

October 13, 2022

Excerpt from Vermont Ombudsman Program Policies:

PART 7 - Organizational Conflicts of Interest

1. The Office shall operate free of any un-remedied organizational conflicts of interest that may impact the effectiveness and credibility of the work of the office.
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;
 - 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. Placement of the Office within VLA, an independent, non-profit law firm that provides legal advice and services to individuals and families throughout Vermont, minimizes the potential for organizational conflicts of interest.
 4. To avoid potential organizational conflicts, the Executive Director of VLA will consult with the SLTCO prior to VLA assuming any additional activities defined and identified as potential conflicts in 45 Code of Federal Regulations (CFR) §1324.21(a) and 33 Vermont Statutes Annotated (VSA) §7509(a).
 5. All VLA board members upon appointment and annually thereafter will be asked to complete and sign a Vermont Long-Term Ombudsman Project Conflict of Interest Disclosure Form; the purpose of which is disclosure, for them, of any ownership, investment, or employment interest in a long-term care facilities or any other agency or organization that provides long-term services and supports to participants enrolled in Choices for Care. See Appendix B.
 6. If a conflict is identified, the Executive Director of VLA in consultation with the SLTCO will take steps to remove or remedy the conflict.

PART 8 - Individual Conflicts of Interest

1. The Office shall operate free of any un-remedied individual conflicts of interest that may impact the effectiveness and credibility of the work of the office.
2. Individual conflicts of interest for the SLTCO, Local Ombudsmen and Volunteer Ombudsmen and members of their immediate family, include but are not limited to:
 - a. Direct involvement in the licensing or certification of a long-term care facility or other organization or agency that provides long-term services and supports;
 - b. Ownership, operational, or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility or other organization or agency that provides long-term services and supports;
 - c. Employment of an individual by, or participation in the management of, a long-term care facility in the service area or by the owner or operator of any long-term care facility in the service area;
 - d. Receipt of, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or
 - e. Accepting gifts or gratuities of any value from a provider.
3. In addition, it is a conflict of interest for the SLTCO, Local Ombudsmen or Volunteer Ombudsmen to:
 - a. Accept gifts or gratuities from a resident or participant (or the resident representative or participant representative, if applicable) unless:
 - i. The SLTCO or the Representative of the Office has a close personal relationship with a resident or participant (or the resident representative or

- participant representative) which is separate from the SLTCO or Representative of the Office's role as SLTCO or Representative of the Office;
- ii. The gift is not of significant value (less than \$10.00); and
 - iii. Refusing the gift would jeopardize the ability of the SLTCO or the Representative of the Office to effectively to serve the resident or participant.
- b. Accept money or any other consideration from anyone other than the Office, for the performance of an activity that falls within the duties and responsibilities of a Representative of the Office without first obtaining SLTCO approval;
 - c. Serve as guardian, agent under an advance directive or surrogate decision- maker for a resident residing in a long-term care facility in which the SLTCO or Representative of the Office provides services, or for a participant receiving home and community-based services in the Local Ombudsman's service area;
 - d. Serve a resident of a facility in which an immediate family member resides.
4. Prior to being hired or selected, the SLTCO, Local Ombudsmen, and Volunteer Ombudsmen shall be required to identify individual conflicts which exist for them or members of their immediate family on and sign a Vermont Long-Term Ombudsman Project Conflict of Interest Disclosure Form and Agreement. See Appendices A, C, and D.
5. To ensure that all future conflicts are disclosed and remedied, the SLTCO, Local Ombudsmen, and Volunteer Ombudsmen shall be required annually to complete and sign a Vermont Long-Term Ombudsman Project Conflict of Interest Disclosure Form and Agreement. See Appendices A, C, and D.

6. Upon hiring and annually thereafter, the Executive Director of VLA shall be required to sign a Vermont Long-Term Ombudsman Project Conflict of Interest Disclosure Form and Agreement; the purpose of which is disclosure, for them, of any ownership, investment, or employment interest in a long-term care facilities or any other agency or organization that provides long-term services and supports to participants enrolled in Choices for Care. See Appendix E.
7. When the Executive Director of VLA has an identified conflict of interest, the Executive Director of VLA will work with the VLA Board of Trustees to develop a plan to remove or remedy the conflict.
8. When the SLTCO has an identified conflict of interest, the SLTCO and the Executive Director of VLA will work together to develop a plan to remove or remedy the conflict.
9. When a Representative of the Office has an identified conflict, the SLTCO will work with the Representative of the Office to develop a plan to remove or remedy the conflict.

PART 9 - Avoiding Conflicts of Interest in Hiring and Designation

1. When hiring the SLTCO or a Local Ombudsman, or selecting a Volunteer Ombudsman, reasonable steps will be taken to avoid:
 - a. Employing or selecting a person with an un-remedied conflict or who has a family member with an un-remedied conflict;
 - b. Hiring a Local Ombudsman, or selecting a Volunteer Ombudsman, who has been employed by, or participated in, the management of a long-term care facility or organization that provides LTSS in the past

twelve (12) months.

2. Under no circumstances shall VLA employ a SLTCO or Local Ombudsman who:
 - a. Has direct involvement in the licensing or certification of a long-term care facility or an organization that provides LTSS;
 - b. Has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or an organization that provides LTSS¹; or
 - c. Receives, or has the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility or an organization that provides LTSS.
3. Under no circumstances shall the SLTCO select a Volunteer Ombudsman who:
 - a. Has direct involvement in the licensing or certification of a long-term care facility or an organization that provides LTSS;
 - b. Has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or an organization that provides LTSS²; or
 - c. Receives, or has the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility or an organization that provides LTSS.
4. Under no circumstances shall the Executive Director of VLA hire, as the SLTCO, an individual who has been employed by, or

¹ **Note:** Divestment within a reasonable period may be considered an adequate remedy to this conflict.

² **Note:** Divestment within a reasonable period may be considered an adequate remedy to this conflict.

participated in, the management of a long- term care facility or an organization that provides LTSS within the previous twelve (12) months.

5. Under no circumstances shall the SLTCO designate an individual as a Representative of the Office who:
 - a. Has direct involvement in the licensing or certification of a long-term care facility;
 - b. Has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility³;
 - c. Receives, or has the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or
 - d. Is currently employed by or participating in the management of a long-term care facility or organization that provides LTSS.

³ **Note:** Divestment within a reasonable period may be considered an adequate remedy to this conflict.