

HOUSE BILL NO. HB0101

Long term care ombudsman amendments.

Sponsored by: Representative(s) Harvey and Alden

A BILL

for

1 AN ACT relating to the Long Term Care Ombudsman Act;
 2 amending definitions; amending responsibilities as
 3 specified; amending provisions regarding investigation and
 4 resolution of complaints as specified; and providing for an
 5 effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 9-2-1302(a)(v), by creating a new
 10 paragraph (vi) and by amending and renumbering (vi) as
 11 (vii), 9-2-1303, 9-2-1304, 9-2-1305(a) through (c),
 12 9-2-1306 and 9-3-1308 are amended to read:

13

14 **9-2-1302. Definitions.**

15

16 (a) As used in this act:

17

1 (v) "Long term care ~~facility~~service" means any
2 ~~skilled or intermediate care nursing home or board and care~~
3 ~~home,~~service, provided by an assisted living facility,
4 adult day care facility, boarding home, home health agency,
5 hospice, hospital swing bed, nursing care facility,
6 personal care agency or other type of ~~personal care home or~~
7 service subject to regulation, ~~and~~certification or
8 licensure by the department, but not including habilitative
9 care;

10
11 (vi) "Older Americans Act" means the federal
12 Older Americans Act, as amended;

13
14 ~~(vi)~~(vii) "Resident" means any ~~person~~adult who
15 is receiving ~~treatment or care in~~ a long term care ~~facility~~
16 service.

17
18 **9-2-1303. Office created.**

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20 There presently exists, pursuant to ~~federal law~~the Older
21 Americans Act, the office of long term care ombudsman. The
22 office is under the supervision of the department through
23 its director or as otherwise directed by the department.

24

1 **9-2-1304. Responsibilities.**

2

3 (a) The responsibilities of the ombudsman shall be
4 to:

5

6 (i) Investigate, ~~and~~ advocate and mediate on
7 behalf of adults applying for or receiving long term care
8 services, to resolve complaints ~~of residents and the~~
9 ~~management of long term care facilities with regard to~~
10 concerning actions or inactions that may adversely affect
11 resident health, safety, welfare or rights and that do not
12 involve determination of compliance for maintaining a
13 license or certification;

14

15 (ii) Provide information to public agencies
16 about the problems of residents ~~in-receiving~~ long term care
17 ~~facilities~~ services;

18

19 ~~(iii) Train volunteers and assist in the~~
20 ~~development of citizen organizations to participate in the~~
21 ~~ombudsman program;~~

22

1 ~~(iv)~~ (iii) Carry out other activities consistent
2 with the purpose of this act which the department
3 determines appropriate; ~~and~~

4
5 (iv) Carry out the functions of the long term
6 care ombudsman as described in sections 711 through 713 of
7 the Older Americans Act; and

8
9 (v) Monitor the development and implementation
10 of federal, state and local laws, regulations and policies
11 with respect to long term care ~~facilities~~ services in
12 Wyoming.

13
14 **9-2-1305. Investigations.**

15
16 (a) The ombudsman shall ~~investigate~~ conduct an
17 appropriate inquiry into all complaints pursuant to this
18 act. ~~Prior to undertaking an investigation,~~ The ombudsman
19 shall notify any ~~faeility or agency~~ provider of a long term
20 care service affected by the ~~investigation unless the~~
21 ~~ombudsman has good cause to believe that prior notice would~~
22 ~~result in increased harm or risk of harm to the resident by~~
23 ~~whom, or on whose behalf, a complaint has been made. If~~
24 ~~the complaint is without merit or has been resolved, the~~

1 ~~ombudsman shall inform the affected parties of the decision~~
2 ~~and state the reasons~~ inquiry.

3
4 (b) In ~~making any investigation~~ conducting an
5 inquiry, the ombudsman ~~may~~ shall engage in appropriate
6 actions including:

7
8 (i) Making inquiries of affected parties or
9 those with the knowledge of matters necessary to establish,
10 ~~or deny~~ or resolve the complaint;

11
12 (ii) Entering, ~~a~~ at any reasonable time, the
13 ~~facility, after giving twenty-four (24) hours notice to the~~
14 ~~facility and providing proper identification upon entering.~~
15 of a provider of any long term care service subject to
16 regulation, certification or licensure by the department;

17
18 (iii) Presenting proper identification to any
19 long term care service provider, if requested.

20
21 (c) Any ~~investigation~~ inquiry that requires the
22 inspection or obtaining of medical records or other
23 resident records ~~pertaining to residents from any long term~~
24 ~~care facility or government agency,~~ which are pertinent to

1 the inquiry shall ~~be referred to the department and shall~~
2 ~~require the permission of the resident or his guardian, if~~
3 ~~any~~ comply with all established privacy notification
4 requirements.

5
6 **9-2-1306. Resolution of complaints.**

7
8 (a) The ombudsman shall attempt to resolve the
9 complaint using mediation and negotiation whenever
10 possible.

11
12 ~~(a)~~ (b) Following an investigation, the ombudsman
13 shall report his findings and recommendations to the
14 resident~~,~~ or resident's guardian and ~~the chief~~
15 ~~administrative officer of the facility or government agency~~
16 ~~affected. The ombudsman shall attempt to resolve the~~
17 ~~complaint using mediation and negotiation whenever possible~~
18 may report the findings to any other entity deemed
19 appropriate.

20
21 ~~(b)~~ (c) ~~The person complained against shall have a~~
22 ~~reasonable opportunity to respond to the complaint and~~
23 ~~appeal the finding of the ombudsman. If the problem is not~~
24 ~~resolved within a reasonable period of time, or~~ If the

1 problem seriously threatens the safety or well-being of a
2 resident, the ombudsman shall refer the complaint to an
3 appropriate agency.

4

5 **9-2-1308. Retaliation.**

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7 No person shall discriminate against any resident, relative
8 or guardian of a resident, employee of a long term care
9 ~~facility~~service provider or any other person because of
10 the making of a complaint or providing of information, in
11 good faith, to the ombudsman.

12

13 **Section 2.** This act is effective July 1, 2005.

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(END)