

LONG TERM CARE OMBUDSMAN PROGRAM Introduction	DAIL – LTCOP – 16.1
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Policy Statement

The Kentucky Long-Term Care Ombudsman Program (KLTCOP) is to work to improve the lives of all residents by enhancing the quality of life, improving the quality of care, protecting the individual rights and promoting the dignity of each resident that resides in a long-term care facility.

Legal Authority: OAA § 712 (U.S.C. 3058g) Older Americans Act of 1965 as amended

Procedure

The KLTCOP shall carry out the following activities:

- (1) Investigate and resolve long-term care facility residents' complaints;
- (2) Promote the development of citizens' organizations and train volunteers;
- (3) Identify significant problems by establishing a statewide reporting system for complaints, and work to resolve these problems by bringing them to the attention of appropriate public agencies;
- (4) Monitor the development and implementation of federal, state, and local long-term care laws and policies;
- (5) Gain access to long-term care facilities and to residents' records; and
- (6) Protect the confidentiality of residents' records, complainants' identities, and ombudsman files.

LONG TERM CARE OMBUDSMAN PROGRAM Program Structure	DAIL – LTCOP – 16.2
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Policy Statement

The Department for Aging and Independent Living (DAIL) of the Cabinet for Health and Family Services shall establish and operate, directly or by contract/memorandum of understanding, the Kentucky Long-Term Care Ombudsman Program (KLTCOP).

Legal Authority: OAA § 712 (a) (1)
910 KAR 1:210 Kentucky Long-Term Care
Ombudsman Program

Procedure

(KLTCO):

- 1) The (KLTCO) shall assure that all residents of long-term care facilities in the state has access to the services of the (KLTCOP).
- 2) Ensure every Area Development District (ADD) has a designated LTCOP.

Contracts for Ombudsman Services:

- 1) There shall be a District Long-Term Care Ombudsman Program (DLTCOP) in every ADD.
- 2) The DLTCOP shall be operated through a contract with DAIL as follows:
 - a) Contracts shall exist in each ADD between DAIL and the Area Agency on Aging and Independent Living (AAAIL) and/or an entity or entities meeting the criteria for designation.
 - b) The AAAIL may directly provide Long-Term Care Ombudsman (LTCO) services, if not otherwise prohibited from directly delivering services, or may subcontract with another entity meeting the criteria for designation.
 - c) Where an AAA provides LTCO services directly, it must also fulfill the responsibilities of a LTCO provider agency.

LONG TERM CARE OMBUDSMAN PROGRAM Designation of Ombudsman Programs	DAIL – LTCOP – 16.3
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Policy Statement:

The Kentucky Long Term Care Ombudsman (KLTCO) shall designate provider agencies to provide ombudsman services throughout Kentucky.

Legal Authority:

- OAA § 712(a) (4), (5); see OAA § 705(a) (5);
- 910 KAR 1:210 Section 2 (2) (d) 1
- 45 CFR § 1324.21

Procedure:

- (1) The KLTCO shall designate agencies as a Long-Term Care Ombudsman Program (LTCOP) meeting the eligibility for designation as follows:
 - (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) Has no board or advisory council members with any ownership, investment, or employment interest in long-term care facilities;
 - (e) Have no financial interest in a long-term care facility;
 - (f) Have demonstrated capability to carry out the responsibilities of the Long-Term Care Ombudsman (LTCO) provider agency;
 - (g) Have no unremedied conflict of interest;
 - (h) Meet all contractual requirements of the Department for Aging and Independent Living (DAIL); and
 - (i) Coordinate with KLTCO prior to employment of representatives of LTCOP.

- (2) An entity providing LTCO services under contract with the Cabinet for Health and Family Services, DAIL or the authorized contracting agency shall be designated as a LTCO provider agency.

- (3) The designation of a new LTCO provider agency shall occur as follows:
 - (a) The contracting agency shall issue a Request For Proposal (RFP) seeking an entity to provide LTCO services within the planning and service area.

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- (b) The RFP shall identify the criteria for designation as a LTCO provider agency and shall request submission of documents supporting the entity's claim to meet these criteria.
- (c) The contracting agency shall require that all of the responding entities which meet the criteria for designation, develop an Ombudsman Services Plan setting forth:
 - 1. The goals and objectives of such entity in providing LTCO services,
 - 2. A description of how each program component shall be met by such entity including the staffing plan for the local long-term care ombudsman program (LTCOP), and
 - 3. A description of the resources of the entity which will be provided to assist in the operation of the local LTCOP.
- (4) The contracting agency shall forward copies of the Ombudsman Services Plans of all responding entities to the KLTCO.
- (5) The contracting agency shall recommend an entity for designation as a LTCO provider agency to the KLTCO and shall provide the KLTCO with information supporting its recommendation.
- (6) The KLTCO shall review and consider the recommendations of the contracting agency, and shall determine if the entity is appropriate to designate as the LTCO provider agency.
- (7) The KLTCO shall notify the contracting agency of the determination within thirty (30) days of receiving the contracting agency's recommendation.
- (8) The contracting agency shall notify the responding entities of the KLTCO decision within fifteen (15) days of receiving such notification. An informal dispute can be requested with the Commissioner of the Department for Aging and Independent Living.
- (9) Upon designation by the KLTCO, the contracting agency may enter into a contract with the LTCO provider agency for the provision of LTCO services for the service area and shall:
 - (a) Specify the planning and service area;
 - (b) Require the LTCO provider agency to adhere to all applicable federal and state laws, regulations, and policies; and
 - (c) Provide that designation by the KLTCO continues for the duration of the contract and subsequently renewed contracts unless the LTCO provider agency is de-designated by the KLTCO

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- (10) The execution date of the LTCO provider agency’s contract with the contracting agency to provide LTCO services shall constitute the effective date of the designation.
- (11) Should the contract between the LTCO provider agency and the contracting agency not be renewed or be terminated for any reason, the contracting agency shall:
 - (a) Immediately notify the KLTCO;
 - (b) Follow the steps to designate a new LTCO provider agency as soon as practicably possible; and
 - (c) Follow the steps to provide continuation of ombudsman services in writing to the KLTCO
- (12) When the contracting agency seeks to serve as the LTCO provider agency, the designation of a new LTCO provider agency shall occur as follows:
 - (a) The contracting agency may be considered as a LTCO provider agency where the KLTCO determines that either:
 1. Designation of the contracting agency as the LTCO provider agency is necessary to assure an adequate supply of ombudsman services; or
 2. Services of comparable quality can be provided more economically by the contracting agency
 - (b) The contracting agency shall request consideration to be designated as a LTCO provider agency and submit an Ombudsman Services Plan, as a section of it’s area plan, to the KLTCO setting forth:
 1. The goals and objectives of such entity in providing LTCO services,
 2. A description of how each Program Component shall be met by such entity, and including its staffing plan for the local LTCOP, and
 3. A description of the resources of the entity which will be provided to assist in the operation of the local LTCOP.
- (13) The KLTCO may designate the contracting agency as the LTCO provider agency where the contracting agency:
 - (a) Meets the criteria for designation;
 - (b) Submits an acceptable Ombudsman Services Plan; and

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- (c) Is not otherwise prohibited from fulfilling the duties of the provider agency

- (14) The KLTCO shall notify the contracting agency within thirty (30) days of the receipt of the Ombudsman Services Plan of its decision.
- (15) The execution date of the contracting agency’s contract with DAIL to provide LTCO services shall be the effective date of the designation.

- (16) Whereas the contracting agency is the LTCO provider agency or contracts with a LTCO provider agency the following shall occur:
 - (a) The agency hosting the local LTCOP will notify the KLTCO of vacancies of representatives of the LTCOP within twenty-four (24) hours of receiving resignation.
 - (b) The agency will submit the position advertisement and description to the KLTCO for approval prior to posting the advertisement. The KLTCO will respond regarding approval in writing within seven (7) days.
 - (c) The agency will submit to the KLTCO all applications and resumes of all qualified candidates.
 - (d) The agency will offer the opportunity for representatives of KLTCOP to participate in interviews at the discretion of the KLTCO.
 - (e) Once the agency makes a final selection for employment the recommendation must be approved by the KLTCO. The KLTCO will respond regarding approval in writing within fifteen (15) days.

LONG TERM CARE OMBUDSMAN PROGRAM De-Designation of Ombudsman Programs	DAIL – LTCOP – 16.4
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Policy Statement

The Kentucky Long-term Care Ombudsman (KLTCO) and the Department for Aging and Independent Living (DAIL) are committed to having a viable and efficient Long-term Care Ombudsman program statewide to ensure the needs of long-term care residents are addressed. The KLTCO may de-designate an entity as a LTCO provider agency for cause.

Legal Authority: OAA §307(a) (5)

Procedures:

Criteria for De-designation:

The KLTCO may refuse to designate or may de-designate an entity as a LTCO provider agency for one or more of the following reasons:

- (1) Failure of the entity to continue to meet the criteria for designation;
- (2) Existence in the entity of an unremedied conflict of interest with the LTCOP;
- (3) Deliberate failure of the entity to disclose any conflict of interest
- (4) Violation of LTCO confidentiality requirements by any person employed by, supervised by, or otherwise acting as an agent of the entity;
- (5) Failure of the entity to provide adequate LTCO services, including but not limited to failure to perform enumerated responsibilities, failure to fill a vacant ombudsman position within a reasonable time, failure to submit a Local LTCOP Annual Plan for approval by the KLTCO, or failure to use funds designated for the LTCOP for LTCO services;
- (6) Failure of the entity to adhere to the provisions of the contract for the provision of ombudsman services;
- (7) Failure to submit an acceptable plan of correction as required in DAIL-LTCO 16.29; or
- (8) Failure of the entity to adhere to applicable federal and state laws, regulations, and policies

Process for De-Designation of a LTCO Provider Agency:

- (1) Where the Area Agency on Aging and Independent Living (AAAIL) contracts with a LTCO provider agency, the process to de-designate the LTCO provider agency shall be as follows:

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- (a) The KLTCO shall send notice of the intent to de-designate at a specified date to the AAAIL and the LTCO provider agency.
 - (b) De-designation of a LTCO provider agency shall not become effective until all appeals are exhausted. Entities with complaints about de-designation shall follow the grievance process in SOP 16.30.
 - (c) The LTCO provider agency and AAAIL shall provide for the continuation of ombudsman service.
 - (d) The AAAIL shall terminate its contract for LTCO services with the LTCO provider agency.
- (2) Where the AAAIL serves as a LTCO provider agency, the process to de-designate the LTCO provider agency shall be as follows:
- (a) The KLTCO shall send notice of the intent to de-designate at a specified date to the AAAIL. The notice shall include the reasons for de-designation and notice of the Hearing Procedures of the Department for Aging and Independent Living.
 - (b) De-designation of the AAAIL, as a LTCO provider agency shall not become effective until all appeals are exhausted. Entities with complaints about de-designation shall follow the grievance process in SOP 16.30.
 - (c) The AAAIL shall provide for the continuation of ombudsman services.
 - (d) DAIL shall terminate the portion of the contract between the AAAIL and DAIL, which provides for ombudsman services.

Voluntary Withdrawal of a LTCO Provider Agency:

A LTCO provider agency may voluntarily relinquish its designation by providing notice to the KLTCO and to the AAAIL in the relevant area development district. Such notice shall be provided sixty (60) days in advance of the date of the relinquishment of designation.

Continuation of Ombudsman Services:

When a LTCO provider agency is in the process of appealing its de-designation or has relinquished designation:

- (1) The LTCO provider agency, the AAAIL, and the KLTCO, if applicable, shall arrange for the provision of ombudsman services until a new LTCO provider agency is designated;
- (2) The LTCO provider agency shall surrender intact to the KLTCO or the KLTCO designee all LTCO case records, documentation of all LTCO

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- activities and complaint processing as required by the ombudsman reporting system, and issue de-certification letters to all certified volunteers.
- (3) The LTCO provider agency shall, at the discretion of DAIL, surrender any equipment purchased with funds designated for LTCO services; and the LTCO provider agency shall surrender the balance of any advanced state or federal monies to the AAAIL, or to DAIL where the AAAIL serves as the LTCO provider agency.

LONG TERM CARE OMBUDSMAN PROGRAM Certification of Long-Term Care Ombudsman	DAIL – LTCOP – 16.5
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Policy Statement:

The Kentucky Long-Term Care Ombudsman (KLTCO) certifies individuals as Certified Ombudsmen to represent and carry out the responsibilities of the Office of the Kentucky Long-Term Care Ombudsman.

Legal Authority: OAA § 712 (a) (5)
45 CFR § 1324.13
910 KAR 1:210

Procedure:

- (1) Criteria for Certification as an Ombudsman. To be designated as a Certified Ombudsman, an individual must:
 - (a) Have demonstrated capability to carry out the responsibilities and professional expectations of a Certified Long-Term Care Ombudsman (LTCO);
 - (b) Be free of un-remedied conflicts of interest;
 - (c) Meet the minimum qualifications for the applicable LTCO position;
 - (d) District Long-Term Care Ombudsman (DLTCO), Certified LTCO staff and volunteers to be certified or recertified shall complete classroom and field training provided by the DLTCO or KLTCOP, as applicable. To be certified the individual must satisfactorily complete and maintain the certification training requirements as specified in 910 KAR 1:210 Section 8.
 - (e) Be awarded a certificate, signed by the KLTCO;
 - (f) Satisfactorily fulfill LTCO responsibilities; and
 - (g) In order to continue to carry out his/her duties, each DLTCO and Certified LTCO volunteers and staff of the local program must be re-certified every two (2) years by the KLTCO as continuing to meet the program standards, and adheres to the Ombudsman Code of Ethics as a Certified Ombudsman. Certification and re-certification records are maintained by the DLTCO and the KLTCO. The DLTCO notifies the KLTCO within thirty (30) days of certification expiration that the re-certification process has been completed. Upon re-certification, the KLTCO issues a new certificate. The re-certification process must be completed within thirty (30) days of an ombudsman's certification expiration in order to maintain certification without interruption.
 - (h) The re-certification process requires an ombudsman have at least four (4) hours of continuing education training, have active status in the program, and a passing score on the re-certification test. The KLTCO will administer the re-certification test to the DLTCO. The DLTCO will administer the re-certification test to the certified volunteers and staff in

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their local programs and send completed exam, evidence of continuing education and active status to the KLTCO.

- (i) Each candidate seeking certification as Certified Ombudsman must provide; birth date, social security number, and current and verified address to the DLTCOP and/or Area Agency on Aging and Independent Living (AAAIL).
 - (j) DLTCO shall provide KLTCO with a copy of the completed certification packet. The certification packet shall include the birth date, social security number, certification test, verification of on site facility visit(s), and all required background checks.
- (2) Minimum Qualifications for DLTCO. In order to qualify as a DLTCO, an individual must have:
- (a) An undergraduate degree from an accredited four-year college or university; or
 - (b) Equivalent years of experience in assessing and dealing with long-term care needs of the elderly, substituted at the discretion of the KLTCO
- (3) Requests for substitutions or variances related to minimum requirements for DLTCO must be made in writing and approved by the KLTCO prior to the hiring or promotion of the employee in question. Minimum Qualifications to qualify for a LTCO staff or volunteer position, are:
- (a) Completed two (2) years of undergraduate education; or
 - (b) Equivalent years of experience in assessing and dealing with long-term care needs of the elderly, substituted at the discretion of the Kentucky LTCO
- (4) Notification of Certification:
- (a) The District Ombudsman shall mail a copy of the individual's certification packet to the KLTCO.
 - (b) The KLTCO shall send written notification of an individual's certification as a LTCO to the DLTCO and Regional Long-term Care Ombudsman (RLTCO).
 - (c) The RLTCO shall input the certified individual into the ombudsman reporting system.
 - (d) The RLTCO notifies the District Ombudsman and the state office upon completion via email.
- (5) Notice of Re-Certification:
- (a) Each DLTCO, RLTCO, Certified Ombudsman, and KLTCO shall be recertified for service every two (2) years.

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- (b) Each candidate for re-certification shall have satisfactorily met the requirements as outline in this Standard Operating Procedure, and shall have verification of continued training as offered through the KLTCOP, or community education events.
- (c) Certified Ombudsman shall be verified as having active status in the LTCOP. Active status is defined as the Certified LTCO conducting facility visits, and /or program activities, each quarter as documented in Ombudsmanager.

LONG TERM CARE OMBUDSMAN PROGRAM Refusal to Certify an Individual as a Long-Term Care Ombudsman and De-Certification of a Long-Term Care Ombudsman	DAIL – LTCOP – 16.6
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Policy Statement

The Department for Aging and Independent Living (DAIL) and the Kentucky Long-Term Care Ombudsman (KLTCO) are committed to quality and timely services and assistance to residents of long-term care facilities across the state.

Legal Authority: OAA § 712(a) (5); Older Americans Act of 1965 as amended
45 CFR§ 1324.21 Establishment of the Office of the State Long-Term Care Ombudsman
910 KAR 1:210 Kentucky Long-Term Care Ombudsman Program

Procedure

- 1) Refusal to certify or de-certify an individual as an ombudsman for the following reasons:
 - a) Failure of the individual to meet and /or maintain the criteria for designation;
 - b) Existence of an unresolved conflict of interest;
 - c) Deliberate failure of the individual to disclose any conflict of interest;
 - d) Violation of confidentiality requirement;
 - e) Failure to provide adequate and appropriate services to long-term care residents;
 - f) Falsifying records;
 - g) Failure to follow direction of the KLTCO regarding Long-Term Care Ombudsman (LTCO) policies, procedures and practices;
 - h) A change in employment duties which is incompatible with LTCO duties;
 - i) Separation from the Long-Term Care Ombudsman Program (LTCOP), examples include:
 - i) Removal from employment by the LTCOP provider agency;
 - ii) An extended absence of the LTCOP preventing fulfillment of job responsibilities with the exception of documented necessary family or medical leave; or
 - iii) The LTCOP provider agency's contract for the provision of the LTCOP services is not renewed.
 - j) Failure to act in accordance with applicable federal and state laws, regulations, and policies

LONG TERM CARE OMBUDSMAN PROGRAM Refusal to Certify an Individual as a Long-Term Care Ombudsman and De-Certification of a Long-Term Care Ombudsman	DAIL – LTCOP – 16.6
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- 2) Refusal to Certify an Individual as an Ombudsman and De-Certification of an Ombudsman:
 - a) Prior to refusing to certify or de-certify, the KLTCO shall consult with the relevant Area Agency on Aging and Independent Living (AAAIL) and the Long Term Care Ombudsman Program (LTCOP) provider agency to consider remedial actions that could be taken to avoid the refusal to certify or to de-certify.
 - b) The KLTCO shall refuse to designate an individual as a Long-Term Care Ombudsman (LTCO) by providing written notice of such refusal to the LTCOP provider agency, the administrating agency and the Commissioner of the DAIL. Such notice shall:
 - i) Specify the reasons for the refusal to certify, and
 - ii) Set forth the effective date of such refusal.
 - c) The KLTCO shall provide written notice of the intent to de-certify a LTCO to the LTCO to be de-certified, the LTCO provider agency, the AAA, and the Commissioner of DAIL. Such notice shall:
 - i) Specify the reasons for the intended de-certification, and
 - ii) Set forth the effective date of the de-certification.
 - d) If the refusal to certify an individual as a LTCO or the de-certification of a LTCO results in the absence of ombudsman service in the relevant service area, the AAA shall provide a written plan for the provision of long-term care ombudsman services to DAIL/KLTCO until a LTCO is certified.

LONG TERM CARE OMBUDSMAN PROGRAM Roles and Responsibilities in Administering the Program	DAIL – LTCOP – 16.7
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Policy Statement:

DAIL shall establish and operate an Office of the Kentucky Long-Term Care Ombudsman (KLTCO) and carry out through that Office the statewide Long-Term Care Ombudsman Program.

Legal Authority:

OAA §304 (d) (1);
307 (a) (12); 307(a) (21); 703(a) (2) (C) (i); 705(a) (4); 712(a) (1), (4)
45 CFR § 1324.15

Procedure:

- (1) DAIL Responsibilities, the Cabinet for Health and Family Services, Department for Aging and Independent Living shall:
 - (a) Provide for a full-time Kentucky Long-Term Care Ombudsman (KLTCO);
 - (b) Provide funding for a statewide Long-Term Care Ombudsman Program (LTCOP) in accordance with the Older Americans Act (OAA) allocation formula and maintenance of effort requirements;
 - (c) Ensure legal representation for the Office of the Kentucky Long-Term Care Ombudsman.
 - (d) Require under contract with the Areas Agency on Aging and Independent Living (AAAIL) and as determined through the Area Plan, provisions for legal services to the District Long-Term Care Ombudsman (DLTCO).
 - (e) Provide support to the KLTCO to enable it to fulfill its responsibilities consistent with all applicable federal and state laws, regulations, and policies;
 - (f) Administer the contracts between DAIL and AAAIL's and/or provider agencies;
 - (g) Provide technical assistance and support for the KLTCO programmatic and fiscal monitoring of the local LTCO program;_and
 - (h) Administer the statewide LTCOP in accordance with all applicable federal and state laws, regulations, and policies.

LONG TERM CARE OMBUDSMAN PROGRAM Kentucky Long-Term Care Ombudsman Responsibilities	DAIL – LTCOP – 16.8
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Policy Statement:

Under the direction of the State Unit on Aging, the Kentucky Long-Term Care Ombudsman (KLTCO) is responsible for providing leadership for the statewide Long-Term Care Ombudsman Program (LTCOP).

Legal Authority:

- OAA § 712(a) (2), (3) (H) (iii), (5), 712(c), (d), (h)
- 45 CFR §1324.13;
- 45 CFR Part 93

Procedure:

- (1) The KLTCO shall act independently from the State Unit on Aging and is responsible for the following:
 - (a) Leadership and management of the statewide LTCOP
 1. Providing leadership, planning, and direction for the statewide LTCOP;
 2. Providing program management and development;
 3. Evaluating statewide LTCOP performance;
 4. Developing policies, procedures and standards in coordination with DAIL for administration of the LTCOP and Long Term Care Ombudsman (LTCO) practice;
 5. Promoting the development of citizen organizations to participate in the LTCOP; and
 6. Adhering to the Ombudsman Code of Ethics (Appendix A)
 - (b) Designation LTCO and LTCOP
 1. Prohibiting any representative of the Office from carrying out any LTCO services unless the representative has received certification training; and
 2. Has been approved by the KLTCO as qualified to carry out the activity on behalf of the Office.
 - (c) Long-term care issues advocacy

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1. KLTCO determinations and positions shall be those of the KLTCO and shall not necessarily represent the determinations or positions of the State Unit on Aging or other agency in which the KLTCO is organizationally located.
 2. In carrying out systems advocacy efforts of the KLTCO on behalf of long-term care facility residents and pursuant to the receipt of grant funds under the Act, the provision of information, recommendations of changes of laws to legislators, and recommendations of changes of regulations and policies to government agencies by the Ombudsman or representatives of the Office do not constitute lobbying activities as defined by 45 CFR part 93.
 3. Advocating for policy, regulatory and/or legislative changes in long-term care;
 4. Coordinating with statewide and national advocacy organizations involved in long-term care issues; and
 5. Maintaining awareness of current issues and trends in long-term care
- (d) Inter-agency coordination. Coordinating LTCO services with protection and advocacy systems, adult protective services, state agencies licensing and certifying long-term care facilities, legal assistance provided under the OAA, and other appropriate agencies.
- (e) Maintaining LTCO records and the LTCO reporting system
1. Maintaining, through District LTCOP's, case records, such records are the property of the KLTCO and may not be released, disclosed, duplicated, or removed without the written permission of the KLTCO or designee
 2. Maintaining a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems and submitting such data to appropriate entities as required by the OAA; and
 3. Preparing and distributing the LTCOP annual report as required by the OAA
- (f) Information and assistance. Providing information and referrals regarding long-term care issues and the LTCOP to the public, residents, local organizations, and other agencies.

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- (g) Technical assistance. Providing specialized technical assistance, consultation, training and resources to District LTCOs, provider agencies, AAAs, and DAIL related to the operation of the LTCOP.
- (h) Agency complaint referral
 1. Concerns from the District Ombudsman regarding the Department for Community Based Services (DCBS) investigation or resolution of a complaint may be referred to the KLTCO. The KLTCO shall address the concern with DCBS
 2. Concerns from the District Ombudsman regarding Office of Inspector General investigation or resolution of a complaint may be referred to the KLTCO. The KLTCO shall address the concern to the Inspector General or designee of the OIG.
 3. Concerns of the DLTCO regarding the Office of the Attorney General shall be referred to the KLTCO. The KLTCO shall address the concern to the Attorney General or designee of the OAG.
- (i) The Kentucky Long-Term Care Ombudsman Program shall submit a plan to DAIL that appropriate legal counsel is available to the Office of the Kentucky Long-Term Care Ombudsman.

LONG TERM CARE OMBUDSMAN PROGRAM Kentucky_Ombudsman Responsibilities to Long-Term Care Residents	DAIL – LTCOP – 16.9
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Policy Statement:

The Kentucky Long-term Care Ombudsman shall personally or through representation of the office conduct investigation to resolve complaints or act upon issues on behalf of residents.

Legal Authority: OAA § 712(3) (a), (d)
45 CFR §1324.13

Procedure:

- (1) Identify, investigate, and resolve complaints that are 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 the residents with respect to the appointment and activities of guardians and representative payees), of the following:
 - (a) Providers, or representatives of providers, of long-term care services;
 - (b) Public agencies; or
 - (c) Health and social service agencies
- (2) Provide services to assist residents in protecting their health, safety, welfare, and rights;
- (3) Inform residents about means of obtaining services provided by 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;
- (4) Ensure residents have regular and timely access to LTCO services for residents and timely responses to complaints;
- (5) Represent the interests of residents before governmental agencies and pursue administrative, legal and other remedies to protect the health, safety, welfare and rights of residents;
- (6) Analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions 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;
- (7) Recommend changes in such laws, regulations, policies, and actions as the Office determines appropriate;
- (8) Facilitate public comment on laws, regulations, policies, and actions;

LONG TERM CARE OMBUDSMAN PROGRAM Kentucky_Ombudsman Responsibilities to Long-Term Care Residents	DAIL – LTCOP – 16.9
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- (9) Provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and prohibit inappropriate disclosure of the identity of any complainant or resident with respect to LTCO files or records
- (10) Promote the development of citizen organizations, to participate in the program.
- (11) KLTCO, or designee, shall conduct investigations related to concerns/complaints on DLTCO, certified Ombudsman, friendly visitors, program volunteers and/or program staff.
- (12) KLTCO or designee shall investigate complaints made against any representative of the LTCOP.
- (13) Carry out such other activities as the Administration on Aging and/or DAIL determines to be appropriate.

LONG TERM CARE OMBUDSMAN PROGRAM Kentucky State Ombudsman Responsibilities to District Ombudsman	DAIL – LTCOP – 16.10
Effective Date: December 30, 2009 Revised Date: January 4, 2016 Review Date: July 1, 2017	<p style="text-align: right;">Page 1 of 1</p>

Policy Statement:

The KLTCO shall strive to have trained and experienced ombudsman at the local level to assist residents of long-term care facilities with complaint resolution and maintaining quality of life.

Legal Authority: OAA § 712(a) (3) (F)
45 CFR §1324.13

Procedure: The KLTCO shall provide to District LTCOs:

- (1) Certification training and ongoing training in accordance with 910 KAR 1:210 Section 8
- (2) Program management and development to enable the District LTCOP to fulfill the Program Components;
- (3) Technical assistance and supervision as needed related to complaint handling and other LTCO services;
- (4) Timely review, comment and approval of the AAAIL Area Plan, LTCOP section; and
- (5) Program and fiscal monitoring and evaluation of the local and statewide LTCOP

LONG TERM CARE OMBUDSMAN PROGRAM Kentucky Ombudsman Responsibilities to the Area Agency on Aging	DAIL – LTCOP – 16.11
Effective Date: December 30, 2009 Revised Date: January 4, 2016 Review Date: July 1, 2017	<p style="text-align: right;">Page 1 of 1</p>

Policy Statement:

The Kentucky Long-term Care Ombudsman (KLTCO) is responsible to provide assistance to contracted agencies for technical assistance, planning for transitions in District Long-term Care Ombudsman and data collection.

Legal Authority: OAA § 712(a) (3) (F)
45 CFR §1324.17

Procedure: The KLTCO shall provide to AAAIL's or other contracted entities:

- (1) Administrative and technical assistance to assist in participating in the LTCOP, including:
 - (a) Information and resources to assist the AAAIL or contractor in promoting the LTCOP within its planning and service area;
 - (b) Statewide LTCOP data and data analysis;
 - (c) Assistance with monitoring the District LTCOP; and
 - (d) Review of and comment on relevant sections of area plans.
- (2) Assistance with planning for temporary provision of LTCO services during transition to a new LTCO provider agency or in the absence of a District Ombudsman.
- (3) Where the AAAIL serves as the LTCO provider agency, the KLTCO responsibilities to the LTCO provider agency shall also apply to the AAAIL
- (4) Except for client related data, provide all program, policy or regulation related information to the AAAIL with instructions to forward such information in cases where the AAAIL contracts for LTCO services.

LONG TERM CARE OMBUDSMAN PROGRAM Kentucky Ombudsman Responsibilities to the LTCO Provider Agency	DAIL – LTCOP – 16.12
Effective Date: December 30, 2009 Revised Date: October 25, 2011 Revised Date: January 4, 2016 Review Date: July 1, 2017	<p style="text-align: right;">Page 1 of 1</p>

Policy Statement:

The Kentucky Long-term Care Ombudsman (KLTCO) shall strive to provide the needed technical assistance and training for provider agencies to assist in the operations of a successful and meaningful Ombudsman program.

Legal Authority: OAA § 712(a) (3) (F)
45 CFR §1324.17

Procedure: The KLTCO, or designee of the KLTCO, shall provide to the LTCO provider agency:

- (1) Administrative and technical assistance to assist provider agencies in participating in the LTCOP, including
 - (a) Information and resources to assist the LTCO provider agency in promoting the LTCOP;
 - (b) Statewide LTCOP data and data analysis; and
 - (c) Assistance with monitoring the local LTCOP
 - (d) Information for presentations and public distribution regarding residents' rights and emerging issues in long-term care
- (2) Assistance with screening LTCO applicants for certification requirements, including:
 - (a) Providing a conflict of interest screening tool;
 - (b) Timely response to requests for review of applications and for minimum qualification substitutions
- (3) Assistance with request for documentation regarding complaints, required data entry, participation in trainings, completion of reports, facility visits and Ombudsmanager data.
- (4) Assistance with arrangements for temporary provisions of LTCO services when LTCO staff of the LTCO provider agency are unavailable or the staff position is vacant.
- (5) Program and fiscal monitoring and evaluation of the local LTCO program.

LONG TERM CARE OMBUDSMAN PROGRAM Contract Agency Responsibilities	DAIL – LTCOP – 16.13
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Policy Statement:

Where the contract agency serves as or contracts the Long-Term Care Ombudsman Program (LTCOP), it is responsible for assuring the provision of LTCO services in its service region.

Legal Authority:

- OAA §§ 306; 712(a) (4);
- 45 CFR § 1324.17;
- 910 KAR1:210 Section 4 (1);
- 910 KAR 1:220 Section 5 (7)

Procedure:

The contract agency shall:

- (1) Administer the contract for the District Long Term Care Ombudsman Program (DLTCOP) in the service region, including:
 - (a) Contracting with a LTCO provider agency which meets the relevant criteria for the local LTCOP contract;
 - (b) Expending an adequate level of funding as available to support a LTCO employed full-time;
 - (c) Monitoring of the District LTCOP in order to assess adequate provision of LTCO services pursuant to the contract;
 - (d) Adhering to maintenance of effort requirements for the District LTCOP;
 - (e) Monitoring District LTCOP attainment of its goals and objectives as stated in the District LTCOP Annual Plan, and state approved Standard Operating Procedure(SOP);
 - (f) Participate and provide information as needed to the KLTCOP for annual program and fiscal monitoring
 - (g) Ensuring that all reporting requirements established by the Department for Aging and Independent Living (DAIL) are met
 - (h) Ensuring that all personnel policies and practices promote the Ombudsman performing the functions and responsibilities of the Ombudsman, as set forth in § 1324.13.

- (2) Support the local LTCOP by:

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- (a) Assisting in the development of resources for the operation of the District LTCOP, including financial and human resources;
 - (b) Providing opportunities for the District LTCOP and other aging and social services organizations to collaborate to promote the health, safety, welfare and rights of residents;
 - (c) Making appropriate referrals to the local LTCOP;
 - (d) Promoting awareness of LTCO services to consumers and the general public within the planning and service area;
 - (e) Participating in District LTCOP's advisory council; and
 - (f) Supporting the District LTCOP in system advocacy on behalf of residents.
- (3) Prohibit inappropriate disclosure of the identity of any complainant or resident with respect to LTCO files or records;
 - (4) Provide a transition plan to minimize disruption in LTCO services to residents when the contract for the District LTCOP is terminated or not renewed;
 - (5) When the contract agency provides LTCO services directly, the contract agency shall also fulfill the responsibilities of a LTCO provider agency.

LONG TERM CARE OMBUDSMAN PROGRAM LTCO Provider Agency Responsibilities	DAIL – LTCOP – 16.14
Effective Date: December 30, 2009 Revised Date: January 4, 2016 Revised Date: July 1, 2017	<p style="text-align: right;">Page 1 of 2</p>

Policy Statement:

The Long Term Care Ombudsman (LTCO) provider agency is designated by the Kentucky Long Term Care Ombudsman (KLTCO) to house the local long-term care ombudsman program and to assure the provision of ombudsman services in the planning and service area designated by contract with the contract agency or the Department for Aging and Independent Living (DAIL).

Legal Authority:

- OAA §§ 306: 712(a) (4), (5) (A)
- 45 CFR § 1324.13
- 910 KAR 1:210

Procedure: The LTCO provider agency shall:

- (1) Operate the District LTCOP in accordance with State and Federal laws, regulations and policies and ensure that all personnel policies and practices promote the Ombudsman performing the functions and responsibilities of the Ombudsman, as set forth in 45 CFR § 1324.13.
- (2) Assure that the District LTCOP performs the Program Components and adheres to the state approved Standard Operating Procedure (SOP).
- (3) Require the District Ombudsman to submit a District LTCOP Annual Plan to the contracting agency, if applicable;
- (4) Provide a full-time District Ombudsman, who:
 - (a) Meets the applicable minimum qualifications;
 - (b) Fulfills the duties outlined for the District Ombudsman.
- (5) Provide LTCO staff in addition to the District Ombudsman if necessary in order to:
 - (a) Fulfill the Program Components; and
 - (b) Maintain or exceed the level of services provided in the planning and service area during the previous fiscal year;
- (6) Assure that District LTCOP data is provided to the Office of the Kentucky Long-Term Care Ombudsman in the format required by DAIL by the required deadline;
- (7) Prohibit inappropriate access to LTCO records located with the LTCO provider agency;
- (8) Assure LTCO attendance at certification training and all mandatory statewide LTCO trainings;
- (9) Provide professional development opportunities for LTCO staff;
- (10) Provide staff support as needed for the operation of the LTCOP such as custodial, fiscal management, clerical, and telephone coverage;

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- (11) Arrange, in consultation with the K LTCO and the contracting agency, if applicable, for temporary provisions of LTCO services in the planning and service area when LTCO staff of the LTCO provider agency are unavailable or the staff position is vacant;
- (12) Perform each of its responsibilities in administering the District LTCOP in accordance with all applicable federal and state law, regulations and policies
- (13) Minutes from each Advisory Council meetings shall be sent to the Regional Ombudsman and contracting agency where applicable.
- (14) Provide all necessary program and fiscal information needed by KLTCO for annual monitoring and evaluation of the local LTCO program

LONG TERM CARE OMBUDSMAN PROGRAM Conflicts of Interest	DAIL – LTCOP – 16.15
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Policy Statement:

The organizational placement of the Long-Term Care Ombudsman Program (LTCOP) and the individuals who carry out the duties of the Program must be free from conflicts of interest.

Legal Authority: OAA § 712 (a) (5) (C) (ii), (f); proposed rule 45 CFR § 1324.21.

Procedure:

- (1) A conflict of interest exists in the LTCOP when other interests intrude upon, interfere with, or threaten to negate the ability of the LTCOP to advocate without compromise on behalf of long-term care facility residents. Types of conflict of interest include:
 - (a) Conflicts of loyalty – incentives, often related to financial or employment considerations, that shape ones judgment or behavior in ways that are contrary to the interest of residents;
 - (b) Conflicts of commitment – goals or obligations that direct ones time and/or attention away from the interest of residents; and
 - (c) Conflicts of control – limitations or restrictions that effectively foreclose ones ability to take actions to advocate for the interest of residents

- (2) Organizational conflicts of interest include, but are not limited to, placement of the Office, or requiring that an Ombudsman or representative of the Office perform conflicting activities, in an organization that:
 - (a) Is responsible for licensing, surveying, or certifying long-term care facilities;
 - (b) Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities;
 - (c) Has any 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 with any ownership, investment or employment interest in long-term care facilities;
 - (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 which control access to or services for long-term care facilities;

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- (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 eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities;
 - (j) Conducts preadmission screening for long-term care facility placements;
 - (k) Makes decisions regarding admission or discharge of individuals to or from long-term care facilities; or
 - (l) Provides guardianship, conservatorship or other fiduciary or surrogate decision-making services for residents of long-term care facilities.
- (3) DAIL and the KLTCO shall identify and take steps to remove or remedy conflicts of interest between the KLTCO and the State agency or other agency carrying out the Ombudsman program.
- (4) The KLTCO shall identify organizational conflicts of interest in the Ombudsman program and describe steps taken to remove or remedy conflicts within the annual report submitted through the National Ombudsman Reporting System.
- (5) The KLTCO and DAIL shall:
- (a) Take reasonable steps to avoid internal conflicts of interest;
 - (b) Review and identify internal conflicts;
 - (c) Take steps to remove or remedy conflicts;
 - (d) Ensure that no individual, or member of the immediate family of an individual, involved in the designating, appointing, otherwise selecting or terminating the KLTCO is subject to a conflict of interest; and
 - (e) Assure that the KLTCO has disclosed such conflicts and described steps taken to remove or remedy conflicts within the annual report submitted through the National Ombudsman Reporting System.
- (6) Where local Ombudsman entities provide Ombudsman services, the KLTCO shall:
- (a) Prior to designating or renewing designation, take reasonable steps to avoid conflicts of interest in any agency, which may host a local Ombudsman entity.
 - (b) Perform periodic review and identification of conflicts of interest with the local Ombudsman entity in any agencies hosting a local Ombudsman entity,

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- (c) Require that such agencies disclose identified conflicts of interest with the local Ombudsman entity and steps taken to remove or remedy conflicts within such agency to the KLTCO,
 - (d) Failure of an agency hosting a local Ombudsman entity to disclose a conflict to the Office or inability to adequately remove or remedy a conflict shall constitute grounds for refusal, suspension or removal of designation of the local Ombudsman entity by the KLTCO.
- (7) Individual conflicts of interest for an Ombudsman, representatives of the Office, and members of their immediate family include, but are not limited to, the following:
- (a) Employment of an individual or a member of his/her immediate family within the previous year by a long-term care facility in the area development district or by the owner or operator of any long-term care facility in the planning and service area;
 - (b) Participation in the management of a long-term care facility by an individual or a member of his/her immediate family;
 - (c) Ownership 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 by an individual or a member of his/her immediate family;
 - (d) Involvement in the licensing or certification of a long-term care facility or provision of a long-term care service by an individual or a member of his/her immediate family;
 - (e) Receipt of remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility by an individual or a member of his/her immediate family;
 - (f) Accepting gifts or gratuities from a long-term care facility or its management, a resident or a resident representative of a long-term care facility in which the Ombudsman 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 Ombudsman or representative of the Office);
 - (g) NOTE: A LTCO should adequately compensate a facility for food provided by the facility with the exception of sample portions of food tested as part of an investigative process.
 - (h) Accepting money or any other consideration from anyone other than the LTCO provider agency or other entity designated by the Office of the Kentucky Long-Term Care Ombudsman (KLTCO) for the performance of an act in the regular course of a LTCO's duties;

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- (i) Provision of services with conflicting responsibilities while serving as a LTCO, such as adult protective services; discharge planning; serving as guardian, agent under power of attorney or other surrogate decision-maker for a long-term care resident in the planning and service area; pre-admission screening or case management for long-term care residents; LTCO notarizing documents for residents;
- (j) Serving residents of a facility in which an immediate family member resides; (Immediate Family Member means the spouse, parents and grandparents, children and grandchildren, brothers and sisters, mother in law and father in law, brothers in law and sisters in law, daughters in law and sons in law, Adopted and step members are included in immediate family).

(8) Participating in activities, which:

- (a) negatively impact on the ability of the LTCO to serve residents, or
- (b) are likely to create a perception that the LTCO's primary interest is other than as a resident advocate

(9) Remediating Conflict:

(a) General

1. Where an actual or potential conflict of interest within the LTCOP has been identified, the KLTCO shall be notified. All agents of the Cabinet for Health and Family Services, AAAIL, provider agencies, and LTCO's have a duty to notify the KLTCO of any actual or potential conflict of interest of which they have knowledge.
2. The KLTCO shall determine whether appropriate actions may be taken to sufficiently remedy the conflict. A conflict can be sufficiently remedied only where the existence of the conflict does not interfere with any duties of the LTCOP and where the conflict is not likely to alter the perception of the LTCOP as an independent advocate for residents.

(b) Organizational conflicts Where organizational conflicts have been identified, the following steps shall be taken where the conflict can be sufficiently remedied:

1. A written remedial plan shall be developed within thirty (30) calendar days of identification of the conflict to the KLTCO.

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2. The remedial plan must identify the conflict and provide assurances, which shall minimize to the greatest extent possible the negative impact of the conflict on the LTCOP. Examples of such assurances could include:
 - a. The LTCOP will investigate complaints in an unbiased manner and independently determine actions to be taken in their resolution.
 - b. No agency employee or governing board member with a conflict of interest will be involved with or influence any decision to hire or terminate the employment of a LTCO.
 - c. Governing board members of the LTCO provider agency or AAAIL who have a conflict of interest:
 - d. Must disclose the conflict to the governing board and to the KLTCO;
 - e. May have no involvement with LTCO activities concerning the entity which is the source of the conflict; and
 - f. Must abstain from voting on issues related to the operation of the LTCOP
 - g. The agency's policies and procedures adequately set forth procedures to remedy conflicts of interest and ensure that the LTCO's can fulfill their duties without interference.
 - h. A memorandum of agreement exists between the LTCOP and another program, which provides services with conflicting responsibilities. Such a memorandum must adequately set forth the roles, responsibilities, and appropriate working relationships of the respective programs.

- (c) The remedial plan must be mutually agreed upon and signed by the agency in which the conflict exists and the KLTCO. If either party cannot agree to the plan, the conflict has not been sufficiently remedied.

- (d) Remedying individual ombudsman conflicts. Where individual conflicts have been identified, the following steps shall be taken where the conflict can be sufficiently remedied:
 1. Development of a written remedial plan
 - a. Where the individual is an applicant for a position as a District LTCO or LTCO staff, a plan shall be developed before the

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individual is hired for the position. The Conflict of Interest screening tool must be completed and submitted by the LTCO provider agency to the KLTCO prior to employing the individual. The provider must submit potential remedies to any conflict.

- b. Where the individual is an applicant for certification as a LTCO volunteer, a plan shall be developed before the individual takes any actions on behalf of the LTCOP.
- c. Where the individual is a LTCO staff or volunteer, a plan shall be developed within thirty (30) calendar days of identification of the conflict to the KLTCO.

2. The remedial plan must identify the conflict and provide assurances, which shall minimize to the greatest extent possible the negative impact of the conflict on the LTCOP. An example of such an assurance could include:

- a. Prohibiting the LTCO with a conflict of interest from serving the residents of the facility with which he/she has a conflict and arranging for another staff LTCO to serve those residents. Where appropriate, this arrangement could be time-limited.
- b. The remedial plan must be mutually agreed upon and signed by the LTCO provider agency, the LTCO or applicant with the conflict of interest, the LTCO Coordinator, if applicable, and the KLTCO.

(10) Volunteer Ombudsmen are not permitted to serve residents in facilities with which they have a conflict of interest. The KLTCO may delegate to an District Ombudsman the authority to:

- (a) consider the conflicts of interest of an individual who wishes to serve as a Certified Ombudsman or Friendly Visitor; and
- (b) determine whether conflicts exist which may impede the ability of the Certified Ombudsman or Friendly Visitor to fulfill the duties of that position or may alter the perception of the LTCOP as an independent advocate for residents; if such a conflict exists, the individual cannot serve as a Certified Ombudsman and/or Friendly Visitor

(11) Avoid Conflicts of Interest: Persons seeking certification as ombudsman and friendly visitors

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- (a) The LTCO provider agency shall screen all persons seeking certification as LTCO staff or volunteers to identify any actual or potential individual conflicts of interest. The LTCO provider agency shall submit evidence of such screen to the KLTCO. The KLTCO may periodically request the LTCO provider agency to perform a conflict of interest screen of currently certified LTCO staff or volunteers.
 - (b) All persons seeking employment or certification as a LTCO staff or volunteer, shall disclose to the LTCO provider agency all information relevant to past employment, membership, or interests that may affect, or could reasonably be expected to affect, that individual's ability to carry out duties of a LTCO without conflicting interest.
- (12) Ombudsman Involvement in Activities. In determining whether LTCO participation in local groups, professional associations, or other activities constitutes a conflict of interest, the following questions shall be considered:
- (a) Will the LTCO 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 this activity benefit residents?
 - (d) How will participating in the activity affect the public perception and the resident's perspective of the LTCOP?
 - (e) Will the LTCO be in a position of participating in a decision about a resident without the resident's involvement or permission?
- (13) Failure to Identify or Remedy a Conflict of Interest:
- (a) Failure on the part of a LTCO, LTCO provider agency, to identify and report to the KLTCO a known conflict of interest shall be sufficient grounds for refusal to designate or de-designate of a LTCOP and/or certify or de-certify of a LTCO.
 - (b) Existence of an unresolved conflict of interest shall be sufficient grounds for the de-designation of the LTCOP.
 - (c) Failure on the part of a LTCO to identify and report to the KLTCO a known conflict of interest shall be sufficient grounds for the withdrawal of the certification of the LTCO.

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Policy Statement:

Records of the Long-Term Care Ombudsman Program (LTCOP) shall be confidential and shall be disclosed only in limited circumstances specifically provided by applicable law and these procedures.

Legal Authority: OAA § 712 (d)

45 CFR §1324.11

Procedure:

Access to Long-Term Care Ombudsman Records:

All LTCOP records are the property of the Office of the Kentucky Long-Term Care Ombudsman . The Kentucky Long-Term Care Ombudsman (KLTCO) or designee has access to all LTCOP records at all times for any purpose.

Ombudsman Access:

- (1) Each KLTCO has access to records of the District LTCOP for which he or she serves.
- (2) For the purpose of providing temporary coverage for another District LTCOP, a LTCO may have access to the LTCO records of the other District LTCOP to the extent necessary to provide such coverage.

Department for Aging and Independent Living (DAIL), Area Agencies on Aging and Independent Living (AAAIL), and Provider Agencies:

- (1) For the purposes of monitoring and supervising the LTCOP, DAIL, AAAIL and/or LTCO provider agency may review records, which reflect the activities of the LTCOP, including activity reports and complaint summary reports. DAIL, AAAIL, or LTCO provider agency may not review records that disclose or imply the identity of any resident or complainant.
- (2) No state agency, AAAIL or LTCO provider agency may require a LTCO to disclose the identity of a complainant or resident except as specifically provided by these procedures.

Response to Requests for Long-Term Care Ombudsman Records:

- (1) Where a request is made to any party for LTCO records, the KLTCO or designee shall be contacted. Records maintained by the LTCOP may not

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be released, disclosed, duplicated or removed to anyone who is not a LTCO staff or volunteer without the written permission of the KLTCO.

(2) The KLTCO or designee shall determine whether to disclose all or part of the records as follows:

- (a) The KLTCO shall require that the request be made in writing and may require a copy of the request before determining the appropriate response. Where a resident makes the request orally, complainant, or legal representative of the resident or complainant, the request must be documented immediately and filed as a LTCO record by the LTCO to who consent was communicated in order to meet this requirement.
- (b) The KLTCO shall review the request with the relevant local LTCOP to determine whether the release of all or part of the records would be consistent with the wishes or interest of the relevant resident(s).
- (c) The KLTCO shall determine whether any part of the records should be redacted (i.e. all identifying information removed). The identities of residents or complainants who have not provided express consent for the release of their names shall not be revealed. Such consent must be in writing or made orally documented immediately and filed as a LTCO record by the LTCO to which consent was communicated.
- (d) The KLTCO or designee shall consider the source of the request as follows:

If the request for LTCO records is Made by:	Then the KLTCO or designee shall:
A resident,	Release any records generated by the LTCO, which are directly relevant to that resident provided that the identity of other residents or complainants is redacted.
A legal representative of a resident	Release any records generated by the LTCO which are directly relevant to that resident or legal representative, provided that: <ul style="list-style-type: none"> • The KLTCO has no reason to believe that the release shall be in conflict with the wishes or interest of the relevant resident, and • The identity of other residents or complainants is redacted.
Another agency or program	Release the records only if:

LONG TERM CARE OMBUDSMAN PROGRAM Long-Term Care Ombudsman Records	DAIL – LTCOP – 16.16
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	<ul style="list-style-type: none"> • The resident has provided consent (If the resident is unable to provide consent, the resident’s legal representative may provide consent.) and • The identities of residents or complainants who have not provided consent for the release of their names are not revealed. <p>NOTE: where federal requirements conflict with Kentucky law, the federal requirements take precedence.</p>
A judge	<ul style="list-style-type: none"> • Release any records directly responsive to a court order, and • Provide an explanation to the court regarding the importance of not revealing the identity of residents and complainants and/or requesting court to seal the LTCO records where the KLTCO determines that the release of records would be inconsistent with the wishes or interest of the resident.
Any other party	<p>Release the records only if:</p> <ul style="list-style-type: none"> • The resident has provided consent (If the resident is unable to provide consent, the resident’s legal representative may provide consent.) and • The identities of residents or complainants who have not provided consent for the release of their names are not revealed.

LONG TERM CARE OMBUDSMAN PROGRAM Access to the Kentucky Ombudsman Documentation & Information System	DAIL – LTCOP – 16.17
Effective Date: December 30, 2009 Revised Date: July 1, 2017 Previous Revision: January 4, 2016	Page 1 of 1

Policy Statement

DAIL, through the Office of the Kentucky Long-Term Care Ombudsman will ensure the integrity and security of all data recorded in the Ombudsmanager Data System in a manner that maintains confidentiality of all individuals. Information in the required data system may only be recorded and accessed by those persons in possession of their own user identification and password. Access shall be limited to information pertinent to the certification level of the user. Use of Kentucky data system is limited to KLTCO, DAIL, District Ombudsman and Certified LTCO.

Legal Authority: 910 KAR 1:210

Procedure:

- (1) Each District Ombudsman, designated Districts data entry persons, shall by the 15th of each month, complete data entry into Ombudsmanager for the previous month's cases and program activities. The Area Agency on Aging is responsible to ensure all data is entered and approved by the Commissioner of DAIL, accurately, and by the 15th of each month.
- (2) The KLTCO shall determine access limitations within Ombudsmanager. All program staff and volunteers must adhere to all confidentiality provisions of the Office of the Kentucky Long-Term Care Ombudsman Program as provided by 910 KAR 1:210 Section 9.
- (3) For audit purposes, the Commissioner of the State Unit on Aging may request reports that do not disclose the identity of residents or complainants, as provided by 910 KAR 1:210 Section 9.

LONG TERM CARE OMBUDSMAN PROGRAM Liability	DAIL – LTCOP – 16.18
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Policy Statement: A Certified Ombudsman is immune from liability for the good faith performance of his or her official duties.

Legal Authority: OAA § 712(i)

Procedure:

A long-term care ombudsman (LTCO) shall not incur any civil or criminal liability for performing his or her official duties in good faith.

- (1) Official duties are those duties of a LTCO set forth in applicable federal and state law and the standard operating policies and procedures established by the Department for Aging and Independent Living (DAIL). They shall include, but not be limited to, making a statement or communication relevant to receiving a complaint or conducting investigative activity.
- (2) Evidence of performing duties in good faith includes, but is not limited to the following:
 - (a) Making every reasonable effort to follow procedures set forth in applicable laws and these procedures;
 - (b) Seeking, and making reasonable efforts to follow, direction from the Office of the Kentucky Long-Term Care Ombudsman (KLTCO) and;
 - (c) Seeking, and making reasonable efforts to follow, direction from the District Ombudsman

Liability Insurance:

The Cabinet for Health and Family Services, Department for Aging and Independent Living does not provide liability insurance or indemnification for area agencies on aging and independent living (AAAIL) or their provider agencies. Provider agencies are expected to retain their own liability policies.

LONG TERM CARE OMBUDSMAN PROGRAM Responsibilities of Regional Ombudsman	DAIL – LTCOP – 16.19
Effective Date: December 30, 2009 Revised Date: July 1, 2017 Previous Revision: January 4, 2016	Page 1 of 1

Policy Statement

Regional Ombudsmen are established to assist the Kentucky Long Term Care Ombudsman (KLTCO) in the statewide administration and guidance of the long-term care ombudsman program.

Legal Authority: 910 KAR: 210 Sections 3 and 8

The regional ombudsman report directly to the Kentucky Long Term Care Ombudsman and have the following specific responsibilities.

Procedure:

- (1) Provide technical assistance within the geographic area assigned related to Ombudsmanager Data System, consultation, training and resources; including the required twenty-four (24) hours of initial certification training for new DLTCO.
- (2) Receive, investigate and resolve complaints when necessary, including complaints received regarding DLTCO.
- (3) Assist with other trainings when appropriate and approved.
- (4) Attend at least one (1) advisory council meeting per year for each district, as required by contract.
- (5) Obtain copies of each district's advisory council meeting minutes.
- (6) Review quarterly each district program within assigned geographic area, a sample of Ombudsmanager Data System inputted cases and program activities. Follow up with each district ombudsman for corrections.
- (7) Validate facilities have been visited at least quarterly.
- (8) Provide information to the public about the issues of long-term care residents when appropriate.
- (9) Perform other job duties as required by the Kentucky Long-Term Care Ombudsman.
- (10) Perform yearly monitoring of District LTCOP.

LONG TERM CARE OMBUDSMAN PROGRAM Interference and Retaliation	DAIL – LTCOP – 16.20
Effective Date: December 30, 2009 Revised Date: July 1, 2017 Previous Revision: July 5, 2016	<p style="text-align: right;">Page 1 of 2</p>

Policy Statement

No person shall willfully interfere with a long-term care ombudsman (LTCO) 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 negatively impact on:

- (a) the objectivity of the investigation or outcome of complaints;
- (b) the LTCO’s role as advocate for the rights and interests of the resident;
- (c) the LTCO’s work to resolve issues related to the rights, quality of care and quality of life of residents of long-term care facilities; or
- (d) the LTCO’s statutory responsibility to provide such information as DAIL and the Office of the Kentucky Long-Term Care Ombudsman 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

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 a LTCO.

Legal Authority: OAA § 712(j)

Procedure:

- (1) Any person who has knowledge of such interference or retaliation shall report such information to the KLTCO.
- (2) The KLTCO shall review the information provided, and conduct further investigation if necessary to confirm the occurrence of the interference or retaliation.
- (3) If the KLTCO, based on such review, determines that enforcement action is warranted, the KLTCO shall pursue the following course of action:
 - (a) Where the entity which has interfered or retaliated is a long-term care facility or its staff or agents:
 - 1. The KLTCO shall submit a written description of such interference or retaliation to the Office of Inspector General

LONG TERM CARE OMBUDSMAN PROGRAM Interference and Retaliation	DAIL – LTCOP – 16.20
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(OIG); OIG investigates the report and if confirms the occurrence has the authority to impose penalties. Per 910 KAR 1:210 Section 13 (9)(a) a fine of \$100 to \$500 will be imposed for each violation;

- (b) Where the entity which has interfered or retaliated is an entity other than a long-term care facility or its staff or agents:
1. Such interference by an individual who is an official or employee of the Cabinet for Health and Family Services, an Area Agency on Aging or a LTCO provider agency shall be deemed to be a violation of OAA § 705(a) and the KLTCO shall
 2. Report such interference or retaliation to the Commissioner for the State Unit on Aging, known as the Department for Aging and Independent Living

LONG TERM CARE OMBUDSMAN PROGRAM Specific Responsibilities of the District Ombudsman Program	DAIL – LTCOP – 16.21
Effective Date: December 30, 2009 Revised Date: July 1, 2017 Previous Revision: January 4, 2016	<p style="text-align: right;">Page 1 of 2</p>

Policy

The long-term care ombudsman program is responsible for promoting and advocating for quality care in long-term care facilities. The ombudsman work to protect the rights of individuals residing in these facilities.

Legal Authority: 910 KAR 1:210 Section 5
OAA Chapter 712, section 5 subsection B

The District Ombudsman Program shall be responsible for the following specific responsibilities:

Procedure:

- (1) Represent all long-term care residents within the assigned geographical area residing in long-term care facilities.
- (2) Assure resident's rights are upheld and promote and advocate for quality care in long-term care facilities by providing in service and training on residents rights to staff, resident councils and family councils.
- (3) Promote citizen involvement in order to assure regular visitations especially for those residents without available family or friends by:
 - (a) Conducting community awareness events; and
 - (b) Participating in and presenting information about the Ombudsman Program to various community and civic organizations.
- (4) Investigate and work to resolve complaints on behalf of long-term care residents.
- (5) Prepare and submit reports for any request of information in a format and time frame provided by DAIL and/or the Kentucky Long-Term Care Ombudsman (KLTCO).
- (6) Advise the public about the availability of current State, Local, and Federal inspection reports, statements of deficiency and plans for correction for individual long-term care facilities in the area.
- (7) Publicize the existence and function of the local and KLTCO Program by participating in community education events, health fairs, local coordinating councils on elder abuse and multi-agency regional meetings.
- (8) Represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare and rights of the residents.
- (9) Organize and implement an active volunteer program.
- (10) Assist in the development of resident and family councils.
- (11) Sponsor community education and training programs to long-term care facilities, human service workers, families and the general public about

LONG TERM CARE OMBUDSMAN PROGRAM Specific Responsibilities of the District Ombudsman Program	DAIL – LTCOP – 16.21
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long-term care and residents' rights issues; and provide education to the above entities on elder abuse awareness and prevention.

- (12) Attend required training and provide on-going in-service training for staff and volunteers of local programs.
- (13) Maintain records in accordance with Federal and State laws and DAIL procedures, including procedures to protect the identity, confidentiality and privacy of residents.
- (14) Submit all non-resident specific statistical and financial reports to the Area Agencies on Aging as required.
- (15) District Ombudsman have the right to enter a facility without prior notice, meet with one or more residents and observe the operation of the facility as it affects the resident.
- (16) Submit a copy of the Advisory Council Meeting minutes to the Regional Ombudsman.
- (17) Review facility bed-count within your geographical area and submit changes quarterly to the Regional Ombudsman.
- (18) Review and report inactive and new additional volunteers or changes in local program staff quarterly to the Regional Ombudsman.

LONG-TERM CARE OMBUDSMAN PROGRAM Advisory Councils	DAIL – LTCOP – 16.22
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Policy Statement

District Long-Term Care Ombudsman (DLTCO) programs shall establish and maintain a local advisory council to advise in the planning and operation of the program to meet the needs of the service area.

Legal Authority: OAA § 712(e);
910 KAR 1:210 Section 7

Procedure:

- (1) Each District LTCOP shall develop its own advisory council.
- (2) The DLTCOP shall design its advisory council to perform one or more of the following functions:
 - (a) Provide advice regarding the planning and operation of the DLTCO Program
 - (b) Enhance community understanding of Long-Term Care Ombudsman Program (LTCOP) purpose and services;
 - (c) Act as a multidisciplinary team to assist the DLTCO or Kentucky Long-Term Care Ombudsman (KLTCO) in obtaining resources to benefit long-term care facility residents;
 - (d) Develop an understanding of long-term care issues and assist the LTCOP in issues advocacy efforts; and/or
 - (e) Assist the DLTCOP or KLTCO in special projects
- (3) Composition of the advisory council
 - (a) The council shall be made up of persons with a strong interest in improving the quality of life and protecting the rights of residents in long-term care facilities. The DLTCO and the Director of the Area Agency on Aging and Independent Living (AAAIL) shall ensure that all volunteers and Advisory Council members receive a criminal background check, and receive a background check utilizing the Nurse Aide Registry, if appropriate.
 - (b) Group size and composition shall be individualized to the needs of the DLTCOP but shall not be less than seven.
 - (c) One third of the members shall be consumers or family members of consumers.
 - (d) Members shall not:
 1. Be responsible for certifying or licensing long term care facilities;

LONG-TERM CARE OMBUDSMAN PROGRAM Advisory Councils	DAIL – LTCOP – 16.22
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2. Be a provider of long-term care services or part of an association of such providers;
3. Be an immediate family member of the DLTCO (see SOP 16.15 for definition of immediate family member);
4. Gain economically or receive any compensation for a long-term care facility provider or association.

LONG TERM CARE OMBUDSMAN PROGRAM Complaint Investigation and Resolution	DAIL – LTCOP – 16.23
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Policy Statement:

The Long-Term Care Ombudsman Program shall investigate and resolve complaints made by or on behalf of residents in long-term care facilities regardless of the source of the complaint. The Certified Ombudsman shall support resident participation in the process of resolving complaints.

Legal Authority:

- 910 KAR 1:210 Section 12; Section13
- OAA Chapter 712
- 45 CFR§ 1327.15
- 45 CFR part 160 and 45 CFR part 164, subparts A and E
-

Procedure:

- (1) The Certified Ombudsman shall seek privacy for the purpose of confidentiality for the resident when providing information, investigating, and resolving complaints.

- (2) The Certified Ombudsman or representative of the Office shall personally discuss the complaint with the resident (and, if the resident is unable to communicate informed consent, the resident’s representative) in order to:
 - (a) Determine the perspective of the resident (or resident representative, where applicable) of the complaint.
 - (b) Request the resident (or resident representative, where applicable) to communicate informed consent in order to investigate the complaint.
 - (c) Determine the wishes of the resident (or resident representative, where applicable) with respect to resolution of the complaint, including whether the allegations are to be reported and, if so, whether the ombudsman or representative of the Office may disclose resident identifying information or other relevant information to the facility and/or appropriate agencies.
 - (d) Advise the resident (and resident representative, where applicable) of the resident’s rights.
 - (e) Work with the resident (or resident representative, where applicable) to develop a plan of action for resolution of the complaint.
 - (f) Request the resident (or resident representative, where applicable) to communicate consent in order to access the medical, social and other records relating to a resident, if:
 1. The resident or resident representative communicates informed consent to the access and the consent is given in writing or through the use of auxiliary aids and services; or

LONG TERM CARE OMBUDSMAN PROGRAM Complaint Investigation and Resolution	DAIL – LTCOP – 16.23
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2. The resident or resident representative communicates informed consent orally, visually, or with auxiliary aids and services and such consent is documented contemporaneously by a representative of the Office in accordance with such procedures.
- (g) Investigate the complaint to determine whether the complaint can be verified.
- (h) The LTCO shall seek the following information during the investigation of the complaint and document the findings in the case record:
1. What has occurred or is occurring;
 2. When it occurred and whether the occurrence is on-going;
 3. Where it occurred;
 4. Who was involved;
 5. Effect of the occurrence on resident(s);
 6. Reason for occurrence; and
 7. What, if anything, the facility or other interested parties have done in response to the occurrence

(i) Timelines of investigation

Complaints with care issues	Respond within two (2) business days not to exceed three (3) calendar days
Other types of complaints	Within seven (7) calendar days
Actual or threatened transfer or discharge from a facility	Whichever occurs first: (i) five (5) working days, (ii) the last day of bed-hold period if resident is hospitalized), or (iii) the last day for filing an appeal for an administrative hearing

- (j) Determine whether the complaint is resolved to the satisfaction of the resident (or resident representative, where applicable). The resolution status of a complaint shall be determined when any of the following occurs:
1. The complaint has been resolved to the resident’s satisfaction. If the resident cannot communicate his/her satisfaction, the ombudsman may seek resolution to the satisfaction of the resident’s representative or complainant, if consistent with the rights and interests of the resident.

LONG TERM CARE OMBUDSMAN PROGRAM Complaint Investigation and Resolution	DAIL – LTCOP – 16.23
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2. The LTCOP has determined, after investigation, that the complaint can or cannot be verified, or was not made in good faith.

Note: Verification of a complaint is determined after the ombudsman conducts interviews, record inspection, observation etc., and finds that the circumstances described in the complaint are generally accurate.

3. The resident or legal representative requests that LTCO activity end on the complaint.
4. The resolution process shall include follow- up and ongoing monitoring, as appropriate, of the situation after a reasonable period of time through contact with the complainant or resident, or otherwise where appropriate, for the purpose of determining the causes giving rise to the complaint have not been repeated, and/or have not recurred. Such follow up shall be documented.

(3) The complaint may be closed when follow-up steps have indicated no further action is needed.

(4) A case is closed when all of the complaints related to that case have been closed.

(5) Consent

(a) The ombudsman shall seek consent of the resident to work to resolve complaints and make referrals to agencies. The ombudsman must also seek consent when they personally witness suspected abuse, gross neglect, or exploitation of a resident. Communication of consent to reveal the identity of the resident/complainant may be made in writing, orally or visually.

(b) Where the resident is unable to communicate consent, and has no resident representative, the ombudsman shall:

1. Open a case with the ombudsman as the complainant
2. Take appropriate steps to investigate complaints that adversely affect the health, safety, welfare or rights of the resident
3. As necessary refer the matter and disclose identifying information of the resident to the management of the facility in which the resident resides and/or the appropriate agencies in the following circumstances: the ombudsman personally witnesses suspected abuse, gross neglect, or exploitation of a

LONG TERM CARE OMBUDSMAN PROGRAM Complaint Investigation and Resolution	DAIL – LTCOP – 16.23
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resident has no evidence indicating that the resident would not wish a referral to be made, and the ombudsman has reasonable cause to believe that disclosure would be in the best interest of the resident

4. Promptly notify the KLTCO of any disclosure of resident-identifying information.

(c) Where the resident is unable to communicate consent and has a resident representative, the ombudsman shall contact the resident representative for consent. If the ombudsman personally witnesses suspected abuse, gross neglect or exploitation of the resident, they shall follow the direction of the resident representative to obtain consent unless the representative is not acting in the best interest of the resident.

1. In determining whether to rely upon a resident representative to communicate or make determinations on behalf of the resident related to complaint processing, the KLTCO or representative shall ascertain the extent of the authority that has been granted to the resident representative under court order (in the case of a guardian or conservator), by power of attorney or other document by which the resident has granted authority to the representative, or under other applicable State or Federal law.
2. The ombudsman shall seek the permission of the KLTCO during an investigation when a resident is unable to give consent and the resident representative is not acting in the best interest of the resident. The KLTCO or designee shall respond to the ombudsman within two (2) business days not to exceed three (3) calendar days.

(6) Legal Referrals

District Ombudsman shall make referrals to county attorneys, legal aid agencies and legal assistance offices, with consent of resident or legal representative of the resident. Referrals to the Office of the Attorney General and the Cabinet for Health and Family Services Office of Counsel shall be made through the KLTCO.

(7) Health Insurance Portability and Accountability Act

Reaffirmation that the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule does not preclude release by covered entities of

LONG TERM CARE OMBUDSMAN PROGRAM Complaint Investigation and Resolution	DAIL – LTCOP – 16.23
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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.

LONG TERM CARE OMBUDSMAN PROGRAM Complaint Resolution	DAIL – LTCOP – 16.24
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LONG TERM CARE OMBUDSMAN PROGRAM Confidentiality	DAIL – LTCOP – 16.25
Effective Date: December 30, 2009 Revised Date: July 1, 2017 Previous Revised: January 4, 2016	Page 1 of 1

Policy Statement

All investigatory files, complaints, responses to complaints and all other information related to any complaint or investigation maintained by the Long-Term Care Ombudsman Program shall be considered confidential information.

Legal Authority: OAA Section 307(12) (B) (D);
910 KAR 1:210 Section 9

Procedure

- 1) No person who gains access to residents' records shall discuss or disclose information in the records or disclose a resident's identity outside of the program without written consent of such resident or resident's legal representative.
- 2) Information or records maintained by the Long-Term Care Ombudsman Program (LTCOP) shall be disclosed only at the discretion of the Kentucky Long-Term Care Ombudsman (KLTCO).
- 3) The identity or identifying information of any complainant or resident shall not be disclosed by the KLTCO except:
 - a) The resident, or legal representative consents in writing to the disclosure;
or
 - b) A court orders the disclosure.
- 4) Maintaining records:
 - a) All complain/discharge and transfer files maintained by the program are to be in a locked file cabinet.
 - b) Computer data systems shall have secure access codes;
 - c) Computer data software shall be stored in a secured file cabinet.

LONG TERM CARE OMBUDSMAN PROGRAM Documentation of Investigation	DAIL – LTCOP – 16.26
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Policy Statement

The documentation of investigation conducted at long-term care facilities is vital to track trends, identify problems at specific facilities and to provide knowledge of facilities that are in need of additional Long-term Care Ombudsman visits to work toward resolution of issues.

Legal Authority

Older Americans Act of 1965 as Amended
910 KAR 1:210

Procedure

- (1) Each complaint, have the following information documented:
 - (a) Complainant name,
 - (b) Telephone number and/or address of complainant,
 - (c) Complainant role
 - (d) Problem as presented by complainant
 - (e) Date/time/shift problem occurred
 - (f) Prior action (if any) taken by complainant
 - (g) Consent to investigate
 - (h) Facility name
 - (i) Resident
 - (j) Legal Representative (if applicable), address, telephone number
 - (k) Complaint code, verification
 - (l) Notes/Journal entries
 - (m) Referrals made (if applicable)

- (2) Complaint investigation shall include the following components;
 - (a) Face to face contact with resident
 - (b) Written consent or documented verbal consent
 - (c) Collateral interviews, as needed and appropriate
 - (d) Staff interviews, as needed and appropriate
 - (e) Notes/journal entries
 - (f) Referrals made
 - (g) Disposition

- (3) Case records shall be kept for five (5) years.

LONG TERM CARE OMBUDSMAN PROGRAM Referrals	DAIL – LTCOP – 16.27
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LONG TERM CARE OMBUDSMAN PROGRAM Training	DAIL – LTCOP – 16.28
Effective Date: December 30, 2009 Revised Date: July 1, 2017 Previous Revised: January 4, 2016	Page 1 of 1

Policy Statement

All Ombudsman representatives paid and volunteer shall be provided training to ensure knowledge of program requirements and how to address situations.

Legal Authority:

OAA § 712 (4) (A);
910 KAR 1:210 Section 8

Procedure

- (1) Initial Certification Training for District Long-Term Care Ombudsman (DLTCO) and Certified Ombudsman shall complete a minimum of twenty-four (24) hours of training in the following areas:
 - (a) History and Role of the Long-Term Care Ombudsman Program
 - (b) The Aging Process
 - (c) Residents' Rights
 - (d) The Problem-Solving Process Investigation
 - (e) The Problem-Solving Process Resolution
 - (f) Long-Term Care Setting Characteristics
 - (g) Legal Issues
 - (h) Facility visitation
 - (i) Ombudsmanager Reporting System
 - (j) Volunteers & Friendly Visitors

- (2) DLTCO shall receive their training from the Regional Long-Term Care Ombudsman (RLTCO). Certified Volunteers shall receive their training through the DLTCO.

- (3) After initial training is completed, the candidate for Ombudsman shall take and pass a competency test covering the training components of the LTCOP with a minimum score of 80%.

- (4) Initial Training for Friendly Visitors: Persons seeking to become friendly visitors shall complete a minimum of two (2) hours classroom training. Additionally, candidates seeking to become friendly visitors shall participate in facility visitation(s) with the DLTCO, which shall include face-to-face resident conversation and interaction.

- (5) Continuing Education: Per 910 KAR 1:210, Section 8 (4) District Ombudsman shall attend, as provided, quarterly trainings.

LONG TERM CARE OMBUDSMAN PROGRAM Monitoring	DAIL – LTCOP – 16.29
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Policy Statement

The Department for Aging and Independent Living (DAIL) requires that the Kentucky Long-Term Care Ombudsman Program (LTCOP) be monitored annually. Monitoring is to ensure the LTCOP is operating in accordance with the Older Americans Act on a statewide basis.

Legal Authority

- 42 U.S.C. 3001 et seq. Older Americans Act of 1965 as amended
- 910 KAR 1:210 Long-term Care Ombudsman Program
- 910 KAR 1:220 General Administration, programs for older individuals and persons with disabilities.
- DAIL-LTCOP-16.4 De-Designation of DLTCO program
- DAIL-LTCOP-16.6 Refusal to Certify an Individual as a Long-Term Care Ombudsman and De-Certification of a Long-Term Care Ombudsman.

Procedure

- 1) The designated KLTCO shall provide a copy of all written correspondence related to monitoring of the DLTCO programs to DAIL.
- 2) The KLTCO shall develop the monitoring tool and submit to DAIL for approval prior to implementing.
- 3) The approved monitoring tool shall be provided to the DLTCO.
- 4) The KLTCO shall conduct monitoring of all DLTCO programs annually.
- 5) Monitoring shall meet the objectives submitted in the area plan and contracts and the requirements of the 910 KAR 1:220 General Administration, programs for older individuals and persons with disabilities
- 6) The DLTCO program shall be provided with a letter informing them of any corrective actions or informing them of compliance with all program requirement.
- 7) When a DLTCO program is issued a letter with corrective action the KLTCO shall ensure the DLTCO program meets the deadline for response and review the plan of correction.
 - a) If the plan of correction is satisfactory, the DLTCO is notified by letter that the plan is acceptable.
 - b) If the plan of correction is not acceptable, the KLTCO shall notify the DLTCO an unacceptable plan and provide guidance on how to come into compliance. The DLTCO program is provided another opportunity to submit an acceptable plan of correction.
 - c) When the DLTCO program is unable to provide an acceptable plan of correction the KLTCO shall follow DAIL-LTCOP-16.4 De-Designation of Ombudsman Programs.
 - d) When the DLTCO program is unable to submit an acceptable plan due to the actions or inaction of the District Ombudsman the KLTCO shall follow DAIL-LTCOP-16.6 Refusal to Certify an Individual as a Long-Term Care Ombudsman and De-Certification of a Long-Term Care Ombudsman.

LONG TERM CARE OMBUDSMAN PROGRAM	DAIL – LTCOP – 16.30
Grievance Process	
Effective Date: July 1, 2017	Page 1 of 2

Policy Statement

To be responsive to concerns regarding the performance of an individual ombudsman or representative of the Long Term Ombudsman Program (LTCOP) all grievances shall be documented and relevant action shall be identified to assure quality of services.

Legal Authority: 45 CFR Parts § 1324.11 (e)(7);
910 KAR 1:210 Section 2(2)(w)

Procedure:

- 1) The KLTCO shall notify DAIL within two (2) business days of any grievance or complaints made against a representative of the LTCOP and all follow up investigation findings and corrective actions.
- 2) Grievances/complaints Against Staff/Volunteers:
 - a) Shall be directed to the District LTCO for investigation;
 - b) The DLTCO shall notify the KLTCO within two (2) business days of grievances filed against staff/volunteers;
 - c) The DLTCO shall investigate the complaint within five (5) business days;
 - d) The nature of the complaint and the investigation shall be promptly documented and maintained in the District's staff/volunteer files;
 - e) A response back to the complainant shall be given and will include the number to the KLTCO office. The response shall be given within seven (7) business days.
 - f) A copy of the investigation and the response sent to the complainant shall be sent to the KLTCO within seven (7) business days.
- 3) Grievances/complaints Against District Ombudsmen shall be directed to the KLTCOP for investigation:
 - a) The Regional LTCO shall notify the KLTCO within two (2) business days of grievances filed against staff/volunteers;
 - b) The RLTCO shall investigate the complaint within five (5) business days;
 - c) The nature of the complaint and the investigation shall be promptly documented and maintained in the District Ombudsman file at the KLTCOP office;
 - d) A response back to the complainant shall be given and will include the number to the KLTCO office. The response shall be given within seven (7) business days;
 - e) A copy of the investigation and the response sent to the complainant shall be sent to the KLTCO within seven (7) business days.
- 4) Grievances/complaints Against Regional Ombudsman shall be directed to the KLTCO for investigation:

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- a) The KLTCO shall investigate the complaint within five (5) business days;
- b) The nature of the complaint and the investigation shall be promptly documented and maintained in the District Ombudsman file at the KLTCOP office;
- c) A response back to the complainant shall be given and will include the number to the KLTCO office. The response shall be given within seven (7) business days.
- 5) Grievances/complaints Against the Kentucky Long-Term Care Ombudsman shall be directed to the KLTCOP hosting agency for investigation:
 - a) The KLTCO hosting agency shall investigate the complaint within five (5) business days;
 - b) The nature of the complaint and the investigation shall be promptly documented and maintained in the file at the KLTCOP office;
 - c) A response back to the complainant shall be given and will include the number to the DAIL office. The response shall be given within seven (7) business days;
 - d) A copy of the investigation and the response sent to the complainant shall be sent to DAIL within seven (7) business days.
- 6) Grievance against de-designation process:
 - a) The KLTCO shall send written notice to the DLTCO program provider, AAAIL and DAIL by registered or certified mail within seven (7) calendar days of the KLTCO's decision to de-designate.
 - b) The notice shall specify:
 - i) The reason for the de-designation;
 - ii) That the provider or applicant may file a request for reconsideration with the KLTCO within ten (10) calendar days from receipt of notice;
 - iii) A request for reconsideration of de-designation shall state in writing why the request is filed and the factual circumstances and issues to be considered during the review;
 - iv) That failure to file a request for reconsideration within the ten (10) calendar days shall constitute a waiver.
- 7) Review of reconsideration regarding the de-designation of the local LTCO program provider includes:
 - a) The KLTCO shall:
 - i) Review request for reconsideration within thirty (30) calendar days;
 - ii) Send the request to DAIL for review and comment;
 - iii) Make the final determination to designate or to refuse, suspend, or remove designation of a local Ombudsman entity or representative of the Office.
 - b) Final determination will be sent by registered or certified mail to the LTCO program provider, AAAIL and DAIL.

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Policy Statement:

The KLTCO shall strive to have trained and experienced ombudsman at the local level to assist residents of long-term care facilities with complaint resolution and maintaining quality of life.

Legal Authority: OAA § 712(a) (3) (F)
45 CFR §1324.13

Procedure: The KLTCO shall provide to District LTCOs:

- (1) Certification training and ongoing training in accordance with 910 KAR 1:210 Section 8
- (2) Program management and development to enable the District LTCOP to fulfill the Program Components;
- (3) Technical assistance and supervision as needed related to complaint handling and other LTCO services;
- (4) Timely review, comment and approval of the AAAIL Area Plan, LTCOP section; and
- (5) Program and fiscal monitoring and evaluation of the local and statewide LTCOP