

# **TABLE 1**

## **Long-Term Care Ombudsman Program: State Enabling Statutes**

April 2002

Note: Information presented in *italics* pertains to regulations relative to the Ombudsman Program.

	<b>ALABAMA</b>	<b>ALASKA</b>	<b>ARIZONA</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	Long-Term Residential Health Care Recipient Ombudsman Act	Alaska Commission on Aging	Adult Protective Services
<b>Citation</b>	ALA CODE § 22-5A-1—7 (Michie 1997)	ALASKA STAT § 44.21.200—240 (Lexis 1998)	ARIZ REV STAT ANN § 46-452.01—.02 (West 1997)
<b>Enacted/Revised</b>	1985	1988	1991
<b>Per OAA</b>	No mention	No mention	Yes – has responsibilities as required
<b>Oversight Agency</b>	Commission on Aging	Commission on Aging	Dept of Economic Security, Aging & Adult Admin
<b>Recipient</b>	Resident in-patient of health care facility, including B&C	Older Alaskans	Not specified
<b>Complaints</b>	Receive, investigate, respond to, and attempt informally to resolve complaints	Investigate and resolve complaints relating to the long term care or “residential circumstances” – includes landlord, senior housing, public assistance, utilities, health care providers/facilities	Hear, investigate and attempt to resolve
<b>Access to Facility</b>	Shall be permitted during regular operating hours	May not be denied	Authority to enter LTC facilities to communicate with residents
<b>Access to Records</b>	Requires current valid auth & release signed by recipient or legal rep to review her info/records	With consent of resident, legal rep, or court order	No provisions
<b>Coordination With Other Agencies</b>	Report fraud, abuse, neglect, exploitation immediately  May report other complaints that aren’t resolved in reasonable time	Shall enter cooperative agreements with other agencies	Refer cases involving abuse, neglect, exploitation or health and safety to APS or licensing agency
<b>Represent Residents to Seek Remedies</b>	NO – “serves as 3 <sup>rd</sup> party mechanism for protecting...”	May pursue administrative, legal, or other remedies on behalf of resident	No provisions
<b>Confidentiality of Ombudsman Records</b>	Info not to be disclosed to any person not directly involved in complaint	Confidential, not subject to inspection except at discretion of Ombudsman, or court order	No provisions
<b>Legal Rep of Office</b>	No provisions	Attorney General	Attorney General
<b>Interference</b>	No provisions	May not intentionally interfere – misdemeanor	No provisions
<b>Other</b>	Complaints requiring remedial action brought to Administrator’s attention, who shall develop corrective action plan and be given reasonable time to resolve	May subpoena witnesses & compel their attendance; Require production of evidence; Administer oaths & examine any person	
<b>Regulations</b>	Regs on-line*		

	<b>ARKANSAS</b>	<b>CALIFORNIA</b>	<b>COLORADO</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	Long-Term Care Ombudsman Act	Older Californians Act, Ombudsman	Colorado Long-term Care Ombudsman Act
<b>Citation</b>	ARK CODE ANN § 20-10-601—603 (Lexis 2000)	CAL WELF & INST CODE § 9700—9745 (West 1998 & Supp 2000)	COLO REV STAT ANN § 26-11.5-101—102 (West 1990 & Supp 1999)
<b>Enacted/Revised</b>	1987	1999	1994
<b>Pursuant to OAA</b>	Yes – shall administer in accordance with	Yes	Yes - Nothing in this article shall be construed to prevent compliance with OAA
<b>Oversight Agency</b>	Div. of Aging & Adult Services – Dept of Human S.	Dept of Aging	Dept of Human Services
<b>Recipient</b>	Any patient or resident of LTC facility	Older or elderly person residing in LTC facility, including residential care fac.	Elderly resident of LTC, including B&C (> 60 y.o.) – includes former & prospective residents
<b>Complaints</b>	No provisions	Shall investigate and seek to resolve - Findings shall be reported to the complainant	Identify, investigate, and seek resolution or referral of complaints
<b>Access to Facility</b>	Shall not be denied access to resident during any period of operation Per § 20-10-1206, has right to enter premises at any time to determine compliance	Right of entry at any time necessary and reasonable to hear, investigate, or resolve complaints, or render advice <i>Hours 7am-10pm – other hrs need authorization by State Ombud</i>	Immediate access to facility & <i>eligible</i> residents – Must show ID
<b>Access to Records</b>	Per § 20-10-1206, any records necessary & essential to establish compliance with this chapter shall be made available	Shall have access to any state agency (even confidential); Access to medical record with consent or sufficient cause – copies can be made	Shall have access to <i>eligible</i> resident records with resident or guardian consent or by State Ombudsman
<b>Coordination With Other Agencies</b>	No provisions  Per § 20-10-1206, results of all inspections of LTC facilities shall be forwarded to ombudsman	Advocacy & other programs similar to Ombuds shall cooperate, as appropriate May refer complaints to other agencies – those agencies must give the referral priority – agency must provide copy of reports and actions taken	No provisions
<b>Represent Residents to Seek Remedies</b>	No provisions	No – maintain close working relationship with legal services to ensure provision of counsel/legal services	Authority to pursue administrative, legal or other remedies
<b>Confidentiality of Ombudsman Records</b>	No provisions	Confidential – disclosure must be authorized by patient or legal rep; or court order; or to law enforce, APS, licensing	Disclosed only at discretion of Ombudsman
<b>Legal Rep of Office</b>	No provisions	Attorney General	Ensure counsel available
<b>Interference</b>	No provisions	Willful interference – civil penalty – report to licensing	No person shall willfully interfere – civil penalty
<b>Other</b>	§ 20-10-1201 et seq (1999) “Protection of LTC Facility Residents”	Probate Code Sec. 4675, Ombudsman must witness advance health care directives of SNF residents; H & S Code Sec. 1289, Ombud. must witness prop. transfers to staff / officials.	
<b>Regulations</b>			

	<b>CONNECTICUT</b>	<b>DELAWARE</b>	<b>DIST of COLUMBIA</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	Office of the Long Term Care Ombudsman	Office of Long-Term Care Ombudsperson	Long-Term Care Ombudsman Program Act
<b>Citation</b>	CONN GEN STAT ANN § 17b-400—412 (West 1998)	DEL CODE ANN 16 § 1131—1140 and 1150—1156 (Michie 1995 & Supp 1998)	DC CODE ANN § 6-3501—3551 (Michie 1995)
<b>Enacted/Revised</b>	1995	1998	1988
<b>Pursuant OAA</b>	Yes	Yes	No mention
<b>Oversight Agency</b>	Dept of Social Services	Dept Health & Social Service Div of Services for Aging	Office of Aging
<b>Recipient</b>	Residents of long term care facilities, including residential care homes	Resident of LTC facility, including assisted living, adult or foster care, group homes	Older person or resident of LTC facility, including community residence facility
<b>Complaints</b>	Receiving, evaluating, resolving and referring health and human service complaints affecting nursing home residents – authorized to investigate	Elicit, receive, investigate, verify, refer & seek to resolve complaints; Receive and investigate complaints of quality of care, services and quality of life	Elicit, receive, investigate, verify, refer and resolve complaints; monitor quality or care, services, quality of life of older persons and residents
<b>Access to Facility</b>	Refusal of entry or access to residents subjects facility to penalty	Shall have access to any facility – may initiate investigation independent of receipt of specific complaint	Access permitted to visit with, make services avail, inform of and assist to assert rights, inspect all areas of facility 8 am – 8 pm, unless otherwise required; show ID
<b>Access to Records</b>	Shall have access to all relevant public records and resident records with written consent	Shall have access to any relevant record (even confidential), with consent of resident or legal rep as needed	Same access as Mayor to review, inspect, copy; Agencies shall cooperate, assist, provide access as needed
<b>Coordination With Other Agencies</b>	May use any other state dept or public/private agency or others in performance of duties. Health & social service providers have a duty to report all suspected abuse, neglect, exploitation to the Commissioner of the Dept. of Social Services	Enter into MOU, cooperation, coordination with other gov't agencies – any agency to which Ombudsman makes referral most keep office informed of status and disposition	Enter into MOU, cooperate, coordinate with other gov't agencies  Report abuse, neglect, exploit to APS
<b>Represent Residents to Seek Remedies</b>	Facilitation of private legal action	No provision	Legal rep of resident to bring court action for injunctive relief or damages
<b>Confidentiality of Ombudsman Records</b>	Not a public record – may be disclosed by Ombudsman, with consent, or court order	Confidential – disclosure at sole discretion of Ombuds (or with consent or court order)	Shall protect confidentiality – shall not be disclosed to public – consent needed to disclose identity
<b>Legal Rep of Office</b>	Attorney General and an independent legal counsel	Attorney General	Director shall ensure legal counsel for advice & rep.
<b>Interference</b>	Willful interference by any entity subject to penalty for refusal to cooperate	No person/agency/facility shall interfere – civil penalty	No person/agency/facility shall interfere – civil penalty
<b>Other</b>			
<b>Regulations</b>		Regs on-line	

	<b>FLORIDA</b>	<b>GEORGIA</b>	<b>HAWAII</b>
<b>Program</b>	Yes	Yes	NO – <i>Not titled as such</i>
<b>Statute/Title</b>	Long Term Care Facilities: Ombudsman Program	Long-Term Care Ombudsman Program	Executive Office on Aging
<b>Citation</b>	FLA STAT ANN § 400.0060—.0091 (Harrison 1999 & Supp 2000)	GA CODE ANN § 31-8-50—63 (Michie 1996)	HAW REV STAT § 349-1—14 (Lexis 1999)
<b>Enacted/Revised</b>	1999	1995	1990
<b>Pursuant to OAA</b>	Yes – shall carry out purpose & functions in accord with Federal law	Yes	No mention
<b>Oversight Agency</b>	Dept of Elderly Affairs	Dept of Human Resources (Office of Special Programs)	Executive Office on Aging (in office of the governor)
<b>Recipient</b>	Resident > 60 y.o. of LTC facility, includes B&C	Current/former/prospective recipient of care in LTC facility, B&C	Elders
<b>Complaints</b>	Elicit, identify, receive, investigate and resolve complaints of residents – Administrator to develop remedial action plan	Receive, investigate, refer, attempt to resolve; learn about general conditions affecting residents – Try to resolve informally – Admin to do corrective action plan	Clearinghouse for complaints regarding services to elders – investigate and resolve or refer to appropriate agency for corrective action
<b>Access to Facility</b>	Warrants not required; Annual unannounced admin inspection at times necessary <i>Adopts OAA procedures</i>	Authority to enter – normal visit hrs if possible; authority to inspect facility – identify self as ombudsman	Establish procedures for... But LTC facility receiving public funds shall allow
<b>Access to Records</b>	Shall have access to resident records (can review personal property & money accounts of Medicaid pts.) <i>Adopts OAA procedures</i>	Shall have access to resident records with consent or cause – authority to inspect admin records and documents – can obtain gov’t agency records	Establish procedures for... but access to resident records only with consent
<b>Coordination With Other Agencies</b>	No executive agency can interfere with determination of presence of conditions that threaten rights, health, safety, welfare of residents. Coord if possible with P&A systems for DD and MH	May refer to an appropriate agency for action Gov’t agencies shall provide cooperation & assistance as needed Suspected abuse, etc <i>may</i> be reported to Ombudsman	Nothing in this chapter shall be deemed to delegate or detract in any way from the functions, powers, and duties prescribed by law to any other state depart or agency
<b>Represent Residents to Seek Remedies</b>	Position of legal advocate – may seek administrative, legal and other remedies – may initiate & prosecute legal & equitable actions	No provision	Represent interests of LTC residents, individually or as a class
<b>Confidentiality of Ombudsman Records</b>	Records and council minutes confidential – disclosure of identity needs consent, court order; control by Council	Confidential – identity cannot be disclosed w/o consent or court order	Establish procedures for... but identity cannot be disclosed w/o consent or court order
<b>Legal Rep of Office</b>	Legal advocate also represents office	No provision	No provision
<b>Interference</b>	No executive agency can interfere	Willful interference prohibited – civil penalty	No provision
<b>Other</b>	Most authority lies with State/District Ombudsman Councils, including investigations		Ombudsman is never mentioned – all of above refers to Executive Office on Aging
<b>Regulations</b>	Regs on-line *		

	<b>IDAHO</b>	<b>ILLINOIS</b>	<b>INDIANA</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	Commission on Aging – Office of Ombudsman	Illinois Act on Aging	Aging Services – Long Term Care Ombudsman Program
<b>Citation</b>	Idaho Code § 67-5009 (1948-1999)	20 ILL COMP STAT ANN 105/4.03 (West 1993 & Supp 2000)	IND STAT ANN § 12-10-13-3 —20 (Michie 1997 & Supp 2000)
<b>Enacted/Revised</b>	1999	2001	1993
<b>Pursuant to OAA</b>	No mention – <i>Commission has authority re OAA</i>	Yes – program established in accordance with OAA	Yes
<b>Oversight Agency</b>	Commission on Aging	Department on Aging	Bureau of Aging and In-Home Services (BAIHS)
<b>Recipient</b>	Residents of LTC facilities or persons aged 60+ living in community	Residents of LTC facilities	Patient/resident/client of LTC facility (also B&C) or home care service funded by Medicaid, county or aging
<b>Complaints</b>	Receive, investigate, resolve any complaints deems appropriate – jurisdiction to investigate admin acts of facility or state agency/dept	Investigate and resolve complaints of residents.	Receive, investigate, <i>resolve, or</i> attempt to resolve
<b>Access to Facility</b>	May enter facility or state agency/department during reg business hrs – <i>right to enter – notify of presence</i>	Must permit immediate access to residents – May observe all areas of facility	Must be provided access <i>at all times</i> to LTC facility and home care entity and residents or clients
<b>Access to Records</b>	May obtain such information as deems necessary (no specific mention of records) <i>Access per OAA provisions</i>	Facility must permit access to resident records with consent or to the records of incapacitated residents under circumstances defined by rule (89 Ill. Admin. Code 270.120)	Must be provided access to resident/client’s medical, financial and social records w/ consent or cause; Shall give approp access to <i>relevant</i> facility/entity records
<b>Coordination With Other Agencies</b>	Shall notify the state/county agency/dept affected by an investigation of the intent to investigate. Nothing in this section shall be construed to limit powers/responsibility of state/county agency/dept	When appropriate, shall refer complaints to appropriate regulatory state agency	Shall coordinate with legal services, APS, DOH, P&A, attorney general’s fraud unit <i>Participate in state surveys, whenever possible</i>
<b>Represent Residents</b>	No provision	No specific provision	<i>Represent interest before gov’t agencies; seek admin, legal &amp; other remedies</i>
<b>Confidentiality of Ombudsman Records</b>	No provision – <i>Per OAA provisions</i>	Confidential – Ombudsman must authorize disclosure – disclosure of identity requires consent or court order	Confidential - Ombudsman must authorize disclosure; disclosure of identity requires consent or court order
<b>Legal Rep of Office</b>	No provision	Attorney General	<i>Shall have access to legal counsel</i>
<b>Interference</b>	Willful interference is unlawful	No person shall intentionally interfere or attempt to impede – civil penalty provided	Misdemeanor for intentional interference or bribes
<b>Other</b>	Upon investigation, ombud issues opinion/ recommend to facility/agency & may request notification when recommended actions taken	Dept on Aging shall evaluate all programs, services and facilities for the aging, which are furnished by state agencies	BAIHS also administers APS, provides focal point for advocacy, evaluates programs, services and facilities for aged

	<b>IDAHO</b>	<b>ILLINOIS</b>	<b>INDIANA</b>
<b>Regulations</b>	Regs on-line*	Regs on-line*	Regs on-line*

	IOWA	KANSAS	KENTUCKY
<b>Program</b>	Yes – “ <i>Advocate</i> ”*	Yes	Yes
<b>Statute/Title</b>	Department of Elder Affairs LTC Resident’s Advocate	Long-Term Care Ombudsman Act	Long-Term Care Ombudsman Program
<b>Citation</b>	IOWA CODE ANN § 231.41— .44 (West 1994 & Supp 2000)	KAN STAT ANN § 75-7301— 7314 (1997 & Supp 1999)	KY REV STAT ANN § 194A.050, 205.204 (Banks- Baldwin 1993 & Supp 1999)
<b>Enacted/Revised</b>	1999	1998	2000
<b>Pursuant to OAA</b>	Yes – establish program in accordance with and adopts supporting regulations and guidelines for implementing	Mentioned only in regard to funding.	Yes – implement a state program as required by federal law
<b>Oversight Agency</b>	Commission of Elder Affairs	Independent state agency Ombuds appt’d by governor	Cabinet for Health Services
<b>Recipient</b>	Elderly in LTC facility, group or foster home	Defined elsewhere	<i>Residents/applicant of LTC facility</i>
<b>Complaints</b>	Elicit, receive, investigate and resolve complaints about administrative actions that adversely affect...	Shall investigate and resolve complaints (except abuse, etc. to be reported to APS)	<i>Receive, investigate, resolve, and report complaints</i>
<b>Access to Facility</b>	Shall have access to LTC facilities and residents – <i>May enter w/o prior notice but must notify of presence</i>	Authorized to enter any facility (any area) at any time with or w/o prior notice – Shall have access to residents at all times – Show ID	<i>Unrestricted access w/o prior notice to meet with resident or observe facility – Show ID (Volunteers have more restrictions)</i>
<b>Access to Records</b>	Shall have access to resident records <i>w/ consent or court order &amp; other facility, gov’t agency records necessary to resolve complaint</i>	Shall have access to resident records with consent or cause; Shall have access to all relevant facility and state agency records	<i>Shall have access to resident records with consent of resident. Access to facility financial record with administrator consent</i>
<b>Coordination With Other Agencies</b>	Shall coordinate develop- ment of appropriate rules with state agencies/commissions – <i>refer to approp agency Resident Advocate Com- mittee for each facility – admin by Office to conduct ongoing review of each resident, investigate c/o</i>	Coordinate services with P&A system for DD & MH  Shall report to appropriate state agency regarding health & safety concerns	<i>Shall refer reports of abuse, etc to Family Services or Licensing, but maintains a continuing duty &amp; indepen- dent authority to investigate and resolve, and monitor agency responsiveness</i>
<b>Represent Residents</b>	No provision	Ability to pursue administra- tive, legal and other remedies on behalf of residents	No provision
<b>Confidentiality of Ombudsman Records</b>	Establish procedures to protect confidentiality of resident’s records/files – <i>Disclose only w/ Ombuds auth – identity w/ consent</i>	Confidential – may be disclosed only with consent or court order; except shall report to appropriate state agency re: health and safety	<i>Confidential – may be disclosed only at the discretion of the State Ombudsman</i>
<b>Legal Rep of Office</b>	No provision	Shall ensure legal counsel is available for advise & rep.	No provision
<b>Interference</b>	No provision	Willful interference prohibited – misdemeanor	<i>Willful interference is unlawful – civil penalty</i>
<b>Other</b>	* Refers to LTC resident’s “advocate” <i>not</i> ombudsman	1998 Amend removed Office from Dept on Aging & made independent state agency	
<b>Regulations</b>	Regs on-line*	Regs on-line	Regs on-line*



	<b>LOUISIANA</b>	<b>MAINE</b>	<b>MARYLAND</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	Office of The State Long-Term Care Ombudsman	Services to Maine’s Aging and Adults	Department of Aging
<b>Citation</b>	LA REV STAT ANN § 40:2010.1—5 (West 1992 & Supp 2000)	ME REV STAT ANN <u>TITLE 22</u> § 5107-A (West 1992 & Supp 1999)	MD ANN CODE art 70B § 5 (Michie 1998 & Supp 2000)
<b>Enacted/Revised</b>	1997	1995	2000
<b>Pursuant to OAA</b>	No mention – <i>Off of Elderly Affairs has power &amp; duty to admin OOA related program</i>	Yes – support and maintain ombudsman program in accordance with OAA by agreement with a nonprofit organization	No mention – <i>Dept of Aging has authority to admin programs per OAA</i>
<b>Oversight Agency</b>	Office of Elderly Affairs	Bureau of Elder and Adult Services	Dept of Aging
<b>Recipient</b>	Residents of facilities	Residents of nursing, assisted living, or residential facilities or persons receiving in-home LTC services and consumers of Adult Day Care Services	Residents of “related institutions”
<b>Complaints</b>	Responsible to visit facilities regular, become acquainted with residents, family, personnel; serve as liaison; encourage self-advocacy <i>Investigate &amp; resolve c/o – if referral to another agency is approp, shall refer with consent of complainant</i>	Investigate complaints regarding care or other concerns about resident or individuals receiving in-home LTC services, or consumers of Adult Day Care Services	Secretary may delegate his authority to ombudsman to receive, investigate & seek to resolve complaints re: operations of “related institutions” & to notify institution of violation and request State agency action if not corrected reasonable time
<b>Access to Facility</b>	Shall have immediate access to any resident – notify of presence	May enter onto premises of any residential care, assisted living or nursing facility to investigate, speak with resident	May, on own motion, make on-site visits to “related institutions” to determine compliance
<b>Access to Records</b>	May review or obtain <i>portion relevant to specific c/o of any books, files, medical, social or financial or other records pertaining to particular resident with consent if able</i>	May inspect and copy all records pertaining to resident with consent unless not competent & has no legal rep	Regulations shall provide for access, review, and copying of medical records to extent authorized by § 4-305(b)(3)
<b>Coordination With Other Agencies</b>	Nothing in this section shall be construed to supersede ultimate authority of Dept of Health over nursing homes <i>Coord w/ P&amp;A systems</i>	Participate as observer and resource in any on-site survey or other regulatory review. Several other Maine laws have created mandatory collaboration with the Ombudsman Program.	Regulations shall provide for cooperation with other Depts
<b>Represent Residents to Seek Remedies</b>	No provision	Shall make legal services available – assist in asserting legal rights	No provision
<b>Confidentiality of Ombudsman Records</b>	Confidential – shall not disclose identity without consent or court order	May not be disclosed unless authorized by Ombudsman – disclosure of identity requires consent or court order	Confidential – regulations shall assure
<b>Legal Rep of Office</b>	No provision	No provision	No provision

	<b>LOUISIANA</b>	<b>MAINE</b>	<b>MARYLAND</b>
<b>Interference</b>	Willful interference unlawful Misdemeanor	No provision	May not willfully interfere – misdemeanor
<b>Other</b>	<i>Ombudsman Advisory Council</i>		
<b>Regulations</b>	Regs on-line*		Regs on-line

	<b>MASSACHUSETTS</b>	<b>MICHIGAN</b>	<b>MINNESOTA</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	Department of Elder Affairs – LTC Ombudsman Program	Older Michiganians Act	Office of ombudsman for Older Minnesotans
<b>Citation</b>	MASS GEN LAW ANN ch 19A § 27—35 (West 1994)	MICH COMP LAWS ANN § 400.586g—j (West 1997)	MINN STAT ANN § 256.974 —.9744 (West 1998)
<b>Enacted/Revised</b>	1989	1987	1997
<b>Pursuant to OAA</b>	No mention	No mention – <i>Office on Aging has power to admin &amp; supervise state plan per OAA</i>	Yes – Board on Aging incorporates Ombudsman program as required by OAA
<b>Oversight Agency</b>	Department of Elder Affairs	Office of Services to Aging	Minnesota Board on Aging
<b>Recipient</b>	Persons receiving treatment or care in licensed LTC facility – includes applicants, transfers and discharged	Residents of LTC facilities, includes foster care and homes for aged	Client = resident of LTC, Medicare recipient re access, d/c or denial of in/out-pt service, individual receiving or requesting home care serv
<b>Complaints</b>	Receive, investigate and resolve complaints – May initiate own investigation of facility w/o complaint – Make recommendation to facility for correction	Accept, investigate, verify, & work to resolve complaints reported to or initiated by Ombud relating to any action which may adversely affect...	**Shall gather info and eval any act, practice, policy, procedure or admin action that may adversely affect...
<b>Access to Facility</b>	Right of entry any time necessary & reasonable	Shall be allowed access 8am-8pm (volunteers limited to visiting hours) to speak with residents & observe all resident areas	Enter LTC facility w/o notice any time, hospital during bus hrs unless investigating & presence doesn't intrude
<b>Access to Records</b>	Shall have access to any resident's records (with consent or cause) & records of any public agency, including abuse complaints	No provision	Shall inspect records that pertain to care of client; shall have access to client records (consent needed only if competent or has legal rep)
<b>Coordination With Other Agencies</b>	If investigation determines act by facility may violate law/reg, shall report to appropriate agency – Shall report to AG and DOH upon receipt of c/o abuse, etc	Cooperate with persons or public/private agencies  Make referrals to appropriate government and private agencies	Has access to state agency records, including confidential. Licensing agencies shall forward copies of corrective orders, penalties & complaint investigation reports
<b>Represent Residents to Seek Remedies</b>	May assist residents in asserting their legal rights	No provision	No provision
<b>Confidentiality of Ombudsman Records</b>	Disclosure only with Ombud authorization – disclosure of identity requires consent or court order	Shall establish and implement procedures to assure confidential processes	Data released at discretion of ombudsman – disclosure of identity requires consent or court order
<b>Legal Rep of Office</b>	No provision	No provision	No provision
<b>Interference</b>	No person shall willfully interfere – May petition court for injunction/relief	Misdemeanor to willfully hinder or refuse to comply	Misdemeanor to discriminate or retaliate against anyone who provides info to ombud
<b>Other</b>			** Authority extends to LTC facilities, hospitals, and home health agencies
<b>Regulations</b>			

	<b>MISSISSIPPI</b>	<b>MISSOURI</b>	<b>MONTANA</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	LTC Facilities Ombudsman Act	State Ombudsman for LTC Facility Residents	Ombudsman Services*
<b>Citation</b>	MISS CODE ANN § (Law Co-op 1993 & Supp 2000)	MO ANN STAT § 660.600 – .608 & 660.620 (West 2000 & Supp 2000)	MONT CODE ANN § 52-3-601 –605 (1999)
<b>Enacted/Revised</b>	1988	1991	1995
<b>Pursuant to OAA</b>	Yes	Yes	Yes – As required by OAA, serves as advocate for LTC residents & coordinates legal services
<b>Oversight Agency</b>	Dept. of Human Services, Division of Aging and Adult Services	Division of Aging	Dept of Public Health & Human Services
<b>Recipient</b>	Residents of LTC facilities (skilled, nursing and care homes)	Any person receiving care or treatment in licensed LTC facility	Citizens residing in LTC facilities (skilled, intermed, or personal care) of any age
<b>Complaints</b>	Receive, investigate and resolve complaints	Receive, process, respond to, <i>investigate</i> and resolve complaints	Through necessary investigations, reports and corrective action, ensure a good quality of care and life be maintained for residents of LTC facilities
<b>Access to Facility</b>	Shall have access to LTC facilities during reasonable hours or at other times with prior approval of the administrator. May enter facility at a time appropriate to the complaint.	Has authority to enter and have access to residents at reasonable time in reasonable manner – <i>develop procedures to assure appropriate access</i>	Shall have access w/o prior notice – access must be granted during normal visiting hrs (9am-6pm) or any other time necessary
<b>Access to Records</b>	The clinical records of a resident may be examined by a representative of the Ombudsman Program, with permission of the resident or resident's representative	Shall have access to review records if given per-mission by resident/legal rep (no provision if resident unable to consent & has no legal rep) - <i>develop procedures to assure appropriate access</i>	No provision
<b>Coordination With Other Agencies</b>	State agencies authorized and directed to provide LTCO with requested information, cooperation and assistance. All advocacy organizations that receive state funding or designation shall cooperate with the LTCO Program.	No provision <i>except</i> Office of Advocacy for Elders shall coordinate activities with LTC Ombudsman regarding complaints (Elderly Advocate also investigates complaints)	No provision
<b>Represent Residents to Seek Remedies</b>	LTCO activities shall include mediation, negotiation, informing parties of alternative remedies, and report suspected criminal violations to the appropriate agencies	No provision	Coordinates legal services (mentioned only in purpose)

	<b>MISSISSIPPI</b>	<b>MISSOURI</b>	<b>MONTANA</b>
<b>Confidentiality of Ombudsman Records</b>	Shall not disclose identity of resident or complainant without written consent of resident or complainant or the legal rep of either. LTCO investigation files shall remain confidential except as required to carry out the duties of the program or by court order.	Files shall be disclosed only at discretion of Ombudsman; disclosure of identity requires consent or court order – Ombudsman not required to testify unless court deems necessary to enforce this act.	No provision
<b>Legal Rep of Office</b>	Attorney General	No provision	No provision
<b>Interference</b>	No provision	Class A misdemeanor for reprisal or retaliatory action for communicating with the Ombudsman	Civil penalty for violating access provisions
<b>Other</b>			“Office of Legal and LTC Ombudsman Services”
<b>Regulations</b>	Regs on-line	Regs on-line*	

	<b>NEBRASKA</b>	<b>NEVADA</b>	<b>NEW HAMPSHIRE</b>
<b>Program</b>	Yes	Yes – “Advocate”	Yes
<b>Statute/Title</b>	LTC Ombudsman Act	Services to Aging Persons	Office of the Ombudsman
<b>Citation</b>	NEB REV STAT § 81-2237—2264 (1999)	NEV REV STAT ANN § 427A.125—.165 & 427A.300 (Michie 1996)	NH REV STAT ANN § 161-F:10—:19 (Butterworth 1994)
<b>Enacted/Revised</b>	1996	1993	1990
<b>Pursuant to OAA</b>	Yes – Office established pursuant to OAA	Aging Services Division per OAA (comply as necessary to secure federal funds)	No mention
<b>Oversight Agency</b>	Dept of Health & Human Services	Aging Services Division of Dept of Human Resources	Dept Health & Human Services
<b>Recipient</b>	Resident/patient/client of LTC facility (age 60+), also B&C, adult day care	“Advocate” for residents of LTC facilities & residential care	Patient/resident/client 60+ of LTC facility (includes B&C, VA, rehab, psych hosp) < 60 some cases
<b>Complaints</b>	Investigate & seek to resolve complaints not reportable to APS – May initiate investigation based on observation of conditions in facility	Advocates receive, investigate & attempt to resolve complaints; investigate acts, practices, policies or procedures of any LTC facility or gov’t agency	Elicit, receive, investigate, & resolve complaints/concerns; Investigate admin acts or omissions of any facility or gov’t agency
<b>Access to Facility</b>	Shall have immediate access to patient/resident/client – must show ID	May enter any area of facility at reasonable times w/ or w/o notice, show ID – must allow access to residents at all times	May enter during normal business hours, show ID – may inspect premises
<b>Access to Records</b>	Shall have access to medical, personal records w/ consent or emergency or if no one able to give consent. Shall have access to any gov’n’t record necessary.	May inspect any records maintained by facility – medical records w/consent, if poss. May interview any officer, director, employee of facility or any resident/family	May inspect any books, files, medical records pertaining to resident – with consent, if possible
<b>Coordination With Other Agencies</b>	Referral to APS required for abuse, etc – ombud shall coord investigation w/ APS or police, if requested. <i>May report to other agencies</i> Any state agency responding to referral by ombud shall forward copy of reports, plan of correction, agency actions	May obtain such assistance and info as necessary from any state/local agency If appropriate, shall refer results of investigation to appropriate agency with authority to enforce law/regs	Upon request, all gov’t agencies shall cooperate and assist in provision of services, data necessary
<b>Represent Residents</b>	No provision	No provision	Prohibited from representing in state/federal courts
<b>Confidentiality of Ombudsman Records</b>	Confidential – disclosure of identity only with consent or court order or to APS	NRS 200.5095	Confidential – files shall not be disclosed w/o consent or court order
<b>Legal Rep of Office</b>	Ensure adequate legal counsel avail to office	No provision	No provision
<b>Interference</b>	No person shall willfully interfere (no penalty defined)	Shall not willfully interfere – monetary penalty	No provision – discrim & retaliation prohibited
<b>Other</b>			
<b>Regulations</b>	Regs on-line*		

	<b>NEW JERSEY</b>	<b>NEW MEXICO</b>	<b>NEW YORK</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	Ombudsman for Institutionalized Elderly	Long-Term Care Ombudsman Act	Office for the Aging – LTC Ombudsman
<b>Citation</b>	NJ STAT ANN § 52:27G-1—16 (West 1986 & Supp 2000)	NM STAT ANN § 28-17-1—19 (Michie 2000) <i>State Agency on Aging at §28-4-1—9</i>	NY EXEC LAW § 544-a (McKinney 1996 & Supp 2000)
<b>Enacted/Revised</b>	1997	1997	1997
<b>Per OAA</b>	No mention	Yes	Yes
<b>Oversight Agency</b>	Independent state agency (Governor appointed)	State Agency on Aging	Office for the Aging
<b>Recipient</b>	Patient/resident/client (60+) of any facility (also B&C, VA, rehab, Psych hosp, day care, but not acute care)	Resident of any residential facility providing LTC services, includes B&C, adult day care	Residents of residential health care or adult care facility, including persons enrolled in LTC managed care plans
<b>Complaints</b>	Elicit, receive, process, respond to and resolve complaints – May investigate on own initiative	Identify, investigate & resolve complaints – May initiate investigations based on observation of condition of facility	Identify, investigate, resolve complaints
<b>Access to Facility</b>	May enter w/o notice, show ID & inspect premises (facility or gov't agency)	Shall have immediate access to resident – <i>SAoA may conduct unannounced quality eval, including undercover**</i>	No provision – investigation to be conducted in manner prescribed in regulations
<b>Access to Records</b>	May inspect any books, files, medical or other records that pertain to pt/res – May subpoena person, document	Shall have access to resident records w/ consent or cause Shall have access to state agency records, as necessary	“Record access ombudsman” must be competent to review medical & personal record – applies to State Ombuds also
<b>Coordination With Other Agencies</b>	Shall refer to approp gov't agency for action if pertains to regulatory compliance – if civil or criminal action is warranted, shall refer and agency shall report back on findings/actions	Refer to APS & licensing & coord investigation re: abuse, etc – State agencies/boards shall give priority to referrals from ombudsman – shall report back results, actions Coord with P&A systems	Ombud shall immediately report possible abuse, etc or Medicaid fraud to approp investigatory agency Office on Aging may request assist & data – such agencies are authorized to provide
<b>Represent Residents to Seek Remedies</b>	May institute action for injunctive relief or civil damages	Shall rep interests of residents before gov't agencies & seek admin, legal & other remedies	May rep interests of resident before gov't agencies & seek admin, legal, other remedies
<b>Confidentiality of Ombudsman Records</b>	Not public record, but may make public the complaint, the acts/practices, office opinion & recommendations	May be disclosed only at discretion of ombudsman; disclosure of identity w/ consent or court order or if needed to provide services	May not disclose any info w/o ombuds approval – Shall not disclose identity w/o consent or court order except to report abuse or M/M fraud
<b>Legal Rep of Office</b>	Shall employ independent legal counsel ( <i>not</i> Atty Gen) – may institute action to enforce Act	SAoA shall ensure adequate legal counsel avail to office for consult, represent office, or to pursue remedy for resid.	No provision
<b>Interference</b>	Willful interference subject to civil penalty	Willful interference subject to civil penalty	Facility fails to coop – may be penalty per license agency
<b>Other</b>	Anyone suspects abuse, in course of employ, shall report (civil penalty if don't) Office is APS for institutionalized elderly		Ombuds has no authority to impose resolution unacceptable to either party or investigate final admin determin of state agencies
<b>Regulations</b>			

	<b>NORTH CAROLINA</b>	<b>NORTH DAKOTA</b>	<b>OHIO</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	LTC Ombudsman Program	Long-Term Care Ombudsman	Dept of Aging – LTC Ombudsperson Program
<b>Citation</b>	NC GEN STAT ANN § 143B-181.15—.25 (Lexis 1999)	ND CENT CODE § 50-10.1-.01—.07 (Lexis 1999)	OHIO REV CODE ANN § 173.14—.26 and 173.99 (Anderson 1999 & Supp 1999)
<b>Enacted/Revised</b>	1997	1987	2000
<b>Pursuant to OAA</b>	Yes	No mention	No mention (Dept of Aging designated agency per OAA)
<b>Oversight Agency</b>	Dept of Health & Human Services *	Dept of Human Services	Dept of Aging
<b>Recipient</b>	Any person receiving care or treatment in LTC facility, includes adult care homes	Resident of LTC facility, includes B&C (includes those persons d/c last 9 mo)	Current, prospective, previous resident of LTC facility, includes foster care, B&C OR recipient of community-based LTC services
<b>Complaints</b>	Receive and attempt to resolve complaints informally – must allow facility to respond, correct, or provide info before any action taken	Investigate and resolve complaints	Receive, investigate, attempt to resolve complaints (may decline to invest for lack of funds or staff, or if frivolous, not made in good faith, or conflict of interest, or if long time has lapsed) or refer
<b>Access to Facility</b>	May enter facility and have reasonable access to resident w/o disruption of care – Must register presence if facility requires	Shall have reasonable access (norm working hours or by appt and w/ notice)	“Right” to access residents, facilities & tour unescorted during reasonable hours or as appropriate to investigation
<b>Access to Records</b>	Shall have access to patient records as permitted under OAA	Shall have access to resident records w/ consent of resident or legal rep, or w/ court order (no other provision)	Shall have access to recipient records reasonably necessary w/ consent or cause or <u>any</u> facility record (facility shall designate employees to witness consent, copy records)
<b>Coordination With Other Agencies</b>	May obtain cooperation, assistance, records from any gov’t agency and such agency shall provide – Shall notify APS if suspected abuse, etc	Report to any state agency factors found to relate to duty of agency – Lic & cert agency shall submit to Ombud approp complaints/info on conditions affecting health, welfare, civil rights – Ombuds may accept other agency investigations	Shall cooperate (reciprocal); State agencies shall provide access to records – Shall adopt rules re referral to state agencies – State agencies receiving referral shall keep office informed of disposition
<b>Rep Residents</b>	No provision	No provision	Coord with legal services
<b>Confidentiality of Ombudsman Records</b>	Confidential – identity shall be disclosed only as permitted by OAA	Confidential – Ombuds must auth release; disclosure of identity w/ consent or court order	Not public record, identities disclosed only w/consent or court order – other disclosure at discretion of Ombuds
<b>Legal Rep of Office</b>	Attorney General shall provide legal staff and advise to this Office	Attorney General's Office	Ensure adequate legal counsel - May subpoena persons, documents
<b>Interference</b>	Willful or unnecessary obstruction is misdemeanor	No provision – retaliation prohibited–no defined penalty	No provision



	<b>NORTH CAROLINA</b>	<b>NORTH DAKOTA</b>	<b>OHIO</b>
<b>Other</b>	* AAAs provide admin supervision of Regional Ombudsman		Shall register as resident advocate with Dept of Health <i>Office funded thru bed fee.</i> SLTCO may seek injunction against facility violation of residents' rights. Certification requirements for reps of the SLTCO.
<b>Regulations</b>			Regs on-line

	<b>OKLAHOMA</b>	<b>OREGON</b>	<b>PENNSYLVANIA</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	LTC Ombudsman Act	Long Term Care Ombudsman	Department of Aging
<b>Citation</b>	OKLA STAT tit 63 § 1-2211—2216 (West 1997)	OR REV STAT ANN § 441.100—.153 (Butterworth 1991& Supp 1998)	PA STAT ANN tit 71 § 581-1—12 (West 1990) and tit 35 § 10225.301—.310 (Supp 2000)
<b>Enacted/Revised</b>	1996	1995	1988
<b>Pursuant to OAA</b>	Yes – shall carry out program in accord with	No mention	No mention – <i>Dept on Aging sole agency to receive or disperse funds per OAA</i>
<b>Oversight Agency</b>	Dept of Human Services	Independent agency, but LTC Advisory Committee monitor program - <i>appt by gov &amp; legis</i>	Dept on Aging
<b>Recipient</b>	Resident of LTC facility	Resident of any licensed LTC facility, including NFs, adult foster homes, residential care and assisted living facilities	Older (60+) consumers of LTC services
<b>Complaints</b>	Identify, investigate, resolve complaints	Investigate, attempt to resolve complaint per informal means (mediation, persuasion) or refer to approp state agency	Investigate and resolve complaints * <i>AAAs responsible for protective services (may contract)</i>
<b>Access to Facility</b>	Shall have access to facility & resident	Right of entry any time necessary & reasonable, w/o disrupt care – Must show ID – prior notice not required – access public & service areas	No provision – <i>Protective services has access to persons in need by consent or court order</i>
<b>Access to Records</b>	Shall have access to resident records w/ consent or cause; access to facility records that are public; access to lic & cert agency records	Shall have access to any resident records & to records of public agency necessary to fulfill duty & relate to an investigation (access to medical record w/ consent, subpoena)	No provision – <i>Protective services has access by consent or court order</i>
<b>Coordination With Other Agencies</b>	No provision (except shall have access to lic & cert records)	Shall collaborate with specified state agencies	No provision – <i>Dept to coop. w/ approp. Public &amp; private agencies to conduct evals re: quality of care...</i>
<b>Represent Residents to Seek Remedies</b>	Shall rep interest of residents before gov't agencies & seek admin, legal, other remedies	No provision	No provision – <i>Dept on Aging to “serve as advocate for the aging at all levels of gov’t” – AAA area plans to provide for legal counsel/rep</i>
<b>Confidentiality of Ombudsman Records</b>	Shall be disclosed only at discretion of Ombuds – disclose identity w/ consent or court order	Confidential – shall not disclose identity, except to state agencies, w/o consent or court order	No provision – <i>Protective service records confidential – release info to law enforce, obtain services, court order</i>
<b>Legal Rep of Office</b>	Shall assure adequate legal counsel avail for advice/rep–shall <b>not</b> rep individual residents	No provision though as a state agency has ability to access the Attorney General's Office	No provision
<b>Interference</b>	Shall not willfully interfere – misdemeanor	Refer to apporp agency for sanctions or other action	No provision
<b>Other</b>		Facility may file complaint re Ombuds or appeal action to LTC Advisory Committee	* Dept of Aging to establish Ombud program, including provide resources to AAAs and other contractors to investigate & resolve complaints

	<b>OKLAHOMA</b>	<b>OREGON</b>	<b>PENNSYLVANIA</b>
<b>Regulations</b>		Regs on-line*	

	<b>RHODE ISLAND</b>	<b>SOUTH CAROLINA</b>	<b>SOUTH DAKOTA</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	LTC Ombudsman Act of 1995	Investigation of Health Facilities by Ombudsman	
<b>Citation</b>	RI GEN LAWS § 42-66.7-1—13 (Lexis 1998) and 23-17.5-121-14 and 23-17.16-2	SC CODE ANN § 43-38-10—60 (Law Co-op 1985 & Supp 1999)	SD CODIFIED LAWS § 28-1-44—45.7 (Lexis 1999)
<b>Enacted/Revised</b>	1995	1993	1991
<b>Pursuant to OAA</b>	Yes	Ombudsman program “may designate entities in accordance with OAA”	Yes – Office authorized under OAA
<b>Oversight Agency</b>	Dept of Elderly Affairs (administratively)	Dept. of Health and Human Services	Dept of Social Services
<b>Recipient</b>	Resident of health facility for institutionalized elderly, includes rehab, VA, rehab, B&C, residential care, home care	Client/patient/resident of facility	Residents of nursing and residential facilities
<b>Complaints</b>	Identify, investigate & resolve thru mediation, negotiation, admin action, education and training	Investigate any problem or complaint – Following investigation may issue report and recommendations	Purpose of Office is to investigate and resolve complaints
<b>Access to Facility</b>	Shall have access and enter facilities after notifying of presence	Shall have access to all facilities	No provision
<b>Access to Records</b>	Shall inspect any books, files medical or other records that pertain to resident & required by law to be maintained by facility	May request and receive written statements, documents, exhibits & other pertinent items	No provision
<b>Coordination With Other Agencies</b>	Make appropriate referrals of investigations to other state agencies (i.e. DOH, AG) Cooperation of any gov’t agency required (reciprocal) Shall establish interagency agreement	All departments/agencies shall cooperate  <i>Allegations of abuse/neglect of resident to be investigated by Ombud, not Social Service, even if a child</i>	No provision
<b>Represent Residents to Seek Remedies</b>	No provision	No provision	No provision
<b>Confidentiality of Ombudsman Records</b>	Confidential – disclosed only with consent or court order – or as necessary to investigate & resolve or to refer to other state agency	Disclose only at discretion of Ombud – identity, disease, illness disclosed only with consent or court order	Confidential, but may release for any purpose directly related, as well as to federal agencies, and any committee or legislative body
<b>Legal Rep of Office</b>	No provision	No provision	No provision
<b>Interference</b>	No provision – retaliation prohibited	No person shall willfully interfere - misdemeanor	No person shall willfully interfere - misdemeanor
<b>Other</b>	Nothing in this chapter shall be deemed to limit powers & responsibilities prescribed by law to any other state depart or agency		Secretary may adopt reasonable & necessary rules for admin & operation of program
<b>Regulations</b>			

	<b>TENNESSEE</b>	<b>TEXAS</b>	<b>UTAH</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	Tennessee Commission on Aging Act of 1982	Office of LTC Ombudsman	LTC Ombudsman Program
<b>Citation</b>	TENN CODE ANN § 71-2-101—111 (Michie 1995)	TEX HUM RES CODE ANN § 101.051—.064 (West 1990 & Supp 2000)	UTAH CODE ANN § 62A-3-201—208 (Michie 1997 & Supp 2000)
<b>Enacted/Revised</b>	1989	1999	1997
<b>Pursuant to OAA</b>	Yes – Ombud office shall carry out those function delineated in OAA	Yes – Shall have powers & duties required by state and federal law	Ombudsman shall comply with OAA – Div of Aging sole state agency w/ respon.
<b>Oversight Agency</b>	Commission on Aging	Dept on Aging	Dept Human Services – Div of Aging & Adult Services
<b>Recipient</b>	No provision	Elderly resident (60+) of licensed LTC facility	Resident (60+) in LTC,B&C, foster, residential facility
<b>Complaints</b>	No provision	Shall investigate & resolve complaints – <i>develop written complaint management process</i>	Receive, investigate, resolve complaints – after investigation, report findings/ recomm to complainant, resident, facility, gov’t agency
<b>Access Facility</b>	<i>Shall have access w/o notice 8am-8pm, by prior arrange, or good cause &amp; 24 hr prior notice – notify of presence</i>	Shall have access to elderly residents – <i>have visible active presence</i>	May enter & inspect facility w/o notice – must show ID
<b>Access to Records</b>	<i>Shall have access reg business hrs to resident personal, medical, financial record to resolve specific problem – w/ consent, per Licensing or AG</i>	Shall have access to patient care records – Shall establish, by rule, procedures for access to medical records	May inspect, obtain any book, file, medical or other record – medical record can’t be accessed if competent resident or legal rep refuses
<b>Coordination With Other Agencies</b>	No provision	Shall coord w/ DD/MH P&A systems – Does not affect authority of DOH or DHS to regulate LTC facilities – <i>participate in survey activities</i>	Coordinate Dept’s services for elderly residents; Request & receive coop from any gov’t agency – Refer to APS, involve all approp agencies
<b>Represent Residents</b>	No provision	May use appropriate admin, legal & other remedies to assist elderly residents	No provision
<b>Confidentiality of Ombudsman Records</b>	No provision	Confidential – disclose identity only w/ consent or court order – other info disclosed only w/ Ombud authority	Disclose only at discretion of Ombud – identity disclosed w/ consent, court order, or to AAA, DOH, APS, law enforce, county atty
<b>Legal Rep of Office</b>	No provision	Dept shall ensure adequate legal advice & rep (AG)	<i>Shall assure adequate counsel</i>
<b>Interference</b>	No provision	Intentional interference is misdemeanor	Misdemeanor to: give advance notice to facility or agency, disclose confid. info, willfully interfere/refuse to comply w/ lawful demands
<b>Other</b>	Shall designate & contract with directly, or thru AAA, a local grantee to establish & operate local Ombudsman program	Shall estab statewide reporting system to collect, analyze data re c/o, if doesn’t duplicate other state report system; shall give info to DOH/DHS	May hold investing. hearings Operation joint respons. of Div on Aging & AAAs
<b>Regulations</b>	Regs on-line*	Regs on-line*	Regs on-line*

	<b>VERMONT</b>	<b>VIRGINIA</b>	<b>WASHINGTON</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	State LTC Ombudsman	Department for the Aging	LTC Ombudsman Program
<b>Citation</b>	33 VT STAT ANN § 7501—7510 (Equity 1991 & Supp 2000)	VA CODE ANN § 2.1-371—373.9 (Michie 1995 & Supp 2000)	WASH REV CODE ANN § 43.190.010—.900 (West 1998 & Supp 2000)
<b>Enacted/Revised</b>	1999	2000	1999
<b>Pursuant to OAA</b>	Yes – Office established in accordance with OAA	Yes – program operated pursuant to OAA; Dept sole state agency w/ responsibility	Yes – instituted to comply with OAA
<b>Oversight Agency</b>	Dept of Aging & Disabilities	Department for the Aging	Dept of Community, Trade & Economic Development
<b>Recipient</b>	Older (60+) or disabled residents of LTC (nursing or residential care home)	Older persons (60+) – resident of LTC facility or recipient of community LTC services	Residents of LTC facilities, includes B&C, group home
<b>Complaints</b>	Shall investigate & resolve complaints	Dept/designee shall investigate <i>reasonably specified complaints referred to them</i> re: community services that provide LTC to elderly	Identify, investigate, resolve com-plaints
<b>Access to Facility</b>	LTC facilities shall provide access - may obtain access orders from judge if access denied	Right of access to residents & LTC facilities, including state hospitals, during normal work hrs, unless emergency	<i>Shall have approp access to facilities &amp; residents – regular visiting hrs or as required by investigation – must show ID</i>
<b>Access to Records</b>	May review records of residents w/ written consent - may obtain access orders from judge if access denied by facility	Right of access to patient records w/ consent, or as appropriate if unable to consent	<i>Shall have access only w/ written consent of resident or legal rep.</i>
<b>Coordination With Other Agencies</b>	All state agencies shall comply w/ reasonable requests of ombudsman for info and assist	<i>Refer c/o re: LTC regulatory issues or alleged abuse, etc to approp agency</i>	Refer any complaint to any approp gov't agency – Dept of social & health services shall act as quickly as poss to referral from Ombud & shall report back results & action
<b>Represent Residents to Seek Remedies</b>	May pursue admin, judicial, other remedies on behalf of residents	No provision	No provision
<b>Confidentiality of Ombudsman Records</b>	Identity disclosed only w/ written consent or court order	Confidential – not subject to Va FOIA – may be released on confidential basis in compliance w/ regulations and OAA – Identity disclosed only w/ consent or court order	Confidential – disclosed only at discretion of Ombuds – identity disclosed only w/ consent or court order
<b>Legal Rep of Office</b>	Statute requires contractee to provide legal rep and advice, if not state employees	No provision	Budget proviso requires contract for legal services to the LTCOP
<b>Interference</b>	Person intentionally hinders, subject to prison/fine	No provision	Nursing home, boarding home and adult family home licensing laws provide for sanctions against a facility that interferes with an ombudsman. Max fine = \$3,000

	<b>VERMONT</b>	<b>VIRGINIA</b>	<b>WASHINGTON</b>
<b>Other</b>	May obtain access orders from judge if access denied	Dept shall contract w/ non-profit agency or AAA to administer Ombuds program	Nothing shall be construed to empower Ombudsman w/ authority re: licensing or sanctions
<b>Regulations</b>		Regs on-line*	Regs on-line*

	<b>WEST VIRGINIA</b>	<b>WISCONSIN</b>	<b>WYOMING</b>
<b>Program</b>	Yes	Yes	Yes
<b>Statute/Title</b>	W. Va. LTC Ombudsman Program Act	Board on Aging and LTC	LTC Ombudsman Act
<b>Citation</b>	W VA CODE § 16-5L-1—22 (West 1998 & Supp 2000)	WIS STAT ANN § 16.009 (West 1996 & Supp 1999)	WYO STAT ANN § 9-2-1301—1309 ((Lexis 1999)
<b>Enacted/Revised</b>	1998	1999	1991
<b>Pursuant to OAA</b>	Yes – established to comply with & duties as mandated	Yes – shall operate office to carry out requirements of	No mention, but office exists pursuant to federal law
<b>Oversight Agency</b>	Bureau of Senior Services	Board on Aging and LTC (Exec Dir is the Ombudsman)	Dept of Health – Division on Aging
<b>Recipient</b>	Person living in a LTC facility	Aged or disabled receiving LTC, also community residential care or hospice	Anyone receiving care in LTC, includes home health, B&C, assisted living, adult day care, and APS -Senior /Elder abuse
<b>Complaints</b>	Receive, investigate, resolve complaints – may investigate on own initiative – don’t have to investigate if resources insufficient or complaint is trivial, frivolous, or not made in good faith or has been too long delayed	Investigate & serve as mediator or advocate to resolve complaints	Investigate & resolve complaints – Prior to investigate, shall notify facility/agency unless notice would result in increase harm or risk of
<b>Access to Facility</b>	Shall have access at time appropriate to complaint – prior notice not required – must show ID – may apply for warrant if access denied	May at any time, w/o notice, enter & have immediate access to resident in LTC facility	May enter a facility, w/ 24 hr prior notice & must show ID
<b>Access to Records</b>	Allowed access to all facility records and any resident record reasonably necessary w/ consent	May have access to & review records pertaining to care w/ consent or cause – Access to facility records as necessary – Access to DHFS records	If inspection requires review of record, shall refer to Dept, & must have consent of resident or legal rep
<b>Coordination With Other Agencies</b>	Shall have access any public record and be notified & allowed to observe surveys; shall refer suspected abuse to APS & Licensing & coord investigation or refer to other approp agencies, which shall report back	Joint investigations carried out with State DHFS under terms of a MOU	No provision – If problem not resolved w/i reasonable time, or if seriously threatens safety or well-being, then Ombudsman shall refer to appropriate agency
<b>Represent Residents to Seek Remedies</b>	May institute action for injunctive or declaratory relief, but not damages – shall coord w/ legal service prog	Refer residents to legal assistance providers as necessary	No provision
<b>Confidentiality of Records</b>	Disclosure of identity only w/ consent, court order, or to APS or Licensing	Disclosed only at discretion of Ombud – identity disclosed only w/ consent or court order	Identity disclosed only w/ consent or court order
<b>Legal Rep of Office</b>	Ensure sufficient access to legal counsel to bring actions on behalf of residents – AG, upon request, shall provide legal counsel & services	Shall employ an attorney for provision of legal services in accord w/ OAA	No provision



	<b>WEST VIRGINIA</b>	<b>WISCONSIN</b>	<b>WYOMING</b>
<b>Interference</b>	Misdemeanor for willful interference – fine and/or jail	Resident guaranteed right to communicate with Ombudsman. Retaliation for such communication prohibited	No provision – discrimination prohibited
<b>Other</b>	May apply to court for subpoena to compel testimony or production of document	Systemic advocacy to include monitoring implementation of state/federal rules	Person c/o against shall have opportunity to respond & appeal finding
<b>Regulations</b>	Regs on-line		

	<b>Puerto Rico</b>
<b>Program</b>	Yes
<b>Statute/Title</b>	Office of the Ombudsman for Elder Residents in LTC Facilities
<b>Citation</b>	PUBLIC LAW 308
<b>Enacted/Revised</b>	1999
<b>Pursuant to OAA</b>	No mention, but established to comply with duties as mandated
<b>Oversight Agency</b>	Governor's Office of Elderly Affairs
<b>Recipient</b>	Elders living in LTC facilities
<b>Complaints</b>	Receive, investigate, and resolve complaints
<b>Access to Facility</b>	Shall have access as deemed necessary by the Ombudsman - prior notice not required
<b>Access to Records</b>	Allowed access to all facilities' records and to residents' records unless they deny access
<b>Coordination With Other Agencies</b>	No provision
<b>Represent Residents to Seek Remedies</b>	No provision
<b>Confidentiality of Records</b>	Identity disclosed only at discretion of Ombudsman or with written consent or court order
<b>Legal Rep of Office</b>	No provision
<b>Interference</b>	Person intentionally hinders or retaliates against informant subject to legal procedures according to existing laws
<b>Other</b>	Immunity in carrying on functions
<b>Regulations</b>	

Note: Information presented in *italics* pertains to regulations relative to the program.

\* Citations for regulations that are on-line were provided by the following states:

Alabama: AAC 70-X-3.12

Florida: FAC 58L-1-3

Idaho: IDAPA 15.01.03  
Illinois: 89 Ill. Admin. Code 270 (subpart B)  
Indiana: 460 IAC 1 - 7  
Iowa: IAC 321-8-9  
Kentucky: 910KAR 1:210  
Louisiana: LAC 4:VII.1229  
Missouri: 13 CSR 15-4.060  
Nebraska: 15 NAC 3  
Oregon: ORS 114-002 - 006  
Tennessee: TRR 0030-1 - 9  
TEXAS: TAC 40-9 Sec. 260.11  
Utah: UAC R510-200-1 - 8  
Virginia: 22 VAC 5-20-580 - 590  
Washington: WAC 388-18-010 - 130