

TO BE RESCINDED

173-14-19

Case records and reporting of complaint-handling activities.

(A) The complaint case record shall include only objective observations of items such as the client's physical condition, behavior, conversations, and other facts that are revealed during the course of the investigation. In addition, where appropriate to the complaint, all complex complaint case records shall contain the following:

- (1) Data required by the statewide uniform reporting system;
- (2) The name(s) and level of certification of the representative(s) of the office handling the case;
- (3) Client data: name, address/location, telephone number, sex, age, minority status, source of payment, and (if applicable) the name, address, telephone number, and scope of authority of any legal representative of the client;
- (4) Complainant data: name, address, telephone number, and relationship to the client;
- (5) Pertinent provider information;
- (6) A clear, concise statement of the complaint, from both the complainant and the client, if different;
- (7) Documentation of consent obtained in accordance with complaint-handling protocol;
- (8) A statement as to the client's desired outcome;
- (9) The action plan;
- (10) A running chronology of the contacts made to gather information regarding the complaint and to effect resolution of the problem, including the type of contact, the date, and who made the contact;
- (11) Documentation of any deviations from established complaint-handling protocol, practice, or policy;
- (12) Documentation of referrals to other agencies and the SLTCO;
- (13) Copies of all correspondence sent or received regarding the complaint;
- (14) Copies of all documents gathered as a part of the complaint-handling process;

- (15) Copies of release of information forms used to obtain documents or documentation showing how consent was obtained; and,
 - (16) Documentation that demonstrates the extent to which the client's desired outcome was achieved and the reason the complaint and/or case is being closed.
- (B) Complaint case records shall be retained by the SLTCO or regional programs for three years after the case is closed.
- (C) Representatives of the office shall contemporaneously document all complaint-handling activity in the "Ombudsman Documentation and Information System for Ohio" (ODIS). For the purposes of this paragraph, "contemporaneously" shall be defined by regional program policy approved by the SLTCO in accordance with rule 173-14-21 of the Administrative Code.
- (D) Access to case records and other reports of ombudsman activity contained in the ombudsman documentation and information system for Ohio (ODIS) by representatives of the office, non-representative state staff, and sponsoring agency staff shall be determined by the SLTCO.
 - (1) Access for representatives of the office shall be in accordance with their level of certification; and,
 - (2) Sponsoring agency access is limited to the executive director of the sponsoring agency or one designated senior staff member or one designated policy board member. No representative of a sponsoring agency shall have the access to alter ombudsman records.
- (E) Information contained in the investigative files maintained by the office and the regional programs shall be released only at the discretion of the SLTCO or if disclosure is required by a court order. Identities of clients, witnesses, and complainants shall not be released absent a court order.
 - (1) When an investigative file, either in whole or in part, or a request to submit to deposition or to testify in an administrative or judicial proceeding, is requested by a party outside of the office, the request must be submitted upon receipt to the office or the regional program in writing for consideration;
 - (2) When any representative of the office receives a request for an investigative file, either in whole or in part, or a request to submit to deposition or to testify in an administrative or judicial proceeding, the representative shall notify the SLTCO immediately, by telephone;

- (3) Within one business day after notification, the ombudsman shall submit the written request and complete and submit a form approved by the SLTCO to the SLTCO or the designee of the SLTCO by facsimile transmission (in the case of a regional ombudsman receiving the request) describing the case involved, the circumstance for the request, and other required information in a format prescribed by the SLTCO;
- (4) The SLTCO or the designee of the SLTCO will review the records requested and discuss the circumstance with the ombudsman in making a determination as to the release or withholding of records;
- (5) As appropriate, the SLTCO or the designee of the SLTCO will secure permission from the resident or complainant to release identity. Names and identifying information about clients, complaints, and/or witnesses will not be released without written consent of the affected individuals or their legally authorized representatives who have the proper scope of authority to provide such consent, unless required by court order. The SLTCO may request that the regional ombudsman seek the required consent;
- (6) The SLTCO or the designee of the SLTCO will consult with the internal legal counsel of the department of aging or the attorney general as needed;
- (7) As necessary, and as requested by the SLTCO, the role of the SLTCO's legal counsel will include:
 - (a) Negotiating with the party issuing the request in order to implement the SLTCO determination;
 - (b) Explaining the confidentiality restrictions;
 - (c) Advising the SLTCO on the risks and benefits of disclosure;
 - (d) Taking action to quash the request; and/or,
 - (e) Being present during deposition or testimony.
- (8) When an ombudsman requests a client at an administrative hearing (e.g., discharge hearing, medicare/medicaid appeal hearing) in accordance with an established action plan, the ombudsman may present copies of client medical records obtained during the course of the investigation with client consent as it is determined to be necessary in order to represent the client and in accordance with ombudsman laws, rules, and policies to protect confidentiality.

Effective:

Five Year Review (FYR) Dates: 1/30/2018

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 173.01, 173.02, 173.19; 42 U.S.C. 3025(a)(1)(C),
3058g(a)(5)(D); 45 C.F.R. 1321.11, 1324.11(e)(2),
1324.11(e)(3), 1324.13(b)(1), 1324.15(b)

Rule Amplifies: 173.19, 173.20; 42 U.S.C. 3058g; 45 C.F.R. 1321.11,
1324.11(e)(2), 1324.11(e)(3), 1324.19(b)

Prior Effective Dates: 07/11/1991, 12/27/2001, 12/28/2006