

ENROLLED ACT NO. 72, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

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

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

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

9-2-1302. Definitions.

(a) As used in this act:

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

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

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

9-2-1303. Office created.

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

9-2-1304. Responsibilities.

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

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

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

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

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

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

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9-2-1305. Investigations.

(a) The ombudsman shall ~~investigate~~ conduct an appropriate inquiry into all complaints pursuant to this act. ~~Prior to undertaking an investigation,~~ The ombudsman shall notify any ~~facility or agency~~ provider of a long term care service affected by the ~~investigation unless the ombudsman has good cause to believe that prior notice would result in increased harm or risk of harm to the resident by whom, or on whose behalf, a complaint has been made. If the complaint is without merit or has been resolved, the ombudsman shall inform the affected parties of the decision and state the reasons~~ inquiry.

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

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

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

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

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

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

9-2-1306. Resolution of complaints.

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

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

~~(b)(c)~~ The ~~person~~ provider of long term care service complained against shall have a reasonable opportunity to respond to the complaint, and appeal the finding of the ombudsman. ~~If the problem is not resolved within a reasonable period of time, or~~ If the problem seriously threatens the safety or well-being of a resident, the ombudsman shall refer the complaint to an appropriate agency.

9-2-1308. Retaliation.

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

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk