

Approved \_\_\_\_\_

Date 4-4-90  
sh ✓

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at \_\_\_\_\_  
Chairperson

1:55 a.m./p.m. on March 26, \_\_\_\_\_, 1990 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research  
Bill Wolff, Research  
Norman Furse, Revisor  
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Chairman called meeting to order when quorum was present at 1:55 p.m.

Chair drew attention to SB 304, explaining it is a carry-over bill from last year. This bill was passed favorably out of our committee then withdrawn from House Calendar when concerns were raised about persons having to pay for medical services years after these services had been given. Chair asked wishes of members in regard to SB 304. There was no response, so Chair will direct SB 304 to remain in this committee, therefore it will die at the end of 1990 Session.

SB 434 (Foster child information available to Foster families.)

Rep. Amos made a motion to pass SB 434 favorably out of committee, seconded by Rep. Wiard. Discussion held in regard to definition of "foster child" vs. "child" and concerns in this regard. At this point Rep. Amos and Rep. Wiard withdrew their motions.

Staff explained the language in the early part of the bill is about a child still being considered by foster parents, so the child is not yet considered a foster child. He explained rationale for differences in language. It was the consensus of members to follow Mr. Furse's direction in regard to any necessary clean up language.

Rep. Amos moved to pass SB 434 favorably, seconded by Rep. Wiard, motion carried.

SB 446 (Establishing Community Health Center Demonstration Program for medically indigent.)

Chair recognized Rep. Branson who drew attention to a point in SB 446 that defines the population for one of the Demonstration Project sites. Other language changes were proposed. Rep. Buehler moved to amend SB 446 on Page 2, line 11, following secretary, add a comma, and insert "or local health department". Motion seconded by Rep. Branson, motion carried.

Discussion held in regard to fiscal note on SB 446. Staff explained to members the cost of this program would/could be whatever the Legislature appropriates for the program.

Further on SB 446, Rep. Branson moved to amend SB 446 on Page 1, line 32, to strike "emergency", and insert in lieu thereof, "urgent". Motion seconded by Rep. Weimer, motion carried. Discussion continued in regard to concerns by some that after a two year program is funded, then what happens to it, and will this be a waste; some indicated many local health departments are close

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S Statehouse, at 1:55 a.m./p.m. on March 26, 1990.

DISCUSSION CONTINUED ON SB 446.

to this type of program already, and this type of care is needed. There was concern about population totals for one of the sites. After considerable discussion it was agreed to amend conceptionally language that would define the population so as not to exceed 20,000 and more than one county could be eligible for this project.

Rep. Reinert moved to amend (conceptionally) SB 446 to have more than one county participate in program. Motion seconded by Rep. Flower, motion carried.

On SB 446 as a whole, Rep. Branson moved to pass SB 446 favorably as amended, seconded by Rep. Borum, motion carried.

HCR 5046. (Training required for certain professionals related to treatment of sexual problems.)

Chair explained HCR 5046. There was a brief discussion on this Resolution. Rep. Weimer moved to table HCR 5046, seconded by Rep. Flower. Discussion continued, i.e., some felt delaying action might be good since another bill in Judiciary could have some impact; it was noted there is no time later on to work the bill since the deadline is fast approaching; some felt educational program would already cover the materials discussed, and if not, it should.

Vote taken, motion carried. Recorded as NO votes were Rep. Shumway and Rep. Branson.

HCR 5050, (Access for Universal Health Care)

Rep. Branson moved to pass HCR 5050 favorably out of committee, seconded by Rep. Borum, motion carried.

HCR 5051 (Memorializing Congress to cure inequities in Social Security Notch Year Beneficiaries).

Representative Branson explained this legislation had come out of Silver Haired Legislation meetings, and it would please this group to know their recommendation had been advanced.

Rep. Sader moved to pass HCR 5051 favorably out of committee, seconded by Rep. Cribbs, motion carried.

HB 2802 (Receivership of adult care homes)

At this point the Chairman relinquished his position as Chairman and turned the gavel and microphone over to the Vice-Chair, Rep. Buehler. Rep. Buehler recognized Rep. Littlejohn who gave an indepth explanation of history of legislation in regard to receivership of adult care homes; intent of legislators in regard to responsibilities of owners of bricks/mortor/ of a facility. He noted Representatives Branson, Green, Cribbs had also been on this committee many years, and were also aware of the original intent of the Legislators in regard to owners responsibility relative to receiverships. He noted the opinion from the Attorney General's (AG's) office asking this problem be taken out of the gray area. He noted the District Court also confirms the same. It is not the intent of legislature, the owner bear responsibility for receiverships, and should not be held responsible for the bad business practices of the operator.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:55 AM/p.m. on March 26, 1990

DISCUSSION CONTINUED ON HB 2802. (Rep. Littlejohn continued)

He commented about the adverse press concerning this legislation and noted it is of great concern to him this legislation should be tried in the newspapers. Concerns with HB 2802 need to be addressed so the same problems will not have to be resolved over and over again. He noted it is his feeling the Department of Health/Environment has made a mistake in their interpretation of HB 2802. He noted further, he feels this committee is not doing its job if action is not taken on HB 2802. It concerns him also the newspaper is trying to crucify a member of the House.

At this point, Rep. Littlejohn moved to report HB 2802 favorable for passage, with no amendments. Motion seconded by Rep. Foster. Discussion continued with Representatives Branson, Green, Cribbs giving their comments in regard to their interpretation of HB 2802. Other comments of discussion from members, i.e., needed perhaps is legislation that could deal with this specific case only, be a better solution to present concerns; a net-lease was explained; some felt the District Court is very comfortable with present law, they are not asking for a ruling by the Legislature; it is important the AG's opinion is clearly interpreted; some concerned with language in respect to retroactive nature; a point to remember one felt is the AG's opinion is clear and based on current law and he does not ask our opinion. No one asked our opinion until the litigation with Pioneer came about, it was noted.

Vote taken, division requested, show of hands indicated 9 in favor, 9 against, then Chair, (Rep. Buehler) voted in favor of passing HB 2802 favorably, making vote 10 in favor, 9 against, motion carried.

Recorded as NO votes were Representative Hochhauser, Weimer, Branson, Shumway, Sader.

At this point Representative Littlejohn took over Chairmanship again of Committee from Representative Buehler.

HB 3003. (Ombudsman Bill-Department on Aging)

Chair recognized Rep. Amos who had served as Chair of sub-committee on HB 3003. Rep. Amos offered balloon (Attachment No. 1) that would reflect the work of the sub-committee. He noted, he, Rep. Wells, Rep. Borum had met three times along with Staff and interested parties and now submit the committee report in the form of the balloon distributed today. Changes will reflect concerns of parties involved. He asked Mr. Furse to explain the proposed amendments in the balloon. Mr. Furse then detailed changes proposed. It was noted changes reflect agreement with Secretary of Department on Aging, and their General Counsel. Mr. Furse gave a comprehensive explanation of all proposed changes in balloon on HB 3003.

Rep. Amos made a motion to accept the sub-committee report reflected in balloon, that would amend HB 3003 as explained by Staff. Motion seconded by Rep. Shallenburger. No discussion, vote taken, motion carried.

On the bill as a whole, Rep. Amos moved to pass HB 3003 out favorably as amended, seconded by Rep. Shallenburger, motion carried. Recorded as a No vote was Rep. Scott.

Recorded as (Attachment No. 2) is hand-out from Department on Aging, General Counsel, Claire McCurdy.

Chair thanked members for their attention, cooperation, and a good year.

Meeting adjourned 3:05 p.m.



# HOUSE BILL No. 3003

By Committee on Appropriations

2-14

9 AN ACT concerning the department on aging; relating to the office  
10 of the state long-term care ombudsman; prescribing powers, duties  
11 and functions therefor and for the secretary of aging relating  
12 thereto; establishing the long-term care ombudsman enforcement  
13 fund; amending K.S.A. 75-5916, 75-5917, 75-5918, 75-5920 and  
14 75-5921 and repealing the existing sections.

15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. The provisions of sections 1 through [7] and  
17 amendments thereto and K.S.A. 75-5916 through 75-5922 and  
18 amendments thereto shall be known and may be cited as the [Kansas]  
19 long-term care ombudsman act.

20  
21 ~~New Sec. 2. (a) No individual involved in the selection or des-  
22 ignation of any ombudsman shall have any pecuniary or other interest  
23 in any facility. No ombudsman, officer, employee or other repre-  
24 sentative of the office shall have any pecuniary or other interest in  
25 any facility.~~

26 ~~(b) The secretary shall administer and enforce the provisions of  
27 this section and shall ensure compliance therewith. The secretary  
28 shall adopt policies and procedures to identify and remedy all con-  
29 flicts of interest prohibited by this section.~~

30 New Sec. 3. The secretary shall ensure that:

31 ~~(a) Legal counsel is available to each ombudsman for advice and  
32 consultation and that legal representation is provided to any om-  
33 budsman against whom suit or other legal action is brought in con-  
34 nection with the performance of the ombudsman's official duties; and~~

35 ~~(b) each ombudsman has the resources and authority to pursue  
36 administrative, legal and other appropriate remedies on behalf of  
37 residents.~~

38 New Sec. [4] No individual shall investigate any complaint filed  
39 with the office of the state long-term care ombudsman unless the  
40 individual has received the training required under subsection (f) of  
41 K.S.A. 75-5918 and amendments thereto and has been designated  
42 by the state long-term care ombudsman as an ombudsman qualified  
to investigate such complaints.

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New Sec. 2. The secretary shall ensure that:

(a) No individual involved in the designation of any ombud-  
sman is subject to a conflict of interest;

(b) no officer, employee or other representative of the  
office is subject to a conflict of interest;

(c) policies and procedures are in place to identify and  
remedy all conflicts of interest specified under para-  
graphs (a) and (b);

(d) legal counsel is available to the office for advice and  
consultation and that legal representation is provided to  
any ombudsman against whom suit or other legal action is  
brought in connection with the performance of the ombuds-  
man's official duties; and

(e) the office has the ability to pursue administrative,  
legal and other appropriate remedies on behalf of residents  
of facilities.

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3-26-90  
Attn. #1*

New Sec. ~~5~~. No ombudsman shall be liable ~~under state law~~ for the good faith performance of official duties ~~in administering the office of the state long-term care ombudsman~~.

4

New Sec. ~~6~~ (a) No person shall willfully interfere with any lawful action or activity of an ombudsman, including the request for immediate entry into a facility.

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(b) No person shall take any discriminatory, disciplinary or retaliatory action against any officer or employee of a facility ~~or government agency~~ or against any resident or any guardian or family member thereof for any communication by any such individual with an ombudsman or for any information given or disclosed by such individual in good faith to aid the office in carrying out its duties and responsibilities.

(c) Any person that violates the provisions of subsection (a) ~~shall be subject to a civil penalty in a sum not exceeding \$2,500 per occurrence. Any person that violates the provisions of subsection (b) shall be subject to a civil penalty in a sum not exceeding \$5,000 per occurrence.~~

or the provisions of subsection (b) shall be guilty of a class C misdemeanor

~~(d) The secretary may assess and collect a civil penalty under this section, after notice and an opportunity for hearing before a hearing officer designated by the secretary to hear the matter upon a determination that a person violated the provisions of subsection (a) or (b). All hearings conducted pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any action of the secretary pursuant to this section shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.~~

~~New Sec. 7. The long-term care ombudsman enforcement fund is hereby established in the state treasury. The long-term care ombudsman enforcement fund shall be administered by the secretary. All moneys received for civil penalties imposed under section 6 shall be remitted to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the long-term care ombudsman enforcement fund. All expenditures from the long-term care ombudsman enforcement fund shall be for support of the operations and activities of the office of the state long-term care ombudsman. Such expenditures shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee.~~

Sec. ~~8~~ K.S.A. 75-5916 is hereby amended to read as follows: 75-5916. As used in this the ~~Kansas~~ long-term care ombudsman act:

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*3-26-90*  
*Attn #1,*  
*292*

(a) "Ombudsman" means a person or persons responsible for carrying the state long-term care ombudsman and any regional long-term care ombudsman ~~or other individual~~ who has received the training required under subsection (f) of K.S.A. 75-5918 and amendments thereto and who has been designated by the state long-term care ombudsman to carry out the powers, duties and functions of the office of the state long-term care ombudsman.

(b) "Secretary" means the secretary of aging.

(c) "Facility" means an adult care home as such term is defined in K.S.A. 39-923 and amendments thereto.

(d) "Resident" means ~~an individual kept, cared for, treated, boarded or otherwise accommodated in a facility.~~ a resident as such term is defined in K.S.A. 39-923 and amendments thereto

(e) "State long-term care ombudsman" means the individual appointed by the secretary to administer the office of the state long-term care ombudsman.

(f) "Regional long-term care ombudsman" means an individual appointed by the secretary ~~as a subordinate officer of the office of the state long-term care ombudsman.~~ under K.S.A. 75-5917 and amendments thereto

(g) "Office" means the office of the state long-term care ombudsman. (h) "Conflict of interest" means having a pecuniary or other interest in a facility, but not including interests that result only from having a relative who is a resident.

Sec. ~~9~~ 9. K.S.A. 75-5917 is hereby amended to read as follows: 75-5917. There is hereby established under the supervision of the secretary of aging within and as a part of the department on aging ~~an~~ the office of the state long-term care ombudsman, the head of which shall be the state long-term care ombudsman. The state long-term care ombudsman shall be appointed by the secretary of aging and shall be in the classified service of the Kansas civil service act. The secretary of aging shall appoint each regional long-term care ombudsman and all ~~subordinate~~ officers and employees of the office of state long-term care ombudsman, within the department on aging. Each regional long-term care ombudsman and all such ~~subordinate~~ officers and employees shall be within the classified service under the Kansas civil service act. Under the supervision of the secretary of aging, the state long-term care ombudsman shall administer the office of the state long-term care ombudsman.

Sec. ~~10~~ 10. K.S.A. 75-5918 is hereby amended to read as follows: 75-5918. The state long-term care ombudsman shall:

(a) Investigate and resolve complaints made by or on behalf of the residents relating to action, inaction or decisions of facilities ~~or the representatives of facilities, other long-term care service providers, public agencies, or social service agencies, which may adversely affect the health, safety, welfare or rights of such residents.~~ or both, except that all complaints of abuse, neglect or exploitation of a resident shall be referred to the secretary of health and environment in accordance with the of K.S.A. 39-1401 et seq. and amendments thereto

(b) develop continuing programs to inform ~~and assist~~ residents

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1 of facilities, their family members or other persons responsible for  
2 residents of facilities of their regarding the rights and responsi-  
3 bilities of residents and such other persons;

4 (b) (c) provide the legislature, the governor and the secretary  
5 with an annual report relating to the needs of residents in fa-  
6 cilities, including recommendations for meeting those needs;

7 (e) collect data for analysis to inform other agencies, the  
8 legislature, the governor, the secretary and the public of the  
9 needs of residents in facilities;

10 (d) promote cooperation among the various agencies con-  
11 cerned with the regulation of facilities, or providing services  
12 to residents therein, and the department on aging;

13 (e) provide information to agencies and others as required;  
14 and containing data and findings regarding the types of problems  
15 experienced and complaints received by or on behalf of residents  
16 and containing policy, regulatory and legislative recommendations  
17 to solve such problems, resolve such complaints and improve the  
18 quality of care and life in facilities;

19 (d) analyze and monitor the development and implementation of  
20 federal, state and local government laws, regulations, resolutions,  
21 ordinances and policies with respect to facilities and long-term care  
22 services provided in this state, and recommend any changes in such  
23 laws, regulations, resolutions, ordinances and policies deemed by the  
24 office to be appropriate;

rules and  
facilities and

25 (e) provide information to public agencies, legislators and others,  
26 as deemed necessary by the office, regarding the problems and con-  
27 cerns of older individuals residing in facilities, including recommen-  
28 dations related thereto;

29 (f) provide for the training of all individuals who are officers or  
30 employees of the office appointed by the secretary under K.S.A. 75-  
31 5017 and amendments thereto and other representatives of the office,  
32 in (1) federal, state and local laws, regulations, resolutions, ordi-  
33 nances and policies with respect to facilities located in Kansas, (2)  
34 investigative techniques, and (3) such other matters as the secretary  
35 deems appropriate;

the state long-term care ombudsman and each regional  
long-term care ombudsman  
rules and

36 (g) coordinate ombudsman services provided by the office with  
37 the protection and advocacy systems for individuals with develop-  
38 mental disabilities and mental illness established under part A of the  
39 federal developmental disabilities assistance and bill of rights act,  
40 42 U.S.C.A. 6001 et seq., and under the federal protection and  
41 advocacy for mentally ill individuals act of 1986, public law 99-316;

42 (A) consider any representative of an entity providing ombuds-  
43 man services who has been designated as an ombudsman by the

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1 state long-term care ombudsman, whether an employee or an unpaid  
2 volunteer of such entity, shall be deemed to be a representative of  
3 the office for purposes of this section;

4 (i) collaborate with the department of health and environment (h)  
5 and the department of social and rehabilitation services to establish  
6 a statewide system to collect and analyze information on complaints statewide  
7 and conditions in facilities for the purposes of publicizing improve-  
8 ment and resolving significant problems; and

9 (j) have the right to attend exit conferences conducted by the  
10 department of health and environment under K.S.A. 39-935 and  
11 amendments thereto; and

12 (k) perform such other duties and functions as may be provided (i)  
13 by law or as may be directed by the secretary of aging. 9

14 Sec. 11. K.S.A. 75-5920 is hereby amended to read as follows:  
15 75-5920. With the written consent of the resident of the facility,  
16 guardian of the resident or next of kin of a deceased resident, an  
17 ombudsman shall have access to all records and documents kept for  
18 or concerning the resident. In addition, in assisting a resident of a  
19 facility, an ombudsman shall have access to all records and documents  
20 of the facility which are relevant to such assistance. ~~An ombudsman~~  
21 ~~shall have access to books, records and other documents main-~~  
22 ~~tained by the facility to the extent necessary to carry out the~~  
23 ~~provisions of this the [Kansas] long-term care ombudsman act.~~ 10

24 Sec. 12 K.S.A. 75-5921 is hereby amended to read as follows:  
25 75-5921. All information, records and reports received by or devel-  
26 oped by an ombudsman which relate to a resident of a facility,  
27 including written material identifying a resident *or other complain-*  
28 *ant*, are confidential and not subject to the provisions of K.S.A. 45-  
29 201 to 45-203, inclusive, and amendments thereto, and shall not be  
30 disclosed or released by an ombudsman, *either by name of the*  
31 *resident or other complainant or of facts which allow the identity*  
32 *of the resident or other complainant to be inferred*, except upon  
33 the order of a court *or unless the resident or the resident's legal*  
34 *representative or other complainant consents in writing to such dis-*  
35 *closure or release by an ombudsman*, except the *state* long-term care  
36 ombudsman shall forward to the secretary of health and environment  
37 and the secretary of social and rehabilitation services copies of reports  
38 received by the *state* long-term care ombudsman relating to the  
39 health and safety of residents. ~~A summary report and findings shall~~  
40 ~~be forwarded to the facility, exclusive of information or material that~~  
41 ~~identifies residents or any other individuals.~~

and except as provided in subsection (a) of K.S.A.  
75-5918 and amendments thereto

42 Sec. 13. K.S.A. 75-5916, 75-5917, 75-5918, 75-5920 and 75-5921  
43 are hereby repealed. 11

*PHell*  
*3-26-90*  
*Attm #1*  
*29.5*

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Sec. 14 This act shall take effect and be in force from and after 12  
its publication in the statute book.

*J. Hill*  
3-26-90  
Attn. # 1.  
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STATE OF KANSAS



DEPARTMENT ON AGING  
Docking State Office Building, 122-S  
915 S.W. Harrison  
Topeka, Kansas 66612-1500  
(913) 296-4986

Mike Hayden  
Governor

Esther Valladolid Wolf  
Secretary of Aging

TO: Representative Marvin Littlejohn, Chairman  
House Public Health and Welfare Committee  
House Public Health and Welfare Committee Members

FROM: Claire McCurdy, Chief Counsel  
Kansas Department on Aging *CM*

THROUGH: Esther Wolf, Secretary  
Kansas Department on Aging

DATE: March 2, 1990

RE: House Bill No. 3003; Kansas Long Term Care Ombudsman  
Program

Attached please find a copy of those sections of the Older Americans Act (OAA) relevant to the long term care ombudsman program mandated to be provided by the Kansas Department on Aging (KDOA), as well as a balloon containing suggested language amending House Bill No. 3003. The statute is being provided in order to respond to implications made by some of the conferees during the hearing on this bill earlier this week that the bill gives KDOA more power than is authorized or intended by the OAA. The balloon is intended to address some concerns presented by the Kansas Department of Health and Environment (KDHE). The language in the balloon is acceptable to KDHE.

Please also note that unless the ombudsman statute is amended to comply with the provisions of the Older Americans Act, KDOA may be subject to a loss of federal funds for this mandated program.

Older Americans Act Requirements

House Bill No. 3003, as presented in its original form, does not give more power to the Kansas Department on Aging or the long term care ombudsman program than is required by the OAA. For your reference, the section of the OAA that requires each section of House Bill No. 3003 is noted in the left hand margin of the balloon. You can see, for example, that adequate legal counsel for the long term care ombudsmen is required by the Older Americans Act, and that this includes the state ombudsman and all representatives of the office (see OAA, Section 307(a)(12)(G)).

*PNH:LO  
3-26-90  
attn: #2*

Representative Marvin Littlejohn  
Page Two  
March 2, 1990

The one exception is incorporating the possibility of volunteer ombudsmen into this statute. Nowhere in the Older Americans Act is it required that volunteer ombudsmen be included in the program, however, OAA Section 307(a)(12)(A)(ii) requires both training for volunteers and the promotion of citizen participation in the long term care ombudsman program. Similarly, OAA Section 307(a)(12)(H)(iv) specifically states the type of training that is to be provided. Clearly, this leaves at least the implication that volunteer ombudsmen are required. We are continuing to discuss this part of the legislation with KDHE in order to reach some consensus on this issue. While we are mindful and appreciative of concerns raised about the quality of volunteer ombudsmen as opposed to paid professional ombudsmen, information we have received from the National Association of State Units on Aging (NASUA) makes it clear volunteer ombudsmen have been successfully incorporated into ombudsman programs in other states. We are confident that KDOA and KDHE will reach agreement in this area in the near future.

#### Penalties Fund

Another concern expressed by the conferees was the establishment of a fund within the KDOA for the collection of any penalties or fines assessed under Section 6 of the bill. You will note new Section 7 has been deleted in the balloon, thereby assuring any monies collected will go into the state general fund rather than directly to the KDOA.

#### Ombudsmen Attendance at Exit Conferences

Finally, the KDHE expressed concern about giving the long term care ombudsman the statutory right to attend exit conferences after surveys done by KDHE. While it is our position the bill does not require the long term care ombudsman to attend every exit conference scheduled by KDHE but merely assures the right to do so, regulatory materials from the federal level indicate the licensing agency for long term care facilities is supposed to advise the long term care ombudsmen of these meetings. Moreover, the ombudsman's attendance at exit conferences is consistent with the ombudsman's duty to monitor the development and implementation of laws and regulations governing long term care facilities as set forth in Section 307(a)(12)(H)(ii) of the Older Americans Act. Consequently, the KDOA and KDHE have agreed to incorporate the substance of Section 10 (j) of House Bill No. 3003 into the Memorandum of Understanding between our two agencies that already exists.

*PHW*  
*attn #2 pg. 2.*  
*3-26-90*

Representative Marvin Littlejohn  
Page Three  
March 2, 1990

Conclusion

The attached balloon addresses all valid concerns expressed at the committee hearing on House Bill No. 3003 except for the issue of volunteer ombudsmen. As previously mentioned, we are continuing to work with KDHE to reach a consensus on this issue. Consequently, we strongly encourage the committee to accept the proposed amendments and recommend House Bill No. 3003 favorable for passage.

Thank you for your time and consideration of this bill and please do not hesitate to contact me, or Claire McCurdy, Chief Counsel, if you need additional information.

EVW:CM:mj.968  
Attachment

*PHell  
attn #2*

*3-26-90 pg 3*

[COMMITTEE PRINT]

COMPILATION  
OF THE  
OLDER AMERICANS ACT OF 1965  
As Amended Through December 31, 1988

PREPARED FOR THE  
SUBCOMMITTEE ON HUMAN RESOURCES  
OF THE  
COMMITTEE ON EDUCATION AND LABOR  
OF THE  
HOUSE OF REPRESENTATIVES

Serial No. 101-A

AND FOR THE  
SPECIAL COMMITTEE ON AGING

OF THE  
UNITED STATES SENATE

Serial No. 101-B  
ONE HUNDRED FIRST CONGRESS  
FIRST SESSION



MARCH 2, 1989

I-DEFINITIONS

ILLI GRANNIS SAIGEN

*PKW*  
*Attn # 2*  
*3-26-90*  
*094.*  
~~*26-10-89*~~

ies to inform older indi-  
for eligibility to receive  
its; and  
to apply for such assist-

unt received under part  
such part;  
unt received under part  
such part;  
unt received under part  
such part; and  
unt received under part  
such part.

cy plans under this sec-  
l in clause (2) of subsec-  
ed in such clause if the  
State agency that serv-  
he area are sufficient to  
a.

requests a waiver under  
agency on aging shall  
nce with the provisions  
ing requesting a waiver  
ea of the public hearing  
a opportunity to testify.  
re a record of the public  
ph (A) and shall furnish  
quest for a waiver made

to grant a waiver to an  
ate agency shall publish  
er with the justification  
effective date of the de-  
a service provider from  
d waiver applies is enti-  
agency on the request to  
period described in the  
vidual or service provid-  
graph, the State agency  
opportunity for a hear-

quirement described in  
cy shall provide to the

that details the demon-  
n aging to obtain such

hearing conducted pur-

hearing conducted pur-

y the Commissioner, an  
action 305(a)(2)(A) or, in

areas of a State where no such agency has been designated, the  
State agency, may enter into agreement with agencies administer-  
ing programs under the Rehabilitation Act of 1973, and titles XIX  
and XX of the Social Security Act for the purpose of developing  
and implementing plans for meeting the common need for trans-  
portation services of individuals receiving benefits under such Acts  
and older individuals participating in programs authorized by this  
title.

(2) In accordance with an agreement entered into under para-  
graph (1), funds appropriated under this title may be used to pur-  
chase transportation services for older individuals and may be  
pooled with funds made available for the provision of transporta-  
tion services under the Rehabilitation Act of 1973, and titles XIX  
and XX of the Social Security Act.

(d) An area agency on aging may not require any provider of  
legal assistance under this title to reveal any information that is  
protected by the attorney-client privilege.

(42 U.S.C. 3026) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1522;  
amended December 29, 1981, P.L. 97-115, secs. 3(d), 6, 95 Stat. 1597, 1598; amended  
October 9, 1984, P.L. 98-459, sec. 306, 98 Stat. 1774; amended November 29, 1987,  
P.L. 100-175, secs. 104(c), 125, 126, 127, 130(a), 131(a), 132(b), 133, 134, 135, 136(b),  
137(a), 140(b), 141(b), 143(b), 144(c), 155(e)(1), 182, 101 Stat. 930, 934, 938, 939, 940,  
941, 942, 943, 944, 946, 947, 949, 953, 965; amended November 7, 1988, P.L. 100-628,  
sec. 705, 102 Stat. 3247.

STATE PLANS

SEC. 307. (a) Except as provided in section 309(a), each State, in  
order to be eligible for grants from its allotment under this title for  
any fiscal year, shall submit to the Commissioner a State plan for a  
two-, three-, or four-year period determined by the State agency,  
with such annual revisions as are necessary, which meets such crite-  
ria as the Commissioner may by regulation prescribe. Each such  
plan shall comply with all of the following requirements:

(1) The plan shall contain assurances that the State plan will  
be based upon area plans developed by area agencies on aging  
within the State designated under section 305(a)(2)(A) and that  
the State will prepare and distribute a uniform format for use  
by area agencies in developing area plans under section 306.

(2) The plan shall provide that each area agency on aging  
designated under section 305(a)(2)(A) will develop and submit  
to the State agency for approval an area plan which complies  
with the provisions of section 306.

(3)(A) The plan shall provide that the State agency will  
evaluate the need for supportive services (including legal as-  
sistance), nutrition services, and multipurpose senior centers  
within the State and determine the extent to which existing  
public or private programs meet such need.

(B) The plan shall provide assurances that the State agency  
will spend in each fiscal year, for services to older individuals  
residing in rural areas in the State assisted under this title, an  
amount equal to not less than 105 percent of the amount exp-  
ended for such services (including amounts expended under  
title V and title VII) in fiscal year 1978.

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HDB-SUPP. SERVS.

(4) The plan shall provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration.

(5) The plan shall provide that the State agency will afford an opportunity for a hearing upon request to any agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan.

(6) The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports.

(7) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.

(8) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out under the State plan, including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals.

(9) The plan shall provide for establishing and maintaining information and referral services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and referral services under section 306(a)(4) will have reasonably convenient access to such services.

(10) The plan shall provide that no supportive services, nutrition services, or in-home services (as defined in section 342(1)) will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging.

(11) The plan shall provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to individuals aged 60 or older for any staff positions (full time or part time) in State and area agencies for which such individuals qualify.

(12) The plan shall provide for the selection of individuals with respect to a long-term care facility.

(A) The plan shall provide for the direct or indirect supervision of public agencies, organizations, or institutions responsible for the care of such individuals in the State, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration.

(i) The plan shall provide for the behavior of such individuals in terms of their conduct, discipline, and safety.

(ii) The plan shall provide for the participation of such individuals in the activities of the State.

(B) The plan shall provide for the appropriate activities and projects carried out under the State plan, including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals.

(C) The plan shall provide for the reporting of such activities and projects to the Commissioner on a regular basis, with copies of such reports to the appropriate agencies.

(D) The plan shall provide for the disclosure of such information to the public, in such manner and to such extent as the Commissioner may determine to be in the public interest.

(i) The plan shall provide for the legal representation of such individuals.

(ii) The plan shall provide for the financial assistance of such individuals.

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*26 pg 6*



VI - NAT. AMERS.

LIBRARY SUPPLY SERVICE

(12) The plan shall provide the following assurances, with respect to a long-term care ombudsman program:

(A) The State agency will establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), an Office of the State Long-Term Care Ombudsman (in this paragraph referred to as the "Office") and shall carry out through the Office a long-term care ombudsman program which provides an individual who will, on a full-time basis—

(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents;

(ii) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

(iii) carry out such other activities as the Commissioner deems appropriate.

(B) The State agency will establish procedure for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order.

(C) The State agency will establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis.

(D) The State agency will establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

(i) such complainant or resident, or the individual's legal representative, consents in writing to such disclosure; or

(ii) such disclosure is required by court order.

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(E) In planning and operating the ombudsman program, the State agency will consider the views of area agencies on aging, older individuals, and provider agencies.

(F) The State agency will—

(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

(iii) ensure that mechanisms are in place to identify and remedy any such or other similar conflicts.

(G) The State agency will—

(i) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

(ii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

(H) The State agency will require the Office to—

(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems, resolve such complaints, and improve the quality of care and life in long-term care facilities;

(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in—

(I) Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

(II) investigative techniques; and

(III) such other matters as the State deems appropriate;

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VI - NAT. AMERS.

INVESTIGATIVE SERVICES

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(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319); and

(vi) include any area or local ombudsman entity designated by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph.

(I) The State will ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(J) The State will—

(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or employee for having filed a complaint with, or providing information to, the Office;

(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals; and

(iv) ensure that representatives of the Office shall have—

(I) access to long-term care facilities and their residents; and

(II) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records.

(K) The State agency will prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (G)(iv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints.

(13) The plan shall provide with respect to nutrition services that—

(A) each project providing nutrition services will be available to individuals aged 60 or older and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregated nutrition services are provided;

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26 pg 9

HOUSE BILL No. 3003

By Committee on Appropriations

2-14

9 AN ACT concerning the department on aging; relating to the office  
10 of the state long-term care ombudsman; prescribing powers, duties  
11 and functions therefor and for the secretary of aging relating  
12 thereto; establishing the long-term care ombudsman enforcement  
13 fund; amending K.S.A. 75-5916, 75-5917, 75-5918, 75-5920 and  
14 75-5921 and repealing the existing sections.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. The provisions of sections 1 through 7 and  
18 amendments thereto and K.S.A. 75-5916 through 75-5922 and  
19 amendments thereto shall be known and may be cited as the Kansas  
20 long-term care ombudsman act.

21 New Sec. 2. (a) No individual involved in the selection or des-  
22 ignation of any ombudsman shall have any pecuniary or other interest  
23 in any facility. No ombudsman, ~~officer, employee or other repre-~~  
24 ~~sentative of the office~~ shall have any pecuniary or other interest in  
25 any facility.

delete

26 (b) The secretary shall administer and enforce the provisions of  
27 this section and shall ensure compliance therewith. The secretary  
28 shall adopt policies and procedures to identify and remedy all con-  
29 flicts of interest prohibited by this section.

30 New Sec. 3. The secretary shall ensure that:

31 (a) Legal counsel is available to each ombudsman for advice and  
32 consultation and that legal representation is provided to any om-  
33 budsman against whom suit or other legal action is brought in con-  
34 nection with the performance of the ombudsman's official duties; and

35 (b) each ombudsman has the resources and authority to pursue  
36 administrative, legal and other appropriate remedies on behalf of  
37 residents.

38 New Sec. 4. No individual shall investigate any complaint filed  
39 with the office of the state long-term care ombudsman unless the  
40 individual ~~has~~ received the training required under subsection (f) of  
41 K.S.A. 75-5918 and amendments thereto and has been designated  
42 by the state long-term care ombudsman as an ombudsman qualified  
43 to investigate such complaints.

is an employee appointed pursuant to  
K.S.A. 75-5917 and amendments there to and

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1 New Sec. 5. No ombudsman shall be liable under state law for  
2 the good faith performance of official duties in administering the  
3 office of the state long-term care ombudsman.

4 New Sec. 6. (a) No person shall willfully interfere with any lawful  
5 action or activity of an ombudsman, including the request for im-  
6 mediate entry into a facility.

7 (b) No person shall take any discriminatory, disciplinary or re-  
8 taliatory action against any officer or employee of a facility or gov-  
9 ernment agency or against any resident or any guardian or family  
10 member thereof for any communication by any such individual with  
11 an ombudsman or for any information given or disclosed by such  
12 individual in good faith to aid the office in carrying out its duties  
13 and responsibilities.

14 (c) Any person that violates the provisions of subsection (a) shall  
15 be subject to a civil penalty in a sum not exceeding \$2,500 per  
16 occurrence. Any person that violates the provisions of subsection (b)  
17 shall be subject to a civil penalty in a sum not exceeding \$5,000  
18 per occurrence.

19 (d) The secretary may assess and collect a civil penalty under  
20 this section, after notice and an opportunity for hearing before a  
21 hearing officer designated by the secretary to hear the matter upon  
22 a determination that a person violated the provisions of subsection  
23 (a) or (b). All hearings conducted pursuant to this section shall be  
24 conducted in accordance with the provisions of the Kansas admin-  
25 istrative procedure act. Any action of the secretary pursuant to this  
26 section shall be subject to review in accordance with the act for  
27 judicial review and civil enforcement of agency actions.

28 ~~New Sec. 7. The long-term care ombudsman enforcement fund~~  
29 ~~is hereby established in the state treasury. The long-term care om-~~  
30 ~~budsman enforcement fund shall be administered by the secretary.~~  
31 ~~All moneys received for civil penalties imposed under section 6 shall~~  
32 ~~be remitted to the state treasurer. Upon receipt of each such re-~~  
33 ~~mittance, the state treasurer shall deposit the entire amount thereof~~  
34 ~~in the state treasury to the credit of the long-term care ombudsman~~  
35 ~~enforcement fund. All expenditures from the long-term care om-~~  
36 ~~budsman enforcement fund shall be for support of the operations~~  
37 ~~and activities of the office of the state long-term care ombudsman.~~  
38 ~~Such expenditures shall be made in accordance with appropriations~~  
39 ~~acts upon warrants of the director of accounts and reports issued~~  
40 ~~pursuant to vouchers approved by the secretary or the secretary's~~  
41 ~~designee.~~

delete

42 Sec. 8. K.S.A. 75-5916 is hereby amended to read as follows:  
43 75-5916. As used in this the Kansas long-term care ombudsman act:

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1 (a) "Ombudsman" means a ~~person~~ or persons responsible for  
2 ~~carrying~~ the state long-term care ombudsman and any regional long-  
3 term care ombudsman ~~or other individual~~ who has received the  
4 training required under subsection (f) of K.S.A. 75-5918 and amend-  
5 ments thereto and who has been designated by the state long-term  
6 care ombudsman to carry out the powers, duties and functions of  
7 the office of the state long-term care ombudsman.

8 (b) "Secretary" means the secretary of aging.

9 (c) "Facility" means an adult care home as such term is defined  
10 in K.S.A. 39-923 and amendments thereto.

11 (d) "Resident" means an individual kept, cared for, treated,  
12 boarded or otherwise accommodated in a facility.

13 (e) "State long-term care ombudsman" means the individual ap-  
14 pointed by the secretary to administer the office of the state long-  
15 term care ombudsman.

16 (f) "Regional long-term care ombudsman" means an individual  
17 appointed by the secretary as a subordinate officer of the office of  
18 the state long-term care ombudsman.

19 (g) "Office" means the office of the state long-term care  
20 ombudsman.

21 Sec. 9. K.S.A. 75-5917 is hereby amended to read as follows:  
22 75-5917. There is hereby established under the supervision of the  
23 secretary of aging within and as a part of the department on aging  
24 ~~an~~ the office of the state long-term care ombudsman, the head of  
25 which shall be the state long-term care ombudsman. The state long-  
26 term care ombudsman shall be appointed by the secretary of aging  
27 and shall be in the classified service of the Kansas civil service act.  
28 The secretary of aging shall appoint each regional long-term care  
29 ombudsman and all subordinate officers and employees of the office  
30 of state long-term care ombudsman; within the department on aging.  
31 Each regional long-term care ombudsman and all such subordinate  
32 officers and employees shall be within the classified service under  
33 the Kansas civil service act. Under the supervision of the secretary  
34 of aging, the state long-term care ombudsman shall administer the  
35 office of the state long-term care ombudsman.

36 Sec. 10. K.S.A. 75-5918 is hereby amended to read as follows:  
37 75-5918. The state long-term care ombudsman shall:

38 (a) Investigate and resolve complaints made by or on behalf of  
39 the residents relating to action, inaction or decisions of facilities,  
40 the representatives of facilities, other long-term care service pro-  
41 viders, public agencies, or social service agencies, which may ad-  
42 versely affect the health, safety, welfare or rights of such residents;

43 (b) develop continuing programs to inform and assist residents

← delete

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1 of facilities, their family members or other persons responsible for  
2 residents of facilities of their regarding the rights and responsi-  
3 bilities of residents and such other persons;

4 (b) (c) provide the legislature, the governor and the secretary  
5 with an annual report relating to the needs of residents in fa-  
6 cilities, including recommendations for meeting those needs;

7 (e) collect data for analysis to inform other agencies, the  
8 legislature, the governor, the secretary and the public of the  
9 needs of residents in facilities;

10 (d) promote cooperation among the various agencies con-  
11 cerned with the regulation of facilities, or providing services  
12 to residents therein, and the department on aging;

13 (e) provide information to agencies and others as required;  
14 and containing data and findings regarding the types of problems  
15 experienced and complaints received by or on behalf of residents  
16 and containing policy, regulatory and legislative recommendations  
17 to solve such problems, resolve such complaints and improve the  
18 quality of care and life in facilities;

19 (d) analyze and monitor the development and implementation of  
20 federal, state and local government laws, regulations, resolutions,  
21 ordinances and policies with respect to facilities and long-term care  
22 services provided in this state, and recommend any changes in such  
23 laws, regulations, resolutions, ordinances and policies deemed by the  
24 office to be appropriate;

25 (e) provide information to public agencies, legislators and others,  
26 as deemed necessary by the office, regarding the problems and con-  
27 cerns of older individuals residing in facilities, including recommen-  
28 dations related thereto;

29 (f) provide for the training of all ~~individuals who are officers or~~  
30 ~~employees of the office appointed by the secretary under K.S.A. 75-~~ delete  
31 ~~5917 and amendments thereto and other representatives of the office,~~  
32 in (1) federal, state and local laws, regulations, resolutions, ordi-  
33 nances and policies with respect to facilities located in Kansas, (2)  
34 investigative techniques, and (3) such other matters as the secretary  
35 deems appropriate;

36 (g) coordinate ombudsman services provided by the office with  
37 the protection and advocacy systems for individuals with develop-  
38 mental disabilities and mental illness established under part A of the  
39 federal developmental disabilities assistance and bill of rights act,  
40 42 U.S.C.A. 6001 et seq., and under the federal protection and  
41 advocacy for mentally ill individuals act of 1955, public law 99-316;

42 (h) ~~consider any representative of an entity providing ombuds-~~ delete  
43 ~~man services who has been designated as an ombudsman by the~~

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~~state long-term care ombudsman, whether an employee or an unpaid volunteer of such entity, shall be deemed to be a representative of the office for purposes of this section;~~

delete  
change to "(h)"

~~(i) collaborate with the department of health and environment and the department of social and rehabilitation services to establish a state-wide system to collect and analyze information on complaints and conditions in facilities for the purposes of publicizing improvement and resolving significant problems;~~

add "and"

~~(j) have the right to attend exit conferences conducted by the department of health and environment under K.S.A. 39-935 and amendments thereto; and~~

delete  
change to "(i)"

(f) ~~(k)~~ perform such other duties and functions as may be provided by law or as may be directed by the secretary of aging.

Sec. 11. K.S.A. 75-5920 is hereby amended to read as follows: 75-5920. With the written consent of the resident of the facility, guardian of the resident or next of kin of a deceased resident, an ombudsman shall have access to all records and documents kept for or concerning the resident. In addition, in assisting a resident of a facility, an ombudsman shall have access to all records and documents of the facility which are relevant to such assistance. ~~An ombudsman shall have access to books, records and other documents maintained by the facility to the extent necessary to carry out the provisions of this the Kansas long-term care ombudsman act.~~

Sec. 12. K.S.A. 75-5921 is hereby amended to read as follows: 75-5921. All information, records and reports received by or developed by an ombudsman which relate to a resident of a facility, including written material identifying a resident or other complainant, are confidential and not subject to the provisions of K.S.A. 45-201 to 45-203, inclusive, and amendments thereto, and shall not be disclosed or released by an ombudsman, either by name of the resident or other complainant or of facts which allow the identity of the resident or other complainant to be inferred, except upon the order of a court or unless the resident or the resident's legal representative or other complainant consents in writing to such disclosure or release by an ombudsman, except the state long-term care ombudsman shall forward to the secretary of health and environment and the secretary of social and rehabilitation services copies of reports received by the state long-term care ombudsman relating to the health and safety of residents. A summary report and findings shall be forwarded to the facility, exclusive of information or material that identifies residents or any other individuals.

Sec. 13. K.S.A. 75-5916, 75-5917, 75-5918, 75-5920 and 75-5921 are hereby repealed.

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