or expertise (e.g., Office of Health Care Quality can take enforcement actions);
  - iii) the LTCO needs additional assistance to achieve resolution of the complaint; or
  - iv) the resident requests a referral be made.

A referral is not necessarily a hand off. The LTCO may continue to investigate and attempt to resolve a complaint in conjunction with another agency if that is the most effective way to proceed.

- b. For every referral made by the LTCO to another agency, the LTCO shall include documentation of such referral in the LTCO case record.
- c. After a complaint has been referred, the LTCO shall make every effort to maintain the security and confidentiality of information related to the complaint, so that the information is not shared beyond the agency or agencies receiving the referral. For example, communications of resident specific information should not be shared over email or other electronic means unless adequate security measures have been taken to protect the security of the communications. An LTCO should not use a personal email account to send resident related information.
- d. When contemplating whether to make referrals to law enforcement, regulatory agencies, or other agencies, the LTCO shall consider the following:
  - i) An LTCO may encourage residents or complainants to directly contact the appropriate agency to file a complaint.
  - ii) An LTCO may offer information and assistance to residents or complainants in making a referral to another agency.
  - iii) Where an LTCO directly refers a complaint to other agencies, the LTCO shall:
    - A) submit the complaint in writing using an online complaint form, fax, or mail; or
    - B) submit the complaint by telephone and subsequently document the referral in the resident's case record.



- e. When the LTCO is invited by another agency to assist in or provide information regarding an investigation of a facility or complaint, LTCO participation is appropriate only under the following circumstances:
  - i) the LTCO is able to fulfill his or her role as a resident advocate;
  - ii) the LTCO does not attempt to regulate a facility or take actions that would lead one to assume that the LTCO is a regulator or in a role other than an ombudsman role;
  - iii) the LTCO explains to facility administration and residents that his or her role is to advocate for the health, safety, welfare, and rights of residents, not to enforce regulations or other agencies policies;
  - iv) assistance can be provided without violating any laws, regulations, or procedures; and
  - v) consent is granted by the resident, or resident representative when appropriate, if consent is required.
  
- f. For a resident in a long-term care facility who is requesting legal services, the LTCO has options for legal referrals depending on the need. Refer to Section 212 for guidance.

Note: If the local legal services to the elderly provider or the Maryland Legal Aid Bureau is unable to provide the requested legal service, the LTCO may refer the resident to other elder law services (information or resources), such as the Maryland Bar Association, Disability Rights Maryland, or Maryland Volunteer Lawyer Services, or direct them to the local AAA to obtain a list of elder lawyers who provide services in the area where the resident currently resides.

- g. After a complaint has been referred, the LTCO shall determine resident satisfaction with the outcome of actions taken by the agency that received the referral.

### 300.7 Follow-up on a Case or Complaint

- a. Prior to closing a case, the LTCO shall:
  - i) confirm that the resident (or representative or complainant, if appropriate) continues to be satisfied with the outcome;
  - ii) determine whether further actions on behalf of the resident should be taken by the SLTCOP; and
  - iii) If further action is necessary, keep the case record open, revise the resolution category and date if necessary, and continue to work towards resolution of the complaint.
  
- b. When LTCO activity on a complaint or case is complete, the complaint may be closed.



- c. A case is closed when all of the complaints related to that case have been closed. A case may have more than one complaint.

### 300.8 Closing a Complaint or Case

- a. The final disposition of a complaint and case shall occur when any of the following has been determined after investigation:
  - i) legislative or regulatory action is required to resolve the complaint to the resident's satisfaction;
  - ii) the problem identified in the complaint has not been corrected or the change was in no way to the satisfaction of the resident;
  - iii) the complaint was withdrawn at the request of the resident or complainant, or was discontinued by an LTCO;
  - iv) the complaint was referred to another agency, but the LTCO did not obtain a report or final outcome;
  - v) the complaint was referred to another agency but no action was taken by the referral agency;
  - vi) the complaint was referred to another agency but their findings did not substantiate the complaint;
  - vii) the investigation proved no action by an LTCO was needed or appropriate;
  - viii) the complaint was addressed in part to the satisfaction of the resident or complainant, but some problem(s) remained; or
  - ix) the complaint was addressed to the resident's satisfaction. If the resident cannot communicate his or her satisfaction, the LTCO may look to the resident's representative or to the complainant to determine the resolution if consistent with the rights and interests of the resident.

### 300.9 Abuse and Neglect Complaints

The specific additional guidelines in this section are provided for handling and reporting suspected abuse, neglect, or exploitation due to the serious nature of these complaints and to comply with laws governing the SLTCOP, including confidentiality requirements and reporting requirements. On receiving an abuse or neglect complaint, an LTCO shall use his or her best efforts to assist the resident. The LTCO shall follow complaint investigation steps as in other types of complaints.

Note: The primary role of the LTCO is to seek resolution to the resident's satisfaction, not to verify the suspected abuse or neglect.

- a. The LTCO shall report suspected abuse, financial exploitation, or neglect as follows:



**TABLE III  
WHEN TO REPORT SUSPECTED ABUSE, FINANCIAL EXPLOITATION, OR GROSS  
NEGLECT**

<b>IF the resident (or resident representative if the resident is unable to provide consent)...</b>	<b>THEN the LTCO shall...</b>
1. gives permission to an LTCO to make a report	inform the resident of the appropriate agencies as indicated in Table IV below, and facilitate or make the report to any entity that the resident asks the LTCO to notify.
2. i) does not give permission to an LTCO to make a report; and ii) the complainant is a long-term care service provider, facility staff person, or other mandatory reporter	inform the complainant of his or her duty to report to the appropriate agency.
3. i) does not give permission to an LTCO to make a report; and ii) the complainant is NOT a long-term care service provider, facility staff person, or other mandatory reporter	investigate: i) whether other residents have experienced similar circumstances, and ii) whether any other resident wishes the LTCO to take any action on his or her behalf; and iii) make repeated visits to the resident who alleged abused or neglect to encourage the resident to permit the LTCO to report the suspected abuse or neglect.
4. is unable to communicate his or her wishes and there is no resident representative,	i) encourage any other person who is aware of the suspected abuse to make a report, ii) report, if possible to do so, without revealing the identity of the person or the resident or complainant, and iii) open a case with the LTCO as the complainant and refer the matter as appropriate as long as the LTCO has no evidence indicating that the resident would not want a referral made, has reasonable cause to believe that disclosure would be in the best interest of the resident, and obtains approval from the SLTCO.



<p>5. i) <b>does not</b> make the complaint, and ii) the LTCO personally witnesses abuse of a resident,</p>	<p>i) when a resident is able to communicate informed consent or has a resident representative available to provide informed consent, follow the direction of the resident or resident representative; ii) when the resident is unable to communicate informed consent and has no resident representative available to provide informed consent, open a case with the LTCO as the complainant and refer the matter and disclose identifying information of the resident to the management of the facility in which the resident resides and/or to the appropriate agency or agencies for substantiation of abuse, financial exploitation, or neglect, if the following circumstances exist:     A. the LTCO has no evidence that the resident would not wish that the referral be made;     B. the LTCO has reasonable cause to believe that disclosure would be in the best interest of the resident; and     C. the LTCO obtains approval of the SLTCO.</p>
<p>6. requests the LTCO to not make a report of abuse personally witnessed by the LTCO,</p>	<p>investigate: i) whether other residents have experienced similar circumstances and ii) whether any other resident wishes the LTCO to take any action on his or her behalf; and iii) make repeated visits to the resident who was the victim of the abuse observed by the LTCO to encourage the resident to permit the LTCO to report the alleged abuse or neglect.</p>
<p>7. requests LTCO assistance in moving from the facility,</p>	<p>take steps to facilitate moving the resident to another facility, such as assisting with contact of the resident's representative, family members, and/or appropriate agencies. Note: The LTCO shall not physically transport the resident.</p>



**TABLE IV  
WHERE TO REPORT ABUSE**

<b>IF suspected abuse occurs and a report is to be filed and the abuse occurred in...</b>	<b>THEN the report is made to...</b>
a nursing facility	the Office of Health Care Quality, law enforcement, and in cases of financial exploitation also to Adult Protective Services
an assisted living facility	the Office of Health Care Quality, law enforcement, and Adult Protective Services

Note: All emergencies should be reported to "911."

- b. In addition to referrals made as set forth in Table IV, the LTCO may also refer, with the required consent or authorization, cases of suspected abuse, financial exploitation, or neglect as follows:
  - i) When the provider of services to the victim is enrolled as a Medicaid provider, to the Medicaid Fraud Control Unit,
  - ii) When the LTCO has reason to believe that criminal activity has occurred, to local law enforcement agencies,
  - iii) When the LTCO has reason to believe that actions of a licensed professional are an issue, to the appropriate professional licensing boards.

Note: LTCOs are not mandatory reporters.

- c. The LTCO shall follow-up on abuse complaints and continue to monitor:
  - i) the safety of the resident at issue;
  - ii) the involvement and/or investigation of other agencies;
  - iii) resident satisfaction with the outcome of actions taken in response to the suspected abuse, financial exploitation, or neglect; and
  - iv) any other avenue that would help resolve the issue.

### 300.10 Documentation of Complaint and Case Handling

- a. An LTCO shall document in the SLTCOP software system each complaint he or she handles as follows:
  - i) the LTCO activities for which the National Ombudsman Reporting System (NORS) requires documented;



- ii) complaint intake information, including:
  - A) complainant name and role, if known;
  - B) telephone number and/or email address of complainant, if known;
  - C) complaint category;
  - D) affected resident(s) name(s);
  - E) facility name; and
  - F) name of person taking complaint.
- iii) descriptions, as well as dates, of steps taken to investigate, resolve, follow-up, and close the complaint;
- iv) a plan of action for resolution of the complaint; and
- v) explanation of the resolution or other reason for closing the complaint.

Note: An LTCO should always document consent in a separate entry.

- b. An LTCO shall maintain complaint documentation in an organized manner that:
  - i) can be readily understood by another LTCO or the Office;
  - ii) clearly describes all LTCO activity on the complaint; and
  - iii) keeps any related records either attached to the case in the SLTCOP software system or in a separate, readily identifiable, physical case file.
- c. If related records are kept in a separate physical file, document that information in the SLTCOP's software system.

### **301. Information and Assistance**

#### **POLICY**

The SLTCOP shall provide information and assistance regarding long-term care and related issues as requested.

#### **PROCEDURES**

- a. The SLTCOP should attempt to respond timely to all requests for information and assistance, including the following:
  - i) consultation to individuals;
  - ii) consultation to long-term care providers; and
  - iii) consultation to other agencies, etc.



- b. The LLTCOO shall monitor the number of hours devoted to information and assistance and document in the SLTCOP software system as directed by the SLTCO.

### **302. Community Education and Outreach**

#### **POLICY**

The SLTCOP shall educate the community about long-term care, the SLTCOP, and related issues.

#### **PROCEDURES**

LLTCOOs shall monitor the number of hours devoted to education and outreach and document in the SLTCOP software system as directed by the SLTCO.

### **303. Education for Long-term Care Providers**

#### **POLICY**

The SLTCOP may provide in-service education to long-term care facility staff regarding resident rights, abuse reporting, and related issues.

#### **PROCEDURES**

LLTCOOs shall monitor the number of hours devoted to in-service education and document in the SLTCOP software system as direct by the SLTCO.

### **304. Non-complaint Visits**

#### **POLICY**

The SLTCOP shall have a regular presence in all long-term care facilities to provide information regarding the SLTCOP, to ensure resident access to an ombudsman, and to fulfill the mandate of the SLTCOP.

#### **PROCEDURES**

Non-complaint visits to facilities shall be unannounced. Timing of non-complaint visits shall be randomly staggered so that facilities have no basis to predict the timing of the visit.

- a. An LTCO should do some background research before conducting a non-complaint visit to help identify areas of focus, particularly if the facility is not





visited regularly. When possible, an LTCO should review the following information:

- i) LTCO notes from previous visits;
  - ii) OHCQ survey reports;
  - iii) the website of the facility;
  - iv) information on the Nursing Home Compare website or the Maryland Health Care Commission website;
  - v) recent complaints about the facility; and
  - vi) topics the LLTCOO would like addressed (e.g., Residents' Rights Month).
- b. On arrival at the facility, an LTCO should:
- i) sign in as an ombudsman;
  - ii) find out if there are any new residents;
  - iii) request resident council meeting minutes as appropriate; and
  - iv) wear an identification badge.
- c. During a non-complaint visit, an LTCO shall observe the condition of residents as well as:
- i) environmental conditions of the facility;
  - ii) staff-to-resident interactions;
  - iii) resident comfort;
  - iv) privacy;
  - v) staff response to call lights;
  - vi) personalized living space;
  - vii) evidence of Culture Change; and
  - viii) whether the facility has posted information about the SLTCOP so that it is readily visible to residents, families, and staff. (Depending on the facility floor plan, several posters may need to be posted to meet this requirement. The poster shall contain accurate contact information for the LLTCOO assigned to serve residents of that facility.)
- d. An LTCO shall document observations during or immediately subsequent to the non-complaint visit and maintain such documentation the SLTCOP software system.
- e. An LTCO should meet new residents and introduce them to the SLTCOP. This may include explaining how to contact an LTCO if needed and leaving information with the resident about the SLTCOP.
- f. During a non-complaint visit, an LTCO should also:
- i) spend time with residents who may not have capacity and observe how staff interact with them (e.g., do staff use their name, look them in the eye, touch and reassure, and converse with them);
  - ii) talk with the resident and family council president about pending issues, facility response to the council, and any assistance the council needs from an LTCO (e.g., a presentation to the council on resident rights);



- iii) observe meals to see if they match the menu, if assistance is being provided during meal service to those who need assistance, if substitute meal options are provided, and if residents are enjoying their food and dining experience;
- iv) observe activities and whether they match the activities calendar, whether they are appropriate for the participants, whether participants are engaged, what other residents are doing at the time, and if all residents were given the opportunity to join the activity; and
- v) get to know the staff who may be helpful in resolving problems and make sure the administrator has information about the SLTCOP;

Specific resident problems should only be discussed with staff if consent by the resident has been given and the location of the discussion can be private.

- g. An LTCO shall provide information regarding the SLTCOP during non-complaint visits.
  - i) The Office and the LLTCOO Manager ensures that LLTCOOs have an adequate supply of SLTCOP information. An LTCO will provide SLTCOP information to long-term care facilities, families, and residents.
  - ii) An LTCO shall wear a visible LTCO identification badge supplied by the host agency.
  - iii) An LTCO shall periodically encourage the long-term care provider to include the LLTCOO brochure in its admission packets to ensure that residents are aware of their right to access SLTCOP.
- h. An LTCO should visit long-term care facilities frequently.
  - i) LTCO presence in facilities should be as frequent as possible in order to ensure resident's access to an ombudsman.
  - ii) LTCO presence should be increased in facilities in which there is a history of serious or frequent complaints.
  - iii) The LLTCOO shall visit every nursing home in the service area quarterly, but best practice is monthly or more often as needed.
  - iv) The LLTCOO shall develop a plan to ensure adequate coverage of assisted living facilities. LLTCOO should attempt to visit every assisted living facility quarterly or more often as dictated by the needs of the residents residing in the facility.
  - v) The LLTCOO shall make every effort to increase the frequency of non-complaint visits in nursing facilities and assisted living facilities.
  - vi) A visit for the purpose of investigating a complaint may be made simultaneously with a non-complaint visit to maximize efficient use of time and resources.



### **305. Systemic Advocacy**

#### **POLICY**

The SLTCOP shall ensure that the interests of residents related to long-term care facilities and services, to the health, safety, and welfare of residents, and to resident rights are represented to governmental agencies, policy makers, and advocacy groups.

#### **PROCEDURES**

- a. Systemic advocacy activities include, but are not limited to:
  - i) educating advocacy groups, governmental agencies, and policy makers regarding the impact of laws, policies, or practices concerning long-term care residents;
  - ii) seeking modifications of laws, regulations, and other government policies and actions, pertaining to the rights and wellbeing of residents and providing information on a proposed law, regulation, or other public policy change related to long-term care;
  - iii) facilitating the ability of the public to comment on such laws, regulations, policies, and actions;
  - iv) working with task forces, coalitions, commissions, and councils to evaluate long-term care issues and to develop plans accordingly;
  - v) participating in public hearings relating to a long-term care issue;
  - vi) providing community education or information on a long-term care issue; and
  - vii) educating other aging services providers and agencies on a long-term care issue.
- b. An LTCO may seek to resolve resident complaints through systemic advocacy if the LTCO has the permission of the SLTCO and:
  - i) a complaint cannot be resolved due to a current law, policy, or practice;
  - ii) many residents share a similar complaint or are affected by a policy or practice; or
  - iii) other strategies to reach resolution with particular facilities or agency staff have been unsuccessful.
- c. The SLTCO shall:
  - i) determine the systemic advocacy activities to use by considering:
    - A) the potential impact of the activity, or activities, on residents;
    - B) the most appropriate and effective method of addressing the issue;
    - C) the potential impact of the activity on the SLTCOP; and



- D) the possibility of joint efforts by the host agency or residents in the activity.
- ii) inform the host agency and the LLTCOO of plans to engage in the systemic advocacy activity;
- iii) attempt to involve residents and families in the activity whenever possible;
- iv) link areas or advocacy groups with mutual concerns;
- v) coordinate advocacy activities within the SLTCOP;
- vi) develop advocacy strategies;
- vii) identify and attempt to meet resources and training needs related to issues advocacy; and
- viii) provide training and technical assistance to host agencies and others in the aging network regarding the SLTCOP's role in systemic advocacy.

### **306. Interagency Coordination**

#### **POLICY**

The SLTCOP coordinates with other agencies to improve conditions for residents of long-term care facilities and to make appropriate referrals.

#### **PROCEDURES**

- a. The SLTCOP shall develop relationships with other programs and agencies with resources, services, or interests that could benefit residents, including, but not limited to:
  - i) the Office of Health Care Quality;
  - ii) Adult Protective Services;
  - iii) protection and advocacy agencies (e.g., Disability Rights Maryland);
  - iv) State Health Insurance Program;
  - v) Maryland Access Point, the Aging and Disability Resource Center;
  - vi) community mental health programs;
  - vii) the Social Security Administration;
  - viii) Medicaid eligibility offices;
  - ix) legal service agencies;
  - x) Office of the Inspector General;
  - xi) Attorney General's Office;
  - xii) state legal assistance developer;
  - xiii) law enforcement agencies;
  - xiv) Medicaid Fraud Control Unit.;
  - xv) other state ombudsman programs; and
  - xvi) other agencies and organizations that may advocate for residents of long-term care facilities.



### 307. Resident and Family Councils

#### POLICY

The SLTCOP shall support the development of resident and family councils in long-term care facilities.

#### PROCEDURES

- a. developing active resident and family councils
  - i) The LLTCOO shall promote resident and family councils in each long-term care facility in the service area.
  - ii) When a nursing facility or assisted living facility does not have an active **resident council**, the LLTCOO shall offer assistance and encouragement to the residents and the facility in developing an active resident council.
  - iii) When a nursing facility or assisted living facility does not have an active **family council**, the LLTCOO shall offer assistance and encouragement to family members and the facility in developing an active family council.
  - iv) The SLTCO shall provide resources and technical assistance to LLTCOOs in their efforts to develop resident and family councils.
  
- b. LTCO involvement in council activities
  - i) An LTCO shall inform each resident and family council in the service area of:
    - A) the purpose of the SLTCOP;
    - B) its availability to assist resident and family councils, including offering appropriate resources;
    - C) the topics and issues the SLTCOP can present if requested; and
    - D) the rights of resident and family council members and what facilities are required to do to support them.
  
  - ii) An LTCO shall make his or her best effort to be present at resident and family council meetings to which the LTCO has been invited.

Note: Resident and family councils have the right to meet in the facility within a private space whenever possible. Facility staff or visitors may attend meetings only upon the council's invitation. Meeting dates should be posted in advance. Facility staff should also help promote the development and growth of these council meetings.



## **308. Volunteer Management**

### **POLICY**

The SLTCOP utilizes volunteers to maximize its resources to benefit residents.

### **PROCEDURES**

- a. LLTCOO role
  - i) When utilizing volunteers, an LLTCOO will develop a plan for recruitment, training, and use of volunteers in coordination with the SLTCO.
  - ii) Such plan shall be consistent with these policies and procedures, including training and certification requirements, set forth by the Office.
  - iii) If the LLTCOO is providing orientation training for the volunteers, the agenda for each orientation training must be submitted to the Office for approval a month before the training to ensure that it meets the certification and training requirements.
  
- b. SLTCO role
  - i) The SLTCO shall provide resources and technical assistance to assist each LLTCOO in developing and maintaining its volunteer component.
  - ii) The SLTCO, or the SLTCO Designee, shall provide the curriculum and supervision of training provided by LLTCOOs to volunteers.
  - iii) The SLTCO or LLTCOOs shall administer a written examination for volunteers who seek certification.
  - iv) The SLTCO will review the conflict of interest form completed by each volunteer candidate prior to designation.
  
- c. LTCO volunteer role

A volunteer who has met the designation requirements for the SLTCOP shall work with direct supervision by of an employed LTCO.

Note: Failure of the volunteer to follow the direction of the employed LTCO and SLTCO shall be grounds for revocation of designation as an ombudsman.

- d. Non-designated volunteer role

An LLTCOO and the Office may utilize volunteers, SCSEP participants, and interns to perform functions to benefit the SLTCOP. Such volunteers may perform activities as determined by the LLTCOO and the Office. If a volunteer, SCSEP participant, or intern is seeking certification then the process for certification and designation shall be followed.



### **309. Pre-Survey Information**

#### **POLICY**

The SLTCOP provides appropriate information to the Office of Health Care Quality (OHCQ) to assist OHCQ in planning surveys for nursing homes and assisted living facilities. Information shared with OHCQ must be of a non-confidential nature unless the resident, or resident representative when appropriate, has granted permission.

#### **PROCEDURES**

- a. SLTCO role
  - i) The SLTCO shall exercise every prudent means of protecting the confidentiality of the survey schedule and shall not disclose the scheduled date of any survey to anyone outside of the SLTCOP.
  - ii) The SLTCO shall immediately notify OHCQ of any known allegations that any individual associated with the SLTCOP has in any way given prior notification to a facility of a survey date.
  
- b. SLTCOP role
  - i) All SLTCOP staff shall provide pre-survey information in a timely manner to OHCQ when the surveyors call prior to the survey or during the survey process.
  - ii) All SLTCOP staff shall exercise every prudent means of protecting the confidentiality of the survey schedule and shall not disclose the scheduled date of any survey to anyone outside of the LLTCOO for the service area in which the facility is located.
  - iii) All SLTCOP staff shall exercise caution, especially during telephone calls, facility visits, and conversations that might lead to unintentionally sharing schedule related information.
  
- c. Protocol for providing pre-survey information to the LLTCOO
  - i) The Office shall provide information about scheduled surveys only to the Ombudsman Manager and those LTCOs who need the survey schedule.
  - ii) Information about survey schedules shall:
    - A) not be taken into facilities;
    - B) be filed, in a locked drawer or cabinet, and not exposed on desktops;
    - C) be removed from view when unauthorized persons visit;
    - D) be delivered to authorized persons in person or in a protected manner, and



- E) not be stored in labeled folders on desktops, work tables, bookcases, or unsecured files.
  - iii) The LLTCOO may share additional, appropriate information with OHCQ surveyors as requested.
  - iv) LTCOs may participate in exit conferences at the end of OHCQ surveys.
- d. Violations of confidentiality  
Any Representative of the Office who violates the confidentiality of the survey process may be subject to immediate revocation of designation and possible legal action.