PURPOSE:
The purpose of this Program Instruction is to explain the limitations surrounding staffing arrangements for both the Long Term Care Ombudsman Program (LTCOP) and NY Connects: Choices for Long Term Care (NY Connects).

BACKGROUND:
NY Connects is a statewide, locally based program, whose goal is to empower older adults and individuals with disabilities of all ages, needing long term care, to make informed choices and to eliminate barriers to long term care services. It supports individual choice and consumer preference by providing unbiased, comprehensive information and assistance on available long term care options in their community in order to delay or prevent the need for higher level services such as institutional care. Information includes the range of available publicly and privately funded long term care services and supports, as well as other community supports based on consumers’ identified needs.

The New York State Long Term Care Ombudsman Program is the cornerstone of long term care resident advocacy. The Older Americans Act, the Federal statute that governs all aging related programs, requires the State to ensure that no officer or employee of the Office (Long Term Care Ombudsman Office), representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest.
The Older Americans Act recognizes the important function that LTCOP serves and that those employed by, or volunteering for, the LTCOP program must be free from any conflicts of interest. Due to the vulnerability of the population it serves and the sensitive nature of the subject matter that LTCOP deals with, it is the only program in the Older Americans Act that has a specific conflict of interest provision. In addition to preventing an actual conflict of interest, the New York State Office for the Aging, LTCOP and its local representatives must also avoid the appearance of a conflict of interest.

The New York State Elder Law section 218 reflects the Older Americans Act requirements for the LTCOP. These duties include, but are not limited to, identifying, investigating and resolving complaints that are made by, or on behalf of, long term care residents in the state and that relate to actions, inactions or decisions that may adversely affect the health, safety and welfare or rights of such residents. Additionally, LTCOP is charged with providing services to assist residents in protecting their health, safety, welfare and rights, including but not limited to, representing the interests of residents before governmental agencies and seeking appropriate administrative, legal and other remedies to protect their welfare, safety, health and rights.

With the advent of NY Connects, local offices for the aging and LTCOP staff are now placed in a unique situation. NY Connects staff is charged with providing objective, comprehensive and locally-based information and assistance about long term care services, including institutional care, to consumers, caregivers and families, in order to help them make educated choices. Due to the fact that callers will be seeking information and assistance (including information and assistance regarding institutional care) from the NY Connects staff, LTCOP staff functioning in a NY Connects information and assistance role are exposed to both actual and perceived conflicts of interest. In addition, individuals who supervise NY Connects staff providing information and assistance to the public will constantly be subjected to a potential conflict of interest as those supervisors, on occasion, will have to provide information and assistance, both directly and indirectly to the public. As such, NY Connects staff members who are providing information and assistance and NY Connects staff members who supervise individuals providing NY Connects information and assistance cannot also serve as LTCOP staff. It is a conflict of interest for LTCOP staff members to be presenting placement options for the very same facilities in which they are responsible for resident advocacy. This separation of duties is vital to ensuring the integrity of both LTCOP and NY Connects by protecting these programs from conflicts of interest or the appearance thereof.
While LTCOP staff cannot serve in, or supervise those who serve in a NY Connects information and assistance role, the New York State Elder Law provides that LTCOP staff shall inform residents about ways in which to obtain services provided by public health, social services, veterans’ affairs and other public agencies. As a result of this mandate, LTCOP staff is well within their charge to inform and educate residents in long term care facilities about the NY Connects Program and provide residents with contact information for the Program.

*Please note: NY Connects is a branded logo, which is why it appears the way it does throughout the document.

PROGRAMS AFFECTED: □ Title III-B  □ Title III-C-1  □ Title III-C-2
□ Title III-D  □ Title III-E  □ CSE  □ SNAP  □ Energy
□ EISEP  □ NSIP  □ Title V  □ HIICAP  X LTCOP
□ Other:

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