



Office of the State Long-Term Care
Ombudsman
900 S.W. Jackson St., Suite 1041
Topeka, KS 66612-1354

Phone: (785) 296-3017
Fax: (785) 296-3916
Barbara.Hickert@ks.gov
Ombudsman.ks.gov

Barbara J. Hickert, State Ombudsman

Sam Brownback, Governor

TESTIMONY
House Bill 2590

By Barbara Hickert
Kansas State Long-Term Care Ombudsman
February 8, 2018

Chairman Hawkins and Members of the Committee,

Thank you for the opportunity to testify in favor of HB 2590 which would update the Kansas Long-Term Care Ombudsman Act. The purpose of these changes is to align Kansas statutes with federal law and regulation, but also with our policies and with ombudsman practice

Title VII of the Federal Older American's Act (OAA) requires states to establish the State Long-Term Care Ombudsman Program (SLTCOP). In Kansas that program operates as an independent agency attached to the Department of Administration. The SLTCOP is charged with protecting the safety, welfare, and rights of Kansans in adult care homes, this includes nursing homes, as well as long-term care units of hospitals, assisted living facilities, home plus facilities, residential health care facilities, boarding care facilities, and adult day care centers.

One of the program's primary responsibilities is to investigate and resolve complaints made by a resident or by others on behalf of the resident. We also provide information and consultations to consumers and providers; we provide support for resident and family councils; we provide training to facility staff; and we advocate for systems, regulatory and legal changes that will improve residents' quality of life and care. Staff within the Kansas Office of the Long-Term Care Ombudsman includes a full-time director (the State Long-Term Care Ombudsman), an administrative assistant, seven regional ombudsmen in offices across the state and eighty-five ombudsmen volunteers, assigned to specific long-term care facilities throughout the state.

In 2016, new federal regulations governing State Long-Term Care Ombudsman Programs went into effect. These regulations have required many states, including Kansas, to revisit and revise their statutes and their policies and procedures. I have identified below the sections of the bill where language has been added or modified to achieve compliance with federal law and regulations.

Page 1: Added in 75-7302 a section to include the role of KDADS to provide oversight and monitoring of the State Long-Term Care Ombudsman program. As the grantee for all OAA programs, KDADS is required to ensure that the ombudsman program complies with the OAA and with federal regulations, that program has sufficient authority, and that ombudsmen have access to facilities, to residents, and information needed to perform our responsibilities.

Page 3: Added in 75-7303 (h) additional details to the definition of “Conflict of Interest” as it applies to ombudsmen. This list is the list we use to help identify conflicts of interest which can impact our effectiveness and our credibility.

Page 3: Added in 75-7303 the definition of “Resident Representative.” The resident representative is authorized to provide permission for an ombudsman to perform the certain tasks when a resident is unable to communicate informed consent or prefers to have a representative act on his/her behalf.

Page 4: Added additional requirements in 75-7304 (d) about the appointment of the State Long-Term Care Ombudsman. These additions include a new requirement regarding the conflict of interest that would make a person ineligible for appointment as well as additional required experience and skills to be eligible for appointment.

Page 6 & 7: Added additional information in 75-7306 (a) about the types complaints that ombudsmen investigate to include complaints related to persons or entities outside of the facility. In FFY17, 22% of our complaints fell into this “outside of the facility” group of complaints.

Page 7: Modified 75-7306 9(e) that addresses the ombudsman role in providing information to other agencies, the media, to legislators, etc., to advocate for changes and represent resident interests to these groups.

Page 8 & 9: Modified 75-7309 to give all ombudsmen, both paid and volunteer staff, the same access to records and documents concerning residents that are necessary to resolve complaints.

Page 9: Modified 75-7310 to protect the confidentiality of ombudsman records.

Thank you again for the opportunity to present this testimony to the Committee, I am happy to respond to questions.