



Wyoming
Department
of Health



Wyoming Long-term Care Ombudsman Program

Policies & Procedures
Manual

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Introduction

Authority:

The Wyoming Long-term Care Ombudsman Program (LTCOP) is mandated by both State (W.S.9-2-1301) and Federal (Older Americans Act, Title VII, Chapter 2) law. The State of Wyoming, Department of Health is the agency with oversight responsibility for the Long-term Care Ombudsman Program. The Long-term Care Ombudsman Program is a program overseen by the Administrator of the Office of Privacy, Security and Contracts of the Wyoming Department of Health.

Purpose:

The purpose of the Long-term Care Ombudsman Program is to act on behalf of recipients of long-term care services, in Wyoming, to advocate for adequacy of care received, quality of life, and preserve recipient's independence, dignity, rights, autonomy, and freedom of choice.

Applicability:

These policies and procedures govern the actions of the State of Wyoming Office of the Long-term Care Ombudsman, Regional Ombudsman, designated entities, and others involved in the provision of the Long-term Care Ombudsman Program.

Definitions

Abuse. Pursuant to W.S. § 35-20-102, the intentional or reckless infliction, by the vulnerable adult's caregiver, family member or other individual of: injury; unreasonable confinement which threatens the welfare and well-being of a vulnerable adult; cruel punishment with resulting physical or emotional harm or pain to a vulnerable adult; photographing vulnerable adults in violation of W.S. 6-4-304(b); sexual abuse; intimidation; or exploitation.

Adult Protective Services. The unit within the Wyoming Department of Family Services responsible to assure the safety and well-being of vulnerable adults and to articulate penalties for abuse, neglect, abandonment and exploitation of a vulnerable adult pursuant to W.S. § 6-2-507.

Advocacy. The ombudsman works on behalf of a resident in resolving complaints that have been substantiated and need specific strategies developed to alleviate the problem that was identified. Advocacy could take the form of negotiating with an administrator or other staff; filing a complaint on behalf of the resident; working with a resident council; or getting a group of residents who have similar concerns together and working to resolve the problem as a group.

Assisted Living Facility. A non-institutional dwelling operated by a person, firm, or corporation engaged in providing limited nursing care, personal care and boarding home care, but not habilitative care, for persons not related to the owner of the facility.

Capacity to Consent. The ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including, provisions for health or mental health care, food, shelter, clothing, safety or financial affairs. This determination may be based on assessment or investigative findings, observation or medical or mental health evaluations.

Case. One or more complaints brought to, or initiated by, the ombudsman in which the ombudsman is actively involved and/or which the ombudsman investigate and works to resolve. The number of cases is equivalent to the number of complainants.

Client. An adult, aged 18 and older, receiving long-term care services in Wyoming.

Code of Ethics. A guiding set of principles, rules of conduct, and moral values under which an Ombudsman performs services for LTCOP clients.

Complaint. A concern brought to, or initiated by, the ombudsman for investigation and action on behalf of one or more residents and relating to the health, safety, welfare, or rights of a resident. One or more complaints constitute a case. You cannot have a case without a complaint.

Conflict of Interest. Any interest that is, or may be, in conflict with the purpose, interests and concerns of the LTCOP.

Conservator. A person appointed by a court of proper jurisdiction to have the custody and control of the property of a vulnerable adult.

Consultation. Providing information and assistance to an individual or a facility. It does not involve investigating or working to resolve complaints.

Department. The Wyoming Department of Health.

Facility Coverage. Visits to all long-term care facilities, assisted living facilities, and board and care homes for the purpose of monitoring and assessing the general condition of residents and/or the physical condition of the facility. Facility visits must be completed for all facilities at least quarterly.

Family Council. A self-led, self-determining group of families and friends of nursing home residents who work to improve the quality of care and quality of life of the facility's residents and provide families a voice in decision making that affects them and their loved ones.

Guardian. A person who has qualified as a guardian of a minor or incompetent person pursuant to an appointment by the court to exercise the powers granted by the court. The term includes a plenary, limited, emergency and standby guardian, but does not include a guardian ad litem.

Immediate Family. A person such as a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, stepsibling, sibling-in-law, grandparent, step-grandparent, grandparent-in-law, grandchild, a household member, or a relative with whom there is a close personal or significant financial relationship.

Level of Care. Level of services a client may need such as in home, intermediate, or institutional.

Long-term Care Facility. Any skilled nursing facility, assisted living facility, adult day care facility, boarding home, home health agency, hospice, hospital swing bed, nursing care facility, personal care agency or any living arrangement in the community through which room and personal care services are provided for residents. This includes any program licensed by the Wyoming Department of Health as a long-term care facility.

National Ombudsman Reporting System (NORS). A required method of reporting the compilation of data from the state Ombudsman program on the types of cases, complaints, and consultations completed. Data for this report is input and maintained in OmbudsManager.

Office of Healthcare Licensing and Surveys (OHLS). The regulatory agency, which assures that patients and residents receive quality care from healthcare facilities required to be licensed by the State of Wyoming. OHLS promotes health and safety through on-site inspections and complaint investigations.

OmbudsManager. The data collection and management system, where all Ombudsman cases, complaints, activities, staff, and facility information are stored for every Ombudsman throughout the state.

Provider Agency. An organization that provides services outlined in an approved grant funded by the Division.

Resident Council. An independent, organized group of residents living in a long-term care facility who meets on a regular basis to discuss concerns, develop suggestions on improving services, and plan social activities.

Resident Representative. An individual chosen by the resident to act on their behalf in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications.

Resident rights. The basic human rights that residents of long-term care facilities are entitled to regardless of residency in such facilities.

Senior Citizen. Any person 60 years of age or older.

Vulnerable Adult. Any person eighteen (18) years of age or older who is unable to manage and take care of himself or his money, assets or property without assistance as a result of advanced age or physical or mental disability.

Long-term Care Ombudsman Program

Program Structure

Office of the State Long-term Care Ombudsman (SLTCO)

There presently exists, pursuant to the Older Americans Act, the office of the long-term care ombudsman. The office is under the supervision of the Department through its director or as otherwise directed by the Department. (W.S. 9-2-1303) The Long-term Care Ombudsman Program shall address problems relating to long-term care and fulfill State and Federal program requirements, pursuant to W.S. § 9-2-1301 and the Older Americans Act.

State Long-term Care Ombudsman

The SLTCO works to ensure that recipients of long-term care services in Wyoming have access to the services that the Wyoming Long-term Care Ombudsman provides by carrying out the functions and responsibilities stated in the Older Americans Act, as amended in 2016 and W.S. § 9-2-1301, either directly or through Representatives of the Office.

Regional Ombudsman

Regional ombudsman are located throughout the state of Wyoming serving multiple counties in each assigned geographic region, as designated by the SLTCO.

Contract for Ombudsman Services

The Department of Health contracts directly with a provider agency, for regional ombudsman to be employed and serve each region for the entire State of Wyoming. The provider agency shall not have personnel policies that prohibit a regional ombudsman from performing required duties of the program.

Role and Responsibility in Administering the Program

The Wyoming Department of Health shall establish and operate an Office of the State Long-Term Care Ombudsman in order to carry out the Long-Term Care Ombudsman Program.

State Agency Responsibilities

The State Agency shall:

- Not have personnel policies or practices which prohibit the Ombudsman from performing the functions and responsibilities of the Ombudsman as set forth in the OAA, as amended in 2016;
- Employ a State Long-Term Care Ombudsman to head the Office and serve in a full time capacity;
- Ensure that the SLTCO employed, meets minimum qualifications, which shall include expertise in the following:
 - Long-term care services and supports or other direct services for older persons or individuals with disabilities;
 - Consumer-oriented public policy advocacy;
 - Leadership and program management skills; and
 - Negotiation and problem resolution skills.
- Provide the State Long-term Care Ombudsman with supervisory oversight that assists in setting goals each year. The SLTCO will be supervised by the WDH Deputy Director.
- Provide funding for a statewide LTCOP in accordance with the funding allocated for the program by the Older Americans Act;
- Provide the provider agency with fiscal invoicing and programmatic reporting documents, to be submitted by the provider agency to the SLTCO on a monthly and quarterly basis;
- Ensure the SLTCO performs desk audits on a regular basis, at which time the provider agency will be required to provide randomly selected documentation to support expenditures;
- Provide legal representation for the Office of the SLTCO through the Office of the Attorney General, that is adequate, available, and has competencies relevant to the legal needs of the Office;
- Shall ensure that any review of files, records or other information maintained by the Ombudsman program is consistent with the disclosure limitations set forth in §§ 1327.11e(3) and 1327.13(e).
- Shall integrate the goals and objectives of the Office into the State plan and coordinate the goals and objectives of the Office with those of other programs established under Title VII of the Act and other State elder rights, disability rights, and elder justice programs to promote collaboration and diminish duplicative efforts;
- Shall ensure that mechanisms in place to prohibit interference, retaliation, and reprisals:
 - By a long-term care facility, other entity, or individual with respect to any resident, employee, or other person for filing a complaint with, providing information to, or cooperating with any Representative of the Office;

- By a long-term care facility, other entity or individual against the Ombudsman or representatives of the Office for fulfillment of the functions, responsibilities, or duties expected of the Office; and
- Provide for appropriate sanctions with respect to interference, retaliation and reprisals.
- Require the Office to:
 - Develop and provide final approval of an annual report;
 - Analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines appropriate;
 - Provide such information, as the Office determines to be necessary, to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of long-term care recipients in Wyoming;
 - Establish procedures for the training of the representatives of the Office;
 - Coordinate Ombudsman program services with entities with responsibilities relevant to the health, safety, welfare, and rights of residents of long-term care facilities.
- Administer and execute contracts between the State Agency and the designated provider agency.

State Long-term Care Ombudsman Responsibilities

The SLTCO is responsible for overseeing the statewide Long-term Care Ombudsman Program. This includes, but is not limited to the following:

- Direct and administer the functions and budget of the Office of the SLTCO in accordance with the Federal Older Americans Act and Wyoming statutes, as applicable;
- Develop and maintain relationships with public and private stakeholders;
- Allocate resources as appropriate;
- Educate consumers and their caregivers, facilities, facility staff, and the general public;
- Certify Regional Ombudsman throughout Wyoming and assign geographic regions to each Ombudsman;
- Train, supervise, and provide programmatic direction and oversight to all Regional Ombudsman;
- Each year, the SLTCO shall develop a systems advocacy agenda;
- Analyze, comment on and monitor the Federal, State, and local laws, regulations, and other policies and actions that pertain to the health, safety, and welfare of recipients of long-term care services in Wyoming;
- Advocate for systems change, consumer protection, increased public awareness;
- Act as the official spokesperson for the Office of the SLTCO in accordance with the Federal and State laws and statutes, as applicable;
- Apprise the WDH Deputy Director of all current issues relevant to the Office;

- Make policy recommendations that are in the best interest of Wyoming’s long-term care recipients;
- Provide technical assistance, consultation, training, and resources to the Regional LTCO;
- Monitor and regularly evaluate the performance of all Regional LTCO;
- Set policies, procedures, and standards for the LTCOP;
- Adhere to the Ombudsman Code of Ethics;
- Maintain the LTCOP records and data;
- Carry out such other activities as the Assistant Secretary determines to be appropriate;
- Independent preparation and submission of the annual Older Americans Act Performance System (OAAPS); and
- Prepare an annual report of the Long-term Care Ombudsman Program, detailing the completed activities, goals, mission, data, and priorities of the Program. This report shall be made available to the following:
 - The public;
 - The Governor of the State of Wyoming;
 - The Wyoming Legislature;
 - The Office of Healthcare Licensing and Surveys;
 - The Director of the Department of Health; and
 - Long-term Care Facilities in Wyoming, by request.

Provider Agency Responsibilities

- Carry out the duties set forth in the contract for the Long-term Care Ombudsman Program;
- Serve as the employer for the Regional LTCO;
- Shall not have personnel policies or practices which prohibit the LTCO from performing functions and responsibilities as set forth in the contract;
- Work alongside the SLTCO to interview and hire Regional LTCO;
- Maintain office space, work equipment, and travel reimbursement for Regional LTCO;
- Prohibit inappropriate access and/or disclosure of the identity of any complainant or resident with respect to LTCOP actions, details, files, or records;
- Administer the local LTCOP in accordance with all applicable Federal and State laws, regulations, and policies;
- Provide staff support as needed for the operation of the LTCOP (i.e. fiscal management, clerical, and telephone coverage); and
- Provide professional development opportunities for LTCOP staff.

Regional Long-term Care Ombudsman Responsibilities

Each Regional LTCO is responsible for monitoring and assisting with all aspects of the LTCOP in their assigned region, this includes, but is not limited to, the following:

- Identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

- Provide LTCO services to protect the health, safety, welfare, and rights of long-term care service recipients in accordance with the provisions of the Federal and State of Wyoming laws governing the LTCOP;
- Document all activities and case work in OmbudsManager;
- Assure data is provided to the Office of the SLTCO in the format required by the 8th business day of each month;
- Adhere to the Ombudsman Code of Ethics;
- Inform and educate long-term care service recipients of their rights and provide advocacy for those rights;
- Provide training to staff of long-term care organizations;
- Assist with the development of family and resident councils;
- Make appropriate referrals to agencies or entities that can and will assist recipients to meet their needs;
- Represent the interests of residents before government agencies and assure that individual residents have access to, and pursue administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents;
- Ensure that long-term care recipients have regular, timely access to representatives of the program and timely responses to inquiries, customarily within 72 hours; and
- Carry out other activities, as deemed appropriate and assigned by the SLTCO.

Supervision of Regional Long-term Care Ombudsman

The Regional Long-term Care Ombudsman (RLTCO) are under the supervision of both the Executive Director of the Provider Agency, as well as the State Long-term Care Ombudsman. Within the Provider Agency, the Lead Ombudsman is the direct supervisor of the Regional Long-term Care Ombudsman. If an issue arises in which there is conflict between a RLTCO and the Lead RLTCO, then the RLTCO shall contact the Executive Director. Oftentimes, an issue that is programmatic will contain portions that are related to personnel as well, in these instances, the SLTCO and the Executive Director or Lead RLTCO shall work together in resolving the issue.

Please refer to the lists below for what types of issues and/or topics will be addressed by either the ED or the SLTCO.

Contact your State Long-term Care Ombudsman for programmatic issues relating to the following:

- Visitation to facilities and/or clients;
- Consultation on clients, cases, or complaints;
- Documentation;
- Maintenance of records;
- OmbudsManager;
- Ombudsman Certification;
- Conduct in the field; and
- Long-term Care Ombudsman Program specific policy and procedure.

Contact your Lead Ombudsman, first, then your Executive Director for personnel issues relating to the following:

- Leave, time off, holidays;
- Work schedules;
- Travel reimbursements;
- Wages and/or compensation;
- Conduct within the Agency;
- Disciplinary policy; and
- Provider Agency specific policy or procedure.

Designation of Ombudsman Program

In carrying out the duties of the Long-term Care Ombudsman Program, the State shall establish and operate an Office of the State Long-term Care Ombudsman; and may designate an entity as a Local Ombudsman service provider, pursuant to OAA-307(a)(10), 705(a)(5), 712(a)(4-5); WS § 9-2-1301 through 9-2-1309.

Designation of Ombudsman Provider Agency

The State agency may establish and operate the Office and carry out the program directly, or by contract with a public agency or private nonprofit organization.

Criteria for Designation as a Provider Agency

To be eligible for designation by the SLTCO as a provider agency, an entity must:

- Be a public or nonprofit entity;
- Not be an agency or organization responsible for licensing or certifying long-term care facility services;
- Not be an association or affiliate of an association of providers of long-term care facility services;
- Have no financial interest in a long-term care facility;
- Demonstrate the capability to carry out the responsibilities required in the grant application proposal;
- Have remedied all conflicts of interest; and
- Meet all contractual requirements of the WDH.

De-designation of Ombudsman Provider Agency

The State Ombudsman may de-designate an entity as a provider agency.

Criteria for De-designation

The SLTCO may refuse to designate or may de-designate an entity as a provider agency based upon one or more of the following:

- Failure to continue to meet the criteria for designation;
- Existence of an unremedied conflict of interest;
- Deliberate failure to disclose any conflict of interest;
- Violation of LTCO confidentiality requirements by any person employed by, supervised by, or otherwise acting as an agent of the provider agency;
- Failure to provide adequate LTCO services;
- Failure to fill a vacant local Ombudsman position within a reasonable time;
- Failure to use funds designated for the LTCOP as specified in the contract and corresponding attachments;
- Failure to adhere to the terms of the contract for the provision of Ombudsman services;
- Failure to adhere to applicable State and Federal laws, regulations, and policies;

Process for De-designation of a Provider Agency

The process for de-designation of a provider agency shall be as follows:

- The SLTCO shall send written, dated notice of the intent to de-designate the provider agency;
- The written notice shall include reasoning for de-designation;
- The provider agency shall provide continued services during the process;
- The provider agency shall respond in writing to the notice within thirty (30) calendar days, outlining a plan to come into compliance; and
- If, after the thirty (30) day period, the provider agency does not come into compliance with the notice, WDH may terminate the portion of the contract between the provider agency and WDH which provides for Ombudsman services.

Appeal of De-designation by the Provider Agency

The provider agency may file an appeal with the Deputy Director to be heard regarding any de-designation. This appeal shall be submitted in writing to the Deputy Director within 10 working days of the receipt of the initial written notice. The Deputy Director shall respond to such appeal within 10 working days of the receipt of the appeal.

Certification of Regional Long-term Care Ombudsman

The SLTCO certifies individuals as Regional Ombudsman to participate in the Long-term Care Ombudsman Program and to represent the Office of the SLTCO, pursuant to OAA – 712(a)(5)(C) and W.S. § 9-2-1301 through 9-2-1309.

Criteria for Certification as a Regional Long-term Care Ombudsman

To be certified as a Regional Long-term Care Ombudsman, an individual must meet the following minimum qualifications:

- Be 18 years of age or older;
- B.S./B.A. degree in Social work or related field or a minimum 3 years of experiences working in human or social services;
- Have been hired on as an employee by the provider agency;
- Pass a criminal background check;
- Pass a Wyoming DFS central registry check;
- Be free of unremedied conflicts of interest;
- Have the ability to comply with the Ombudsman Code of Ethics;
- Comply with all applicable Federal and State laws, regulations, and policies and procedures; and
- Successfully complete the 36 hour certification training requirements set forth by the Administration for Community Living, stated in the *Initial Certification Training Curriculum For LTCOP* manual. The training will consist of up to 7 hours of independent study, at least 10 hours of shadowing and 19 hours in a classroom style training.

Continuation of Certification as Regional LTCO

In order to continue to be a Certified Regional LTCO, an individual must:

- Complete at least 18 contact hours of related continuing education each year based on hire date;
- Satisfactorily fulfill the LTCO responsibilities;
- After any absence of one year or more from the LTCOP the LTCO must again complete the required certified Ombudsman training.

Decertification or Refusal to Certify a Regional LTCO

A Regional LTCO shall be decertified or be refused certification if s/he fails to meet the requirements of the position. The SLTCO shall have sole and final decision of decertification of an ombudsman or the refusal to certify an individual. A Regional Ombudsman shall be decertified or be refused certification for the following reasons, including, but not limited to:

- Leaving the employment of the designated provider agency;
- Failure to remedy a conflict of interest;
- Failure to disclose a conflict of interest;
- Violation of the confidentiality requirements set forth in this manual;
- Falsification of records;

- Failure to follow the direction of the SLTCO and provider agency regarding policies and procedures;
- Failure to act in accordance with Federal and State laws, regulations, and policies;
- Violation of the Ombudsman Code of Ethics; or
- Failure to meet the terms of a corrective action plan.

Volunteer Long-Term Care Ombudsman Program

Qualifications

Volunteer ombudsman shall be supervised by the State Long-Term Care Ombudsman (SLTCO) and work under the instruction of both the SLTCO and the Regional Long-Term Care Ombudsman (RLTCO) for the region.

A Volunteer Ombudsman shall meet the following qualifications:

- Must be at least 18 years of age;
- Have an interest in advocating for residents of nursing homes;
- Agree to and pass a criminal background check and central registry screen;
- Be free from conflicts of interest that cannot be resolved or remedied;
- Have good reading, writing, and interpersonal skills;
- Comply with all state and federal laws, rules, and regulations that govern the program to include LTCOP policies and procedures;
- Complete all required program training, per the direction of the SLTCO;
- Have reliable transportation to get to facility visits and required in-person trainings; and
- Commit to conducting facility visits 2-4 hours per visit, for the length of at least 1 year.

Volunteer Ombudsman Responsibilities

Volunteer Ombudsman shall be responsible for the following:

- Visit the assigned facility on a regular but unannounced schedule, for at least 2-4 hours;
- Visit new and existing residents and educate them about the program;
- Visit, observe, listen to, and interact with residents living in the assigned facility;
- Take part in all required trainings, to include: initial orientation training and continuing education training provided by the SLTCO;
- Establish a good working rapport with the facility administrator and staff in order to work toward the benefit of the residents;
- Maintain the confidentiality of program information according to the VOP Confidentiality Agreement and program confidentiality policies;
- Report problems or issues to a RLTCO or the SLTCO, as soon as practicable;
- Conduct facility visits according to the provided 'VOP Monthly Report';
- Support, empower, and advocate for residents according to their stated goals and consent;
- Attend resident and/or family council meetings, as requested or invited by residents or families;
- Follow-up on resident concerns raised during previous visits;
- Refer all resident complaints to the RLTCO serving that region;
- Complete the 'VOP Monthly Report' and submit the completed form to the SLTCO on a monthly basis;

Volunteer Ombudsman Recruitment, Selection, and Training Process

Individuals interested in the Volunteer Program who have contacted the SLTCO and had an overview of the program will be directed to the Regional Ombudsman. They will then go through the following process:

1. The prospective volunteer, after signing a confidentiality statement, will shadow a local Regional Ombudsman on a Facility visit;
2. The volunteer may then complete a volunteer ombudsman application and submit it for review to the SLTCO;
3. The SLTCO reviews the application and chooses to interview the applicant, or declines to interview the applicant;
4. The applicant is then sent a denial letter or an interview is scheduled with the applicant;
5. The interview with the potential volunteer is conducted (in-person or via phone);
6. If the SLTCO and interview team choose to accept the applicant as a volunteer, a letter of congratulations is sent to the applicant. If the SLTCO and interview team choose to deny the applicant as a volunteer, a letter of denial is sent to the applicant;
7. If accepted the applicant is then directed to the NORC training modules, pre-orientation reading, and invited to the next scheduled Volunteer Ombudsman Program (VOP) orientation training with the SLTCO;
8. Applicant completes and signs all necessary forms at this orientation training as stated in the Certification of Regional Long-term Care Ombudsman section;
9. These forms include the volunteer agreement and the conflict of interest form;
10. When training is complete the applicant is sent fingerprint cards and central registry form, along with an instructive letter, for completion;
11. Upon passing all background checks, the new volunteer will receive a designation certificate, their facility assignment, the RLTCO serving their region, and information to begin their facility orientation with the RLTCO.

Background Screening Policy

All individuals serving as a volunteer long-term care ombudsman shall complete and pass a background check. A background check means a criminal background check through the Wyoming Division of Criminal Investigation (DCI), the Federal Bureau of Investigation (FBI), and the Wyoming Department of Family Services (DFS) Wyoming Central Abuse and Neglect Registry. Individuals who do not pass the background check, may not be certified as volunteer ombudsman. Once the state long-term care ombudsman receives confirmation that all three have been successfully passed, then a volunteer may begin visiting their assigned facility independently, as long as all necessary training is complete.

Documentation of a successful central registry and OIG exclusion database screen shall be kept in the volunteer's file with the state long-term care ombudsman.

A background check must show that the potential volunteer has not been convicted, plead guilty, no contest to, or does not have a pending deferred prosecution for:

- Any offense against the person, including:
 - Homicide, kidnapping, sexual assault, robbery and blackmail, assault and battery, and similar laws of any other state or the United States relating to these crimes.
- Any offense against property, including:
 - Arson and related offenses, property destruction and defacement, burglary and criminal intrusion, larceny and related offenses, computer crimes, fraud, check fraud, credit card fraud, theft of identity, and similar laws of any other state or the United States relating to these crimes.
- Any offense against morals, decency and family, including:
 - Bigamy, incest, abandoning or endangering children, violation of an order of protection, and similar laws of any other state or the United States relating to these crimes.

Facility Orientation for Volunteer

The new volunteer ombudsman will complete a facility orientation prior to conducting the facility independently. Facility orientation will be led by the RLTCO in the area or the SLTCO. The orientation will be guided by the ‘VOP Monthly Report Form’.

Once the facility orientation is complete, signed off on by the RLTCO or SLTCO, and the new volunteer. The new volunteer is now able to begin their facility visits independently.

Materials to be Distributed by Volunteers

Volunteers will be provided with program and informational materials to distribute during their facility visits. These items include, but are not limited to: volunteer business cards, volunteer ombudsman posters, new resident packets, general LTCOP brochures, nursing home resident rights brochures, and nursing home transfer, discharge, room change brochures.

Annual Evaluation of Volunteer Ombudsman

Each year during each volunteer’s anniversary month, the SLTCO, with input from the area RLTCO, will complete an evaluation of the volunteer. If all is going well and there are no concerns, a renewal of the volunteer’s designation as an ombudsman will be completed. The SLTCO will mail a certificate of designation for the next year to the volunteer ombudsman.

Suspension

If the SLTCO, in consultation with the RLTCO, determines that there are sufficient concerns regarding the performance of the volunteer ombudsman, a suspension may be issued in order to allow time for a full investigation of the concerns.

If a suspension is necessary, the SLTCO shall follow the proceeding steps:

- Notify the volunteer, in writing, of the suspension, the reason for the suspension, and details of when the suspension may be lifted;
- Communicate with the volunteer’s assigned facility that the suspension is in place and instruct the facility to remove the volunteer ombudsman poster and volunteer ombudsman business cards from resident’s access;

- All copies of these written notices will be put in the volunteer file; and
- After the completion of the investigation, the volunteer can either be reinstated as a volunteer ombudsman, kept on suspension pending completion of disciplinary action, or dismissed.

Resignation

The volunteer ombudsman shall notify the SLTCO and/or RLTCO of the intent to resign. It is requested that the volunteer provide a 2 week notice, minimum. All program items and items identifying the person as a volunteer ombudsman, including: the training manual, certification letters, name badge, business cards, volunteer poster(s), and any notes regarding the facility or residents.

The SLTCO shall complete the following:

- Send written acknowledgement of the volunteer's resignation and specifying the end date, to the volunteer, copy to file;
- Arrange for the return of program and volunteer materials, specified above;
- Send written notice to the facility in which the volunteer is assigned. This letter shall also request that the facility remove any materials identifying this person as a volunteer for the program.

Dismissal, Revocation of Volunteer Ombudsman Certification

If a volunteer has their certification revoked he/she is automatically dismissed as a volunteer.

If the SLTCO, in consultation with the area RLTCO, determines that the volunteer ombudsman has demonstrated behavior that constitutes dismissal, the SLTCO shall:

- Notify the volunteer ombudsman, in writing, of the dismissal, the reason for dismissal, and the revocation of the certification;
- Notify the volunteer that they must return all program materials including any notes on the facility, residents, complaints, or complainants;
- Written notification to the assigned facility communicating the dismissal of the volunteer and revocation of certification. This notice shall ask that the facility remove all documents identifying the volunteer as an ombudsman;
- All written notices shall be kept in the volunteer file.

Conflict of Interest

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

Definition of a 'Conflict of Interest'

A conflict of interest exists in the LTCOP when other interests intrude upon, interfere with, or threaten to negate the ability of the Ombudsman to advocate without compromise on behalf of long-term care recipients in Wyoming. SLTCO, Regional LTCO, Volunteer Ombudsman and/or provider agencies shall have no conflict (unremedied) of interest which would interfere with performing the function of the position, to include:

- Direct involvement in the licensing or certification of a long-term care facility or a provider of a long-term care service;
- Facility ownership or investment interest, represented by equity, debt, or other financial relationships in a long-term care facility;
- Employment by, or participation in the management of, a long-term care facility for no less than the duration of one (1) years' time;
- Receiving, or having the right to receive, directly or indirectly, compensation in cash or in-kind under a compensation arrangement with an owner or operator of a long-term care service;

Organizational Conflicts

Identification of organizational conflicts for the Office of the SLTCO and the Provider Agency. In identifying conflicts of interests pursuant to section 712(f) of the Act, the State agency shall consider the organizational conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office in an organization that:

- Is responsible to, or reports to, any agency that has an ownership or investment interest in a long-term care facility or a long-term care service;
- Provides long-term care services, including the provision of personnel for long-term care facilities or the operation of programs;
- Operates programs with responsibilities conflicting with LTCOP responsibilities. Examples of such include developing and carrying out care plans or serving as guardian over long-term care recipients or residents;
- Has governing board members with ownership, investment or employment interest in long-term care facilities or services; and
- Has direct involvement in the licensing or certification of a long-term care facility or service.

Removing or remedying organizational conflicts. The State agency shall identify and remove or remedy conflict of interest between the Office and the State agency or other agency carrying out the Ombudsman program. Where the Office is located within or otherwise organizationally attached to the State agency, the State agency shall:

- Take reasonable steps to avoid internal conflicts of interests;
- Establish a process for review and identification of internal conflicts;
- Take steps to remove or remedy conflicts;
- Ensure that no individual, or member of the immediate family of an individual involved in the designating, appointing, otherwise selecting or terminating the Ombudsman is subject to a conflict of interest; and
- Assure that the Ombudsman has disclosed such conflicts and described steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary through the National Ombudsman Reporting System.

Individual Ombudsmen Conflicts

Conflicts for a Long-term Care Ombudsman and Volunteers may include, but are not limited to, the following:

- Employment of an individual or a member of his/her immediate family by a long-term care facility or service, within the assigned geographic region;
- Participation in the management of a long-term care facility or service by an individual or a member of his/her immediate family;
- Ownership or investment interest in an existing or proposed long-term care facility or service by an individual or a member of his/her immediate family;
- Involvement in the licensing or certification of a long-term care facility or service by an individual or a member of his/her immediate family;
- Receipt of remuneration under a compensation arrangement with an owner or operator of a long-term care facility or service by an individual or a member of his/her immediate family;
- Accepting any gifts, gratuities, or tips from a long-term care facility, service, resident, representative, or recipient;
- Accepting money or any other consideration from anyone other than the employing provider agency or entity designated by the Office of the SLTCO for the performance of an act in the regular course of a LTCO's duties;
- Serving as guardian, conservator or in another fiduciary or surrogate decision-making capacity for a resident of a long-term care facility in which the Ombudsman or representative of the Office provides services; and
- Serving residents of a facility in which an immediate family member resides;
- Other conflicts per the discretion of the SLTCO.

Completing a Conflict of Interest Agreement

To ensure compliance with the stated conflict of interest standards, all Regional LTCO or Volunteer shall complete the Conflict of Interest Agreement form and affirm that they are free from any conflicts. This form shall be used by a Regional LTCO to explain any variances to the conflict of interest standards. Each Regional LTCO shall complete this form at the time of hire and annually.

Remedying Organizational Conflicts

When organizational conflicts have been identified, the following steps shall be taken in order to remedy the stated conflict:

- A written corrective action plan shall be submitted to the SLTCO within thirty (30) days of the identification of the conflict;
- The corrective action plan shall identify the conflict and provide an explanation as to how the negative impact of the conflict shall be minimized to the greatest extent possible; and
- The corrective action plan must be agreed upon and signed by both the SLTCO and the provider agency.

Remedying Individual Ombudsman Conflicts

- The State agency or Ombudsman shall develop and implement policies and procedures to ensure that no Ombudsman or representatives of the Office are required or permitted to hold positions or perform duties that would constitute a conflict of interest;
- When considering the employment of an individual as the Ombudsman or as a representative of the Office, the State agency or other employing shall:
 - Take reasonable steps to avoid employing an individual who has an unremedied conflict of interest or who has a member of the immediate family with an unremedied conflict of interest;
 - Take reasonable steps to avoid assigning an individual to perform duties which would constitute an unremedied conflict of interest;
 - Establish a process for periodic review and identification of conflicts of the Ombudsman and representatives of the Office; and
 - Take steps to remove or remedy conflicts.
- In no circumstances shall an Ombudsman or representative of the Office be employed, who:
 - Has direct involvement in the licensing or certification of a long-term care facility;
 - Has an ownership or investment interest in a long-term care facility;
 - Has been employed by or participated in the management of a long-term care facility within the previous twelve months;
 - Receives, or has the right to receive, directly or indirectly, remuneration under a compensation arrangement with an owner or operator or a long-term care facility.
- In no circumstances shall the State agency employ an Ombudsman or representative of the Office who:
 - Has direct involvement in the licensing or certification of a long-term care facility;
 - Has an ownership or investment interest in a long-term care facility;
 - Receives, or has the right to receive, directly or indirectly, remuneration under a compensation arrangement with an owner or operator or a long-term care facility;
 - Is employed by or participating in the management of a long-term care facility.

When a conflict of interest is identified:

- A written corrective action plan shall be submitted to the SLTCO within thirty (30) days of the identification of the conflict;
- The correction plan shall identify the conflict and provide explanation as to how the negative impact of the conflict shall be minimized to the greatest extent possible. For example, prohibiting a Regional LTCO or Volunteer Ombudsman from serving a facility with which there is a conflict of interest and arranging for an alternate Regional LTCO or Volunteer to serve that facility; and
- The corrective action plan must be agreed upon and signed by both the SLTCO, the provider agency, and the individual Ombudsman.

Failure to Identify or Remedy a Conflict of Interest

Failure, on the part of the Regional LTCO, Volunteer Ombudsman or the provider agency, to identify or remedy a conflict of interest may be sufficient grounds for de-certification of the LTCO, VLTCO or de-designation of a provider agency. Appeals may be made by following the grievance procedure process, outlined in this manual.

Long-term Care Ombudsman Program Records

Records of the LTCOP shall be confidential and shall be disclosed only in limited circumstances specifically provided by the SLTCO and/or a court. All actions executable by the SLTCO, as stated in the section below, may also be executed by the SLTCO designee. When the SLTCO is absent, the designee is the Lead Regional Ombudsman.

Confidential Information

Confidential information regarding residents includes the following:

- The name of the resident;
- Information about the resident's medical condition or medical history;
- Information about the resident's social history;
- The resident's source of payment;
- Information about a resident's personal life;
- Conversations between the resident and a LTCO.

Confidential information regarding complainants, includes the following:

- Names of the complainant; and
- Relationship of the complainant to a resident.

Confidential information regarding residents or complainants does not include the following:

- Facility policies and procedures; or
- Statistical data about Ombudsman activities and cases.

Maintenance of Long-term Care Ombudsman Records

- All records of the LTCOP shall be kept in a locked and secure location when not in use.
- All SLTCO mail, e-mail, or faxes that are addressed to an ombudsman by name, title, or program shall be routed to the Executive Assistant, date stamped and delivered unread to the SLTCO.
- All RLTCO mail, e-mail, or faxes that are addressed to the ombudsman by name, title, or program shall be routed to the ombudsman, unopened and unread.
- All LTCOP records are the property of the Office of the State Long-term Care Ombudsman.
- The SLTCO shall have access to all records at all times.
- The Regional LTCO shall have access to records within his/her assigned geographic region.
- Regional LTCO shall have access to all records as needed for temporary coverage, training purposes, technical assistance to other Regional LTCO, etc.

Disclosure of Long-term Care Ombudsman Records

All records created as a result of Ombudsman activities shall not be released, disclosed, duplicated, or removed without the written permission of the SLTCO and/or by court order.

- The SLTCO shall be contacted whenever a request for LTCOP records is received;

- The SLTCO shall require that all requests be made in writing; and
- When the records request is being made by a resident that is physically or cognitively unable to put the request in writing, the resident(s) legal representative or an Ombudsman shall make a written request on his/her behalf.

The SLTCOP shall prohibit the disclosure of identifying information of any resident or complainant with respect to whom the Ombudsman program maintains files, records, or information, unless

- The resident or the resident representative communicates informed consent through writing or through the use of auxiliary aids and services;
- The resident or resident representative communicates informed consent orally, visually, or through the use of auxiliary aids and services and such consent is documented concurrently by a LTCO; or
- The disclosure is required by court order

Upon receipt of a records request that would impose an undue burden on the LTCOP and provide very little to no impact on the health, safety, and welfare of the resident(s), the SLTCO may deny the request.

Upon receipt of a records request by a person other than the resident or the resident's legal representative, the LTCO shall:

- Obtain written consent from the resident for the release of information contained in the records;
- Obtain written consent from the resident(s) legal representative, if applicable;
- Obtain written consent from the complainant for the release of complainant information contained in the record(s); and/or
- Document oral consent provided by the resident, when written consent for the records release cannot be obtained because the resident is physically unable to provide consent in writing.

The SLTCO shall determine if the release of all or part of the requested record is appropriate, by assessing whether the release:

- Is in conflict with the wishes or interests of the resident(s) for whom the release is being requested;
- Is in conflict with the wishes or interests of any other resident(s) within the facility;
- Is likely to have a favorable outcome for the resident(s);
- Would provide information which could be obtained elsewhere;
- Could be accomplished while protecting the identity of the resident(s) or complainant(s) for whom there is no consent; and/or
- Would impose an undue burden to the LTCOP and provide little to no impact on the health, safety, and welfare of the resident(s).

When all or part of a records request is granted, the SLTCO shall redact all identifying information for which the resident and/or complainant consent was not obtained.

Whenever a request for records or for Ombudsman testimony is made in the form of a subpoena, court order, or Open Records Act request, the SLTCO shall be notified:

- The SLTCO shall consult legal counsel;
- If appropriate, a motion to quash the subpoena or a motion for a protective order may be filed; and
- In response to a court order, the court shall be notified, through proper channels, of the statutory provisions, policies, and regulations concerning disclosure of information and a request may be made for the court to seal the record.

Maintenance of Incident Reports, Follow Up Reports, and Other Documents Received by the LTCOP

Per Rules and Regulations for Program Administration of Assisted Living Facilities: Chapter 12, it states ‘All accidents, injuries, incidents, illnesses, and allegations of abuse, neglect or exploitation shall be reported to the resident’s family or responsible party and be documented in the individual resident records. All such occurrences shall also be reported to the appropriate entity for follow up and resolution. Reports of all incidents affecting the health, welfare or safety of a resident shall be provided to the Licensing Division immediately (within one business day). Reporting shall be done by telephone or fax. **The facility’s investigation of the incident shall be reported to the Licensing Division and the Long-term Care Ombudsman within five (5) working days.** Documentation to support the facility reporting the situation and follow up must also be present in the resident records.’ The LTCOP must maintain the documents received in relation to this rule, as follows:

- All ALF incident reports and five (5) follow up reports received shall be kept either in paper form or electronic format for the length of one (1) year from the date of the report;
- If there is a case or activity opened in correlation with an incident report, follow up report, or other document, the report(s) shall be scanned into OmbudsManager and attached to the case; and
- All incident reports, follow up reports, and other documents submitted to the Ombudsman Program not correlating with a current case or activity shall be kept by the Ombudsman, in paper form or electronic form, for thirty (30) calendar days. At which point they will be shredded or deleted.

Per the 2016 Federal Nursing Home Regulations ‘Before a facility transfers or discharges a resident, the facility must: Notify the resident and the resident’s representative(s) of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand. The facility must send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.’ The LTCOP must maintain the documents received in relation to this rule, as follows:

- All notices of discharge or transfer received shall be kept either in paper form or electronic format for the length of one (1) year from the date of the report;
- If there is a case or activity opened in correlation with a notice of discharge or transfer, the notice shall be scanned into OmbudsManager and attached to the case and/or activity; and
- All notices of discharge or transfer not correlating with a current case or activity shall be kept by the Ombudsman, in paper form or electronic form, for thirty (30) calendar days. At which point they will be shredded or deleted.

Grievance Procedure

Grievances Regarding Regional LTCO

The LTCOP shall establish a grievance procedure to accept and hear complaints regarding an Ombudsman's actions. The procedure shall allow for a final appeal to the provider agency's Executive Director and the SLTCO.

- A grievance regarding the actions of a local ombudsman may be filed in writing with the SLTCO. The grievance statement shall list the specific facts related to the grievance, the nature of the grievance, and any request for resolution;
- The grievance shall be made in writing within thirty (30) calendar days of the action;
- The grievance shall be discussed with the local ombudsman named in the grievance within five (5) working days and a written copy of the grievance statement shall be given to him/her at that time. He/she shall have five (5) working days to provide a written response;
- If possible, without violating confidentiality and disclosure rules, the SLTCO may discuss the grievance with the WDH Deputy Director and the provider agency Executive Director;
- The SLTCO shall respond to the Regional LTCO and the complainant regarding the grievance within five (5) working days of receipt of the response from the Regional LTCO; and
- Final determination to designate or de-designate a representative ombudsman will be made by the SLTCO.

To be responsive to concerns that individuals may have regarding the performance of a Regional LTCO, all grievances shall be documented with all relevant actions taken and outcomes.

Depending upon the content of the grievance, a decision may be made by the SLTCO to suspend the Regional LTCO's certification, until there is a full resolution. If concerns are found to be valid, a work improvement plan may be set up. The Executive Director of the provider agency employing the Regional LTCO shall be involved in all steps of the grievance procedure, while maintaining confidentiality and disclosure rules.

Grievances Regarding the SLTCO

- The grievance shall be made in writing within thirty (30) days of the action and submitted to the WDH Deputy Director;
- The grievance shall list the specific facts related to the grievance, the nature of the grievance, and any request for resolution;
- A copy of the grievance shall be shared and discussed with the SLTCO within five (5) working days of receipt;
- The policies on consent and disclosure must be followed if this involves a complaint investigation;
- The SLTCO shall provide a written response to the WDH Deputy Director, without violating the policies of disclosure, within five (5) working days;

- The WDH Deputy Director shall provide a response to the grievance within five (5) working days from the receipt, of the SLTCO response, to the SLTCO and the complainant.

Legal Counsel and Resources

This section includes information regarding legal counsel for the State Long-term Care Ombudsman, legal counsel for Regional Long-term Care Ombudsman, as well as legal resources for recipients of long-term care services in Wyoming.

Legal Counsel for the SLTCO

- Legal counsel for the SLTCO shall be provided by the Attorney General’s Office for the State of Wyoming, through the Wyoming Department of Health, for the following reasons:
 - Legal matters related to the performance of the SLTCO job duties; and
 - Legal matters related to provisions of the Long-term Care Ombudsman Program as a whole.
- The SLTCO may consult with the Attorney General’s Office for the following:
 - Rules promulgation;
 - Complex advocacy situations;
 - Hearings and/or appeals;
 - Depositions and/or testimony with guardianship issues or civil proceedings;
 - Subpoenas;
 - Memorandums of understanding; and
 - Public records requests.

Legal Counsel for the Regional LTCO

- The provider agency and their governing body shall provide legal counsel, per annual contract, to all Regional LTCO, as appropriate.
- In the event that a Regional LTCO feels he/she is in need of legal counsel, the Regional LTCO shall consult with the SLTCO with regards to the specifics of the case, complaint, and/or issue. Following consultation with the SLTCO, if it has been determined that legal counsel is necessary for the Regional LTCO, the SLTCO shall contact the provider agency director in order to procure legal counsel held under the contract. Throughout this process, the SLTCO and the Regional LTCO shall follow all confidentiality rules and regulations set forth in this manual.

Legal Counsel for Recipients of Long-term Care Services

An ombudsman may be tasked with pursuing legal remedies on behalf of recipients. In this instance, the Ombudsman shall make referrals to Legal Aid of Wyoming in order to obtain assistance for residents.

Contact from an Attorney

If a Regional LTCO is contacted by an attorney who represents facilities, residents, complainants, family members and friends the Regional LTCOP may provide public, non-confidential information, just as with any other member of the public. If the attorney is requesting confidential information, the LTCO shall not acknowledge whether a person has had

any contact with the LTCOP and shall inform the attorney of the need to consult with the SLTCO. The SLTCO shall then make contact with the attorney and follow the process of consent and disclosure of records stated within this manual.

LTCO Program Services

Each local LTCO shall provide services to protect the health, safety, welfare and rights of recipients of long-term care services in the assigned geographic region. These services shall be performed in accordance with the following procedures and standards, as directed by the Office of the SLTCO. The services include, but are not limited to, the following:

1. Intake, Investigation, and Complaint Processing
2. Access to Facilities and Resident's Records
3. Maintenance of Records
4. Information and Assistance
5. Facility Coverage
6. Advocacy
7. Interagency Coordination
8. Consultations

Intake, Investigation, and Complaint Processing

Processing complaints made by or on behalf of recipients of long-term care services in Wyoming is the LTCOP's priority service. The Regional LTCO shall identify, investigate, and resolve complaints made by or on behalf of recipients. Although the issues and circumstances of the complaints will vary, the following are general guidelines that shall apply to all complaint handling. Whenever questions arise regarding appropriate practice in handling complaints, the SLTCO may be contacted for guidance. In the provision of handling all complaints, the Ombudsman shall use auxiliary aids and services, if appropriate.

Response to the Complaint

- When a Regional LTCO receives information regarding a complaint, the LTCO shall determine:
 - The type of complaint using the uniform National Ombudsman Reporting System (NORS) complaint codes, as listed in the OmbudsManager data system;
 - What outcome the complainant or resident is seeking;
 - What attempts have already been made to resolve the complaint;
 - Whether the complaint is appropriate for LTCO involvement. Examples of complaints which are not appropriate for LTCO involvement can include complaints which:
 - Do not directly impact a recipient of a long-term care service;
 - Are outside the scope of the mission or authority of the LTCOP; or
 - Would place the LTCO in a position of having an actual or perceived conflict of interest with a resident(s) or recipient(s).
- The LTCO shall determine the following with the complainant:

- Alternatives for handling the complaint;
- The option of the complainant to personally take action, with LTCO assistance, if requested; and
- Communicating the LTCO role is to act in accordance with the resident's wishes and to maintain the LTCO policy of confidentiality.
- Timeliness of responses to complaints:
 - The LTCO investigations shall be initiated within three (3) working days of a complainant contacting the LTCOP. The LTCOP is not an emergency response system. Emergency situations shall be referred to law enforcement or by calling '911' for an immediate response.
 - The LTCO may indicate to the complainant when he/she may expect investigative efforts to begin.
- Ombudsman advocacy is resident focused:
 - The resident of a long-term care facility or recipient of a long-term care service is the LTCOP's client;
 - The LTCO shall discuss the complaint with the client to:
 - Determine the client's perception of the complaint;
 - Determine the resident's wishes with respect to resolution of the complaint;
 - Advise the client of his/her rights; and
 - Work with the resident in developing a plan of action.
 - When resident consent is refused or withdrawn at any point during the complaint process and the resident expresses that he/she does not want the LTCO to take further action on a complaint involving the resident, the LTCO shall record the refusal or withdrawal of consent in the appropriate sections of the electronic case file in OmbudsManager.
 - Resident unable to provide consent:
 - 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 consent to a LTCO to work on a complaint directly involving the resident, the LTCO shall:
 - Seek consent from the resident's legal representative;
 - If there is no legal representative, the LTCO shall do the following:
 - First consult with the SLTCO;
 - Seek information about a resident's previous expressed wishes;

- Assume, in the absence of resident direction, the resident wishes her health, safety, and welfare to be protected; and
 - Take action to protect those known or assumed wishes.
 - As described in the Federal Regulations
<https://www.govinfo.gov/content/pkg/CFR-2017-title45-vol4/xml/CFR-2017-title45-vol4-part1324.xml>
- When an Ombudsman personally witnesses suspected abuse, gross neglect, or exploitation of a resident:
 - The Ombudsman shall seek informed consent from the resident, in order to disclose identifying information to adult protective services and/or law enforcement.
 - If the resident is unable to communicate informed consent and there is no legal representative available, the Ombudsman shall open a case with the Ombudsman as the complainant, follow the complaint resolution procedures, and shall refer the matter and disclose identifying information of the resident to the management of the facility and/or to adult protective services and/or law enforcement.
- In all instances when an Ombudsman must disclose resident identifying information, without the informed consent of that resident or the legal representative, the Ombudsman shall consult with the State Long-term Care Ombudsman for approval. The SLTCO has 24 hours to respond to the Ombudsman, if the SLTCO is not available, this decision will go to the Lead Regional Ombudsman.

Investigation Procedures

- The LTCO is not required to verify a complaint in order to seek resolution on behalf of a client. Client perception is a sufficient basis upon which an LTCO can seek resolution.
- The LTCO investigates a complaint in order to verify the accuracy and validity of the complaint:
 - A complaint is ‘verified’ when the LTCO determines, after completing an investigation, that the circumstances described in the complaint are substantiated or generally accurate.
 - Because a LTCO works on behalf of the residents, the LTCO gives the benefit of any doubt to the resident’s perspective.
- The LTCO shall seek the following information during the investigation of a complaint:
 - What has occurred or is occurring;
 - When it occurred and whether the occurrence is on-going;
 - Where it occurred;
 - What behaviors were observed;
 - Who was involved;
 - Who else was present and may have witnessed the occurrence;
 - What else was happening at the facility at the same time;
 - What was the effect of the occurrence on the resident(s);
 - What was the reason for the occurrence and what may have triggered or caused the occurrence; and

- What, if anything, has the facility or other interested parties done in response to the complaint or the occurrence?
- To verify a complaint, the LTCO shall take one or more of the following steps, as appropriate, given the nature of the complaint:
 - Research relevant laws, rules, regulations, and policies;
 - Personally observe the evidence (The LTCO shall not search a resident's body for evidence);
 - Interview the resident and/or complainant;
 - Interview staff, administration, other residents and family members;
 - Identify relevant agencies and interview and/or obtain information from their staff; and/or
 - Examine relevant records
- Facility visits may be unannounced, provided the LTCO identifies him/herself as such and wears a name tag.

Plan of Action

- Upon verifying a complaint, the LTCO shall determine a plan of action to resolve the complaint.
- The plan of action shall be agreed upon by the resident and all involved, where possible, in order to implement the plan of action.
- The LTCO shall consider the following factors in developing the plan of action, as appropriate to the nature of the complaint:
 - The scope of the complaint;
 - The history of the facility with respect to resolution of other complaints;
 - Available remedies and resources for referral;
 - Who would be best able to resolve the complaint; and/or
 - The likelihood of retaliation against the resident or complainant.
- One or more of the following may be an appropriate plan of action, in resolving complaints:
 - Explanation – i.e. the findings of the investigation do not indicate a need for a change or require LTCO intervention. The resident or complainant received an explanation which satisfied the initial problem. The LTCO supports the wishes of the resident and communicates the resident's desires to the appropriate parties;
 - Negotiation – i.e. the LTCO advocates on behalf of or with the resident in discussing the complaint with the appropriate staff or other relevant party to develop an agreement that resolves the complaint;
 - Mediation – i.e. as legally appropriate, the LTCO acts as an impartial referee between parties of equal status, to assist the parties in developing an agreement that resolves the complaint; or
 - Referring the resident or complainant to appropriate agencies.

- The LTCO shall attempt to resolve the dispute directly with the appropriate staff of the facility unless the LTCO and the resident determine that another strategy would be more advantageous to the client.

Complaint Referrals

- A LTCO shall make a referral to another agency when:
 - The resident gives consent; and
 - One or more of the following applies:
 - Another agency has a statutory responsibility to support or assist the resident (i.e. Adult Protective Services or Medicaid Fraud);
 - The action to be taken is outside the LTCOP's authority (i.e. WDH Healthcare Licensing and Surveys);
 - The LTCO needs additional assistance in order to achieve resolution of the complaint;
 - The client requests the referral be made;
 - It is determined that additional expertise may benefit the resident (i.e. mental health, disability services, etc).
- A LTCO may encourage residents or complainants to directly contact the appropriate regulatory agency to file a complaint and offer information and assistance in doing so. When a LTCO refers a complaint to another agency, the LTCO shall:
 - Submit the complaint in writing; or
 - Contact the agency, to whom the referral is being made, by telephone and subsequently document the referral by entering it into OmbudsManager.
- When a resident or complainant is requesting or requiring legal advice or representation, the LTCO shall refer the resident or complainant to Legal Aid of Wyoming or the Wyoming State Bar.

Closing a Case or Complaint

The complaint or case may be closed when any of the following occur:

- The complaint has been resolved to the resident's satisfaction;
- The LTCO has determined, after investigation, that the complaint:
 - Cannot be verified; or
 - Was not made in good faith.
- Further activity by the LTCO is unlikely to produce satisfaction for the client;
- The complaint is not appropriate for the LTCOP;
- The LTCO anticipates no further response regarding the complaint from the agency to which the referral was made; or
- The resident requests that LTCO activity end on the complaint.

Abuse, Neglect and Exploitation Cases

- The Wyoming Long-term Care Ombudsman Program does not take an investigative role for referrals involving abuse, neglect, exploitation, and/or intimidation. Any person or agency, including long-term care facilities, who knows or has reasonable cause to believe abuse is occurring are required by Wyoming § 35-20-103 to report the information immediately to law enforcement of the Department of Family Services. The role of the LTCOP, once an Ombudsman identifies potential abuse and has received consent of the client for a referral to Adult Protective Services, is to advocate on behalf of the client to ensure that all necessary parties are actively involved and that the client receives proper treatment, and is protected from further harm or retaliation.
- When consent is initially refused, it is the role of the ombudsman to educate the client regarding the benefits and protections of reporting the situation to law enforcement or Adult Protective Services, while providing assurances of protection against retaliation.

Documentation of Cases

The LTCO shall document each complaint using the electronic data system, OmbudsManager. **The OmbudsManager Desk Reference** document shall be used to guide LTCO in using the program.

- All LTCO cases and activities shall be entered into OmbudsManager, to include the following information:
 - Complainant intake information:
 - Complainant name;
 - Complainant contact information;
 - Detailed description of the problem or incident;
 - Complaint category;
 - Affected resident's name;
 - Facility name; and
 - Name of the LTCO taking the complaint.
 - A plan of action for resolution of the complaint;
 - A detailed description of steps taken to investigate, verify, and resolve the complaint and any referrals made; and
 - An explanation of the resolution or other reason for closing the case.
- The LTCO shall complete and maintain documentation in OmbudsManager in a timely manner. The documentation shall:
 - Be input by the 8th business day of the month following; and
 - Be readily understood by another LTCO or the SLTCO.

- The SLTCO shall review 25% of the closed cases on a monthly basis for quality assurance. Any issues shall be discussed with the regional LTCO and documented.

Long-term Care Ombudsman Access

Pursuant to the Older Americans Act of 1965, as amended in 2016, the State shall ensure that representatives of the Office have access to long-term care facilities and residents and appropriate access to review the medical and social records of a resident.

Access to Enter All Long-term Care Facilities

- The LTCO shall have access to enter all long-term care facilities at any time during a facilities business hours or regular visiting hours, and at any other time when access may be required by the circumstances to be investigated.

Access to All Residents

- The LTCO shall have access to all residents to perform the functions and duties set forth.

Access to the Name and Contact Information of the Resident Representative

- The LTCO shall have access to the name and contact information of the resident representative, if any, where needed to perform the functions and duties set forth.

Access to Review the Medical, Social, and Other Records Relating to a Resident

- The LTCO shall have access to review resident's medical, social, and other records relating to a resident if:
 - The LTCO has the consent of the resident or the legal guardian of the resident;
 - The resident is unable to consent to the review and has no legal guardian and the SLTCO approves access; and
 - The legal representative of the resident refuses to give consent and the LTCO has reasonable cause to believe that the representative is not acting in the best interests of the resident and the SLTCO approves access.

Consent may be given by the resident in writing, verbally, visually or through the use of auxiliary aids and services. The LTCO shall document consent given and in what form.

Access to Administrative Records, policies, and documents

- The LTCO shall have access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities.

Access to Licensing and Certification Records

- The LTCO shall have access to copies of all licensing and certification records maintained by the State of Wyoming with respect to long-term care facilities, upon request.

Health Insurance Portability and Accountability Act of 1996

- HIPAA Privacy Rule, 45 CFR part 160 and 45 CFR part 164, subparts A and E, does not prohibit release by covered entities of resident private health information or other resident identifying information to the Ombudsman program, including but not limited to residents' medical, social, or other records, a list of resident names and room numbers, or information collected in the course of a State or Federal survey or inspection process.

Maintenance of Records

OmbudsManager Data System

In order to serve the requirement that the LTCOP establish a uniform reporting system, all cases and activities shall be input into the OmbudsManager Data System. This data is used to analyze current program metrics and data, follow trends occurring in the State long-term care system, and monitor the activity of all Regional LTCO.

- Access to OmbudsManager shall be password protected, no person with authorized access to OmbudsManager shall share their username and/or password or allow access to OmbudsManager with anyone else.
- The SLTCO shall manage users within the OmbudsManager system.
- Upon initial certification as a LTCO and annually thereafter, each LTCO shall complete the 'Rules of Behavior' document outlining confidentiality and usage responsibilities.
- There shall be one backup administrator for the OmbudsManager system, an employee housed within the Community Living Section.

Retention of Program Files and Records

The provider agency of the LTCOP shall retain all records relating to the contract with WDH for at least six (6) years. Electronic copies stored within OmbudsManager are acceptable for retention. Signed consent forms and other pertinent documentation not held within OmbudsManager shall be retained in hard copy form for the stated length of time.

Maintenance of Paper Records Received

Per Rules and Regulations for Program Administration of Assisted Living Facilities (ALF): Chapter 12, it states 'All accidents, injuries, incidents, illnesses, and allegations of abuse, neglect or exploitation shall be reported to the resident's family or responsible party and be documented in the individual resident records. All such occurrences shall also be reported to the appropriate entity for follow up and resolution. Reports of all incidents affecting the health, welfare or safety of a resident shall be provided to the Licensing Division immediately (within one business day). Reporting shall be done by telephone or fax. **The facility's investigation of the incident shall be reported to the Licensing Division and the Long Term Care Ombudsman within five (5) working days.** Documentation to support the facility reporting the situation and follow up must also be present in the resident records.'

All ALF incident reports and five (5) day follow-up reports received shall be kept either in paper form or electronic format for the length of thirty (30) days from the date of the report.

If there is a case or activity opened in correlation with an incident report, follow-up report, or other document, the report(s) shall be scanned into OmbudsManager and attached to the case. If a document is associated with a case or activity, but is not scanned into OmbudsManager, it shall be kept in paper form for six (6) years.

All other documents submitted to the Ombudsman Program not correlating with a current case or activity shall be kept by the Ombudsman, in paper form, for thirty (30) calendar days. At which point they will be shredded.

Information and Assistance

Each Regional LTCO shall provide information and assistance, in their assigned geographical region, to residents, families, recipients of long-term care services, staff of long-term care facilities, and the general public, in the form of the following activities:

- Training for facility staff;
- Consultation to facilities;
- Information and consultation to individuals; and
- Community education.

Facility Coverage

The goal of facility coverage visits is to establish a presence at all licensed facilities. This presence is there to assist residents and their families in recognizing the LTCO program and what the program's purpose is, but it is also to establish and maintain a positive working relationship with the facilities and the staff. In order to assist residents in resolving complaints, we must be able to work with facilities in a constructive manner.

Each licensed skilled nursing facility, assisted living facility, and boarding home in the State of Wyoming shall be visited, on-site and unannounced, by a Regional LTCO at least quarterly. Each Regional LTCO shall visit the facilities located within their assigned geographic region.

Annual quarters are defined as follows:

- Quarter 1: October, November, December
- Quarter 2: January, February, March
- Quarter 3: April, May, June
- Quarter 4: July, August, September

At a minimum, each facility coverage visit shall include the following:

- The Regional LTCO shall identify themselves to staff upon entering the building, explain who he/she is and the program, if needed. All LTCO should wear name tags during facility visits.
- The Regional LTCO shall check to see that the LTCO Program poster is current and hanging in a place where residents, family members, and visitors are able to see it and

read it. The Regional LTCO shall also provide program brochures to residents, their families, and facility staff, as appropriate.

- The Regional LTCO shall make contact with a variety of residents during the facility visit, explain the Ombudsman role, the program, and inquire as to any needs the resident may have.
- Regional LTCO will obtain informed consent from any resident (or resident representative) before investigating and working toward resolution of a complaint. Informed consent (verbal or written) shall be documented by checking the 'Consent Obtained' box in OmbudsManager and may be noted in a journal entry or the intake text box. Signed consent forms should be scanned and uploaded as an attachment to the case.
- The Regional LTCO shall attempt to meet with the administrator or a staff member before leaving the facility to discuss any concerns brought up during the visit, given that proper consent has been obtained in order to disclose information.

Facility coverage visits shall be documented in OmbudsManager as an activity of 'Facility Coverage'. All documentation must be input into OmbudsManager by the 8th business day of the month following completion of the activity or case.

Systems Advocacy

The SLTCO and the Regional LTCO are required by the Older Americans Act to analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other government policies and actions that relate to long-term care services in Wyoming. In this effort, the LTCO may do the following:

- Educate advocacy groups, governmental agencies, and policy-makers regarding the impact of laws, policies, or practices on long-term care recipients in Wyoming;
- Offer community education or information on long-term care services in Wyoming;
- Identify resources and training needs related issues that arise; or
- Educate other aging service providers on long-term care issues.

Interagency Coordination

The SLTCO shall coordinate with other agencies or programs who provide resources or services that benefit recipients on long-term care services in Wyoming. This can include, but is not limited to:

- Adult Protective Services;
- Wyoming Guardianship Corporation;
- Substance Abuse and Mental Health Ombudsman Program; and
- Other Older Americans Act programs.

Consultations

The LTCOP shall serve as a resource and provide consultations and offer technical assistance, advice, referrals, and ideas for the purpose of assisting family, long-term care facilities, staff, and residents to solve possible issues of recipients of long-term care services.

Attachments

The attachments are ordered as listed below, in the pages following the Policy and Procedure Manual.

Conflict of Interest Agreement (LTCOP-001)

Facility Closure Checklist (LTCOP-004)

Complaint Code Quick Guide (LTCOP-005)

Informed Consent Form

LTCOP Region Map

Rules of Behavior for Users of the OmbudsManager Data System

Regional Quarterly Visits by Facility

Riverton Ombudsman

Casper Ombudsman

Cheyenne Ombudsman

*How to Access Documents Received in the WDH-WYLT COP-NOTIFICATIONS@wyo.gov
Email Address*