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## PROGRAM MEMO

**TO:** Long-Term Care Ombudsman Programs

**NO:** 21-17

**DATE ISSUED:** September 24, 2021

**EXPIRES:** NA

**PROGRAMS AFFECTED:** Long-Term Care  
Ombudsman

**SUBJECT:** Guidance on Ombudsman Resumption of Duties, Vaccination Requirements, Vaccination Verification, Testing, and PPE requirements

**SUPERSEDES:** California Long-Term Care  
Ombudsman Program Facility Visit Guidance:  
COVID-19 Era Phase I and Phase II

### Purpose

This Program Memo (PM) supersedes the COVID-19 Era Guidance Phase I and Phase II and provides new guidance on resuming full in-person service delivery, vaccination requirements, vaccination verification, updated testing, and use of Personal Protective Equipment (PPE) for the Long-Term Care Ombudsman Program (LTCOP).

### Background

In August of 2020, the LTCOP initiated Phase I of the LTCOP Re-entry to Facilities Guidance under the COVID-19 emergency. During this initial re-entry phase, indoor visits to facilities were strictly voluntary and limited to paid Ombudsman representatives who tested negative prior to their visit, completed a LTCOP COVID-19 Self-Assessment and Affirmation form, and were COVID-19 symptom free. Volunteer Ombudsman representatives who tested negative prior to their visit, self-assessed, and were COVID-19 symptom free could conduct outdoor visits at their option. Any visit to a facility with confirmed or suspected COVID-19 had to be authorized by the LTCOP Coordinator.

In September of 2020, the Office of the State Long-Term Care Ombudsman (OSLTCO) released additional guidance to transition to Phase II. Under Phase II of the LTCOP Re-entry to Facilities, both paid and volunteer Ombudsman representatives resumed all regular Long-Term Care

(LTC) Ombudsman duties including investigating all complaints received by the LTCOP and conducting unannounced indoor visits to LTC facilities regardless of positive COVID-19 cases.

On June 15, 2021, Governor Newsom terminated executive orders that imposed the statewide Stay Home Order and the Blueprint for a Safer Economy. Additionally, a [new public health](#) order that supersedes all previous health orders, became effective.

On July 26, 2021, Governor Newsom released measures to combat the spread of COVID-19 and protect vulnerable communities.

On August 5, 2021, the State Public Health Officer released [Requirements for Visitors in Acute Health Care and Long-Term Care Settings](#) and [Health Care Worker Vaccine Requirements](#).

The OSLTCO issues this mandatory guidance for Ombudsman programs as California continues to reopen.

## **Resumption of Duties**

The federal Older Americans Act requires that the LTCOP ensure residents have regular and timely access to LTCOP services. Through frequent and routine indoor facility visits, LTCOP staff and representatives can identify and address concerns and issues affecting residents. In-person visits with residents are an integral part of Ombudsman Program outreach and advocacy.

The LTCOP is committed to safely reestablishing the presence of Ombudsman representatives in LTC settings statewide. In keeping with our commitment to safety, the OSLTCO continues to recommend Ombudsman representatives consider any factors that put them in an at-risk population. If an Ombudsman representative is unable to serve in their traditional role, and no accommodation can be made, then the LTCOP Coordinator must send a request for decertification to the OSLTCO.

The OSLTCO will continue to track LTCOPs resuming full in-person services so that CDA can provide additional assistance as needed. If a LTCOP is unable to provide services in LTC settings, they must notify the OSLTCO immediately via email to their assigned program analyst and the State Ombudsman. The LTCOP Coordinator, in collaboration with the OSLTCO, will develop a corrective action plan, including timelines for compliance, for resuming Ombudsman services in LTC settings. If the LTCOP fails to substantially comply with the established

standards and criteria, the OSLTCO may begin action toward termination of the LTCOP's designation.

## **Vaccination Requirements**

All Ombudsman representatives, paid or unpaid, who provide services in indoor LTC settings must have their first dose of a one-dose regimen or their second dose of a two-dose regimen by October 30, 2021. Ombudsman representatives may be exempt from the vaccination requirement only upon providing the LTCOP Coordinator with a written declination statement, signed by the Ombudsman stating either:

1. The Ombudsman is declining based on religious beliefs; or
2. The Ombudsman is excused from receiving any COVID-19 vaccine due to qualifying Medical Reasons.

To be eligible for a Qualified Medical Reasons exemption, the Ombudsman must also provide the LTCOP Coordinator with a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician stating that the individual qualifies for the exemption and the probable duration of the Ombudsman's inability to receive the vaccine.

## **Vaccination Verification**

All Ombudsman representatives, paid or unpaid, must provide evidence of vaccination status to the LTCOP coordinator by October 30, 2021. Refer to [CDPH Guidance for Vaccine Records Guidelines & Standards](#) for various options for individuals to provide proof of vaccination.

It is the responsibility of the LTCOP Coordinator to verify vaccination status of program representatives. As part of that process, OSLTCO recommends that LTCOPs adhere to the following standards and principles for COVID-19 vaccine verification:

- Records should be verified through a private and confidential process
- Verification should not create or perpetuate social or health inequities or lead to discrimination
- Ombudsman representatives who are not fully vaccinated, or for whom vaccine status is unknown or documentation is not provided, should be considered unvaccinated

Consistent with applicable privacy laws and regulations, and records retention policy, the LTCOP coordinator must maintain vaccination records, exemption status, and documentation of

SARS-CoV-2 test results for their Ombudsman representatives. These records must be made available to the OSLTCO upon request.

### **Testing for LTC Ombudsman Representatives**

Ombudsman representatives, regardless of vaccination status (including **fully vaccinated, unvaccinated or incompletely vaccinated**), who are **asymptomatic** must undergo weekly SARS-CoV-2 diagnostic screening testing to provide services in LTC settings. “Fully vaccinated” means two or more weeks after the representative has received their second dose in a two-dose series or two weeks or more after they have received a single dose vaccine. ([CDPH - COVID-19 Public Health Recommendations for Fully Vaccinated People](#)). It is the responsibility of the LTCOP Coordinator to verify documentation of SARS-CoV-2 testing and maintain records consistent with applicable privacy laws and regulations, and records retention policy.

Ombudsman representatives, regardless of vaccination status, who have COVID-19 symptoms or had COVID-19 exposure must follow the [CDC guidance](#) on preventing the spread of Covid-19, including staying at home except for medical care and getting tested if symptomatic. Ombudsman representatives may need to follow stricter guidelines based on their county public health departments or the direction of their health care providers.

Any Ombudsman representative who has tested positive for COVID-19 must, as soon as possible but no later than 24 hours of receipt of the test result, notify the LTCOP Coordinator. The LTCOP Coordinator must, as soon as possible but no later than 24 hours of receipt of notification of positive test results, notify the OSLTCO via an email to their assigned analyst and the State Ombudsman.

Antigen testing or Polymerase Chain Reaction (PCR) testing will satisfy testing requirements. Any PCR or antigen test used must either have Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.

### **PPE Requirements**

All Ombudsman representatives, regardless of vaccination status, must wear appropriate personal protective equipment (PPE) and perform hand hygiene upon entry and in all common areas of the facility. See Attachment 1A and Attachment 1B for appropriate PPE use scenarios to consider.

## **Reminders**

As a reminder, Ombudsman representatives:

- Must immediately resume all regular LTCOP duties and conduct unannounced indoor visits to long-term care facilities, including those with positive COVID-19 cases
- **Must be free of COVID-19 and/or other contagious disease, complete the LTCOP COVID-19 Symptom Self-Assessment and Affirmation, and don appropriate PPE before conducting a facility visit (See below for use of PPE)**
- May conduct indoor visits to more than one facility a day
- Who are fully vaccinated, asymptomatic, and donning appropriate PPE may enter subacute facilities or subacute sections of SNFs. (See below for use of PPE)
- Who are fully vaccinated and asymptomatic with [higher-risk exposures](#) do not need to be excluded from work following their exposure. Refer to [AFL 21-08.4](#) for Guidance on Quarantine for Health Care Personnel Exposed to SARS-CoV-2
- Must follow the strictest health department guidance in their local area. The program coordinator should contact OSLTCO if local health department guidance interferes with Ombudsman duties

## **Inquiries**

The OSLTCO will continue to monitor the transmission and effects of COVID-19 and its variants. Additional guidance and resource documents will be released as needed. The OSLTCO is committed to making sure that LTCOPs have accurate and timely information. For questions or inquiries, please contact your assigned analyst.

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Eden Rosales  
Acting State Long-Term Care Ombudsman