

**TABLE OF CONTENTS**

**An Act Creating a Nursing Home Ombudsman Office**

Purpose . . . . . 17-136d- 1

Nursing home ombudsman office . . . . . 17-136d- 2

Complaints and reports of abuse, neglect, exploitation or abandonment 17-136d- 3

Investigation of complaints and reports . . . . . 17-136d- 4

Resolution of complaints and reports by the nursing home ombudsman  
office . . . . . 17-136d- 5

**Promotion of Independent Living for the Elderly Program**

Transferred and amended . . . . . 17-136d-6—17-136d-12

**A Reporting Law for Protection of the Elderly which provides for  
the Establishment of a Protective Services Program  
for Elderly Persons**

Repealed . . . . . 17-136d-50—17-136d-55



## An Act Creating a Nursing Home Ombudsman Office

### Sec. 17-136d-1. Purpose

The purpose of these regulations is to establish procedures for implementing Public Act #77-575, An Act Creating a Nursing Home Ombudsman Office, under the Connecticut Department on Aging.

The purpose of the Nursing Home Ombudsman Office is to receive and resolve health and human services complaints affecting patients or residents in nursing home facilities in the State of Connecticut, as defined in Section 19-602 of the general statutes.

(Effective August 30, 1978)

### Sec. 17-136d-2. Nursing home ombudsman office

(a) **Established Within Department on Aging and Responsible For.** There is established within the State Department on Aging a Nursing Home Ombudsman Office (hereinafter referred to as "NHO") under the supervision of the Commissioner on Aging (hereinafter referred to as the "Commissioner").

On or before September 1st of each year, commencing in 1978, the State NHO shall submit, through the Commissioner, a report to the Governor and the General Assembly on the activities of the NHO during the prior fiscal year and a projected budget for the coming fiscal year. This report shall be available to the public and shall be widely distributed by the NHO.

(b) **Assistant Regional Nursing Home Ombudsmen.** There shall be five Assistant Regional Nursing Home Ombudsmen (hereinafter referred to as "Regional Ombudsmen"), with one Regional Ombudsman to serve in each Department on Aging planning and service area.

(c) **Patients' Advocates.** (1) Term, Expenses and Removal

(A) The patients Advocates shall serve for terms coterminous with those of the Ombudsmen. Reappointments of Patients' Advocates for additional terms may be made by the State Ombudsman, after consultation with the Regional Ombudsman. There shall be no limit to the number of terms a Patients' Advocate may serve. The initial appointment shall be a 90 day probationary period. If the person is continued after the 90 day probationary period, the appointment shall be considered permanent for the remainder of the term.

(B) Patients' Advocates shall serve without compensation but may be reimbursed for reasonable expense incurred in the performance of their duties, within available appropriations. A schedule of allowable expenses and reimbursement rates and procedures shall be issued by the Commissioner.

(C) Patients' Advocates may be removed, by written notice by the State Ombudsman whenever he finds such Patients' Advocate guilty of misconduct, material neglect of duty or incompetence in the conduct of the office. Unless the Patients' Advocate's performance is so seriously delinquent that it merits immediate dismissal, the State Ombudsman should provide the Patients' Advocate with at least one written and one verbal notice, to that effect, at least two weeks prior to the dismissal notice.

(D) Until such time as the State Ombudsman appoints Patients' Advocates in accordance with these regulations, those Patients' Advocates previously appointed, under Section 19-621 of the General Statutes, shall continue to perform their assigned duties and responsibilities. When the State Ombudsman has made his appointments of Patients' Advocates, he shall, within thirty (30) days notify all previously appointed Patients' Advocates of their status.

(E) In the event that, because of over enrollment, a number of Patients' Advocates must be chosen from among several volunteers, the choice will be made on the basis of (1) present or past satisfactory work as a Patients' Advocate and a desire to continue; (2) previous work or volunteer experience in a nursing home facility; (3) a better than average understanding of the operation and the population of nursing homes; (4) a genuine interest in helping to improve care in nursing home facilities. As stated in the Ombudsmen Procedural Manual, the criteria for selection of Advocates are the following:

(i) Minimum age at least 18 years with a maturity in attitude towards the role of advocate.

(ii) Must be a good listener and confidant of the patient. Must also have the capacity for learning skills and techniques of interviewing and observation, as well as providing the patient with a sense of participation and self-determination.

(iii) Must be able to sort out extraneous material in order to zero in on problem.

(iv) Must be impartial and non-judgmental (i.e. not biased against facilities) in approach to problems.

(v) Must be available to visit facility at least once a week to receive problems from patients, families, staff and administration concerning quality of care and welfare of patients.

(vi) Must be able to get to the facility either by car or public transportation.

(vii) Must be physically able to fulfill the responsibilities of the job.

(viii) Must have tact and diplomacy.

(ix) Must be verbally articulate in presenting facts in the advocacy role.

(x) It is desirable that applicant be bilingual.

(xi) Must be a secure person, able to cope with individuals who are physically and/or mentally incapacitated.

(xii) Must have the capacity of learning the medical, financial and psychosocial problems of aging as well as understanding statutes, policies and administrative regulations as they relate to nursing homes.

(xiii) Must have a sense of humor.

(xiv) Must not have financial interest in a nursing home.

(xv) Must state whether any family member is a patient in a nursing home. No advocate shall be appointed to a facility in which a family member is a patient or resident.

(xvi) Must not have direct relationship with nursing homes.

(2) Training. (A) Every person (except when training is waived by the Commissioner in consultation with the State Ombudsman pursuant to Section 3 (b) of Public Act 77-575) who is to act as a Patients' Advocate is required to complete training consisting of a two-day course coordinated by the Regional Ombudsman in each region and monthly follow-up training sessions.

(B) The training manual, Nursing Home Patient Advocate Manual, is provided for each trainee and consists of sections on "The Role of the Advocate," "Communicating with Patients," and "Referral Information."

(C) The specific content of the training course is outlined as follows:

#### ADVOCATE TRAINING COURSE

I. Legislation and Procedures. A. Familiarization with legislation.

B. Clarification of procedures.

II. Patients' Bill of Rights. A. What is its purpose?

B. Posting and distribution requirements.

III. Connecticut Department of Health. A. Role in regulating facilities.

B. Commission on Hospitals and Health Care.

C. Utilization Review.

D. Levels of care. 1. criteria; 2. federal standards.

IV. Connecticut Department of Social Services. A. DSS Patient Review.

B. Professional Standards Review Organization.

V. Gerontology. A. Explanation of the aging process.

B. Family guilt.

C. Drug utilization in nursing home facilities.

D. Brain damage and mental illness in residents of facilities.

VI. Aging Legal Services. A. Familiarization with benefit programs. 1. Medicare; 2. Medicaid; 3. Social Security; 4. Supplemental Security Income; 5. C A M A D

B. Common problems with benefit programs.

C. Role of Aging Legal Services as referral agency.

D. Transfer of power. 1. representative payee. 2. power of attorney. 3. conservator of estate. 4. conservator of person.

(D) If, in the opinion of the Ombudsman, the advocate trainee exhibits an adequate understanding of the legislation and the responsibilities of the Patients' Advocate, the Ombudsman may appoint that person as a Patients' Advocate.

(E) During each month following the training course, the Patient's Advocate is required to attend a one half-day follow-up training session conducted by the Regional Ombudsman and speakers from those programs in the community that may impact nursing home care. The most frequently called upon professionals include, but are not limited to the following fields:

VII. Monthly Follow-up Sessions. A. Mental Retardation.

B. Mental Health.

C. Services for the Blind.

D. Alcoholics Anonymous.

E. Commission on Deaf and Hearing Impaired.

F. Department of Vocational Rehabilitation.

G. Department of Adult Education.

(F) Any person previously appointed a Patient's Advocate under Section 19-621 of the General Statutes, who is reappointed under this regulation as a Patients' Advocate must pass the training course. If, within a reasonable time after such appointment, as determined by the State Ombudsman, the Patients' Advocate fails to complete said course, the State Ombudsman or the Regional Ombudsman for the region in which the Patients' Advocate serves may remove the person, by means of written notice.

(3) Responsibilities. The Patients' Advocates shall be responsible for the following:

(A) Assisting the Regional Ombudsman in carrying out the policies and procedures of the NHO program in the cities and towns in the region in which they are assigned to serve as Patients' Advocates;

(B) Assisting the Regional Ombudsman, and possibly the State Ombudsman, on the evaluation, investigation and resolution of certain complaints which are determined to require such joint action;

(C) Reporting, in writing, to the Regional Ombudsman on any complaints received and actions taken by the Patients' Advocate;

(D) In assisting the Regional Ombudsman, when a complaint can be acted on by the advocate in the nursing home facility, the advocate may take action. Following action, a written report shall be made of the complaint and the action taken to the

Regional Ombudsman. It is the responsibility of the Regional Ombudsman, upon receipt of a report, to review the complaint and any action taken and to make a determination as to whether or not the action taken was appropriate and satisfactory. If the Ombudsman is satisfied with the action, the complaint is filed at the Office. If not, the Ombudsman shall investigate the problem further and take the necessary action toward resolution. In no instance shall the Patients' Advocate make the final determination as to the resolution of a complaint;

(E) Under supervision of the Ombudsman, assisting nursing home patients to locate and retain legal representation in those cases in which the problem appears in the judgment of the Patients' Advocate and Ombudsman to require legal action and when the patient explicitly requests assistance in retaining legal counsel and/or representation. Such legal counsel will be at the patient's expense;

(F) Aiding and assisting nursing home patients in administrative procedures relating to transfers and discharges, including, but not limited to, informing patients of their rights, assisting them in obtaining legal counsel, and advocating on their behalf and at their request in dealings with the nursing home administrator, friends, family and/or appropriate public agencies;

(G) Aiding and assisting patients in insuring that they are satisfied with the management of their financial affairs, including, but not limited to, informing them of their rights regarding knowledge of and control of their assets, advocating on the patient's behalf and at his or her request in dealings with the nursing home administrator, family, friends and/or appropriate public agencies;

(H) Assisting state and local health agencies in the performance of certain of their duties as specifically listed below:

(i) Assuring that the Patients' Bill of Rights, as established in Section 19-622, is properly posted and is distributed to each patient, or if such patient is a minor or incompetent, to his relative, guardian, conservator or sponsoring agency, and, if it is not, informing the nursing home administrator and the appropriate state or local health agency in writing requesting that compliance be forthcoming forthwith;

(ii) Assuring that all mandated posting of the availability of reports has been complied with, including the conspicuous posting of the names of the Patients' Advocates assigned to the nursing home and name, address and telephone number of the Regional Ombudsman for the region in which the nursing home is located, and, if it has not, informing the nursing home administrator and the appropriate state or local health agency in writing requesting that compliance be forthcoming forthwith.

Nothing in this section shall be construed to be a limitation on the powers and responsibilities assigned by law to other state and local department or agencies.

(Effective August 30, 1978)

### **Sec. 17-136d-3. Complaints and reports of abuse, neglect, exploitation or abandonment**

(a) **Definition of "Complaint" or "Report."** For purposes of these regulations the term "complaint" or "report" shall mean a complaint or report filed in good faith and shall not include any complaint or report which, in the opinion of the State Ombudsman, or of a Regional Ombudsman, or of a Patients' Advocate, is deliberately false, or has been filed in bad faith or with malicious purpose.

(b) **Content of Complaint or Report.** (1) Any complaint or report filed with the NHO under these regulations shall contain the name and address of the nursing facility, the name of the involved patient or patients or the statement that all the

patients are affected, information regarding the nature and extent of the abuse, neglect, exploitation or abandonment, and any other information which the reporter believes might be helpful in an investigation of the case and for the protection of the patient.

(2) If the person filing a complaint or report with the NHO wishes to be notified of the findings of any investigation conducted by the NHO pursuant to the complaint or report he/she shall, at the time of filing of the complaint or report, request such notification.

(c) **Method of Filing and Withdrawing Complaints or Reports.** (1) A complaint or report may be filed with the NHO in person, by mail, or by telephone. If the complaint or report is filed in person or by telephone, the complainant shall be asked to submit the complaint in writing. A form for this purpose shall be supplied by the NHO. A complaint or report may be signed by the complainant, and the complainant's address requested.

(2) Complaints or reports may be filed with local Patients' Advocate, with the Regional Ombudsman, or with the State Ombudsman. For information and/or for filing complaints or reports with the State Ombudsman, persons may contact the NHO, Department on Aging, 90 Washington Street, Hartford, Connecticut 06115, Telephone: (203) 566-7770.

(3) A complaint or report filed by an individual who refuses to reveal his/her identity shall be considered an anonymous complaint and shall be investigated by the NHO only if the NHO considers the nature of the complaint to be of such seriousness as to warrant follow-up. Every complaint will be given an initial examination; with follow-up investigation when the Ombudsman deems necessary. The State Ombudsman shall maintain a registry of all complaints.

(4) If a complaint is initially received verbally and a written statement is expected, the NHO may commence a preliminary investigation prior to receipt of the complaint in writing.

(5) Any complaint filed with the NHO may be withdrawn by the complainant(s) involved except those complaints involving abuse, neglect, abandonment or exploitation, the reporting of which is mandatory. If a request for withdrawal is made, the NHO shall decide whether to permit withdrawal of the complaint and shall base this decision on the welfare of the patient(s) involved.

(Effective August 30, 1978)

#### **Sec. 17-136d-4. Investigation of complaints and reports**

(a) **Initial Evaluation of Complaints and Reports.** (1) Upon receipt of a complaint or report by the NHO, the complaint or report shall be evaluated immediately by a Patients' Advocate—although the evaluation may in some cases be conducted by a Regional Ombudsman or the State Ombudsman—to determine, whether there are reasonable grounds for an investigation.

(2) If it is determined that reasonable grounds do not exist for an investigation, the complainant or the person making the report shall be notified of this determination within five (5) working days after the receipt of the complaint or report. The notification shall include a brief explanation of the reasons upon which the NHO concluded that an investigation was not warranted.

(3) If such reasonable grounds are found, the Patients' Advocate, the appropriate Regional Ombudsman or the State Ombudsman shall investigate such report or complaint within ten (10) working days after the determination that the complaint or report warrants further investigation, but no more than fifteen (15) days after

receipt of the complaint or report. A copy of the report shall be sent to the State Ombudsman who shall maintain a registry of said reports. A copy of the report, together with such additional information as appears necessary, shall be sent to the person who filed the complaint or report upon request.

**(b) Investigation of Complaint or Report and Access to Facility and Records.**

(1) The appropriate Patients' Advocate under the direct supervision of the appropriate Regional Ombudsman—or in some cases, the State Ombudsman—shall conduct an impartial investigation of the complaint or report. The investigation shall normally involve fact-finding meetings and interviews with the complainant, the residents of the applicable nursing home facility, the administrator of the applicable nursing home facility, and any other persons may include, source of information. These other persons may include, but are not limited to, the family or friends of the patient involved, if there is such a specific patient, the staff of the facility, representatives from involved or relevant public and private agencies, and the legal representative of the patient. The NHO may manually or electronically record all statements by all persons being interviewed, provided that the person being interviewed is informed that his/her remarks are being so recorded.

(2) The State Ombudsman or any Regional Ombudsman or any Patients' Advocate may observe the functioning of the entire facility and may interview residents at random. Except when the facts warrant immediate action, investigations shall be carried out at reasonable times and without interference with patient care.

(3) Nothing in these Regulations shall be construed as permitting a nursing home, the State Ombudsman, a Regional Ombudsman, a Patients' Advocate, or any other person, to interfere with the proper medical treatment of any resident of or patient in a home, to inspect his or her medical records or personal files or personal effects without proper consent.

**(c) Confidentiality of Reports of Findings.** (1) Consistent with the Freedom of Information Act, the report of findings maintained by the State Ombudsman in a registry per Section 4. A (3) of these regulations is available for review by the parties involved in the complaint. However, the complaint or report filed by the complainant shall not be available for review, nor shall the name of the complainant or any person or any identifying information mentioned in the report or complaint or in the report of findings be disclosed unless such complainant or person specifically requests such disclosure or unless a judicial proceeding results therefrom.

(2) Requests by the parties involved in a complaint to review the report of findings must be made in writing to the State Ombudsman, Department on Aging, 90 Washington Street, Hartford, Connecticut 06115. The report of findings, with the identifying information removed, will be made available to the party within five (5) working days after receipt of the written request. The exact date when the report of findings will be available for review will be communicated to the requesting party by the State Ombudsman upon receipt of the request. The report of findings must be reviewed within the Department on Aging's offices, but adequate space and time will be provided to the interested party.

(3) No records, which by state or federal regulation must be kept confidential, will be released to any party except with the written consent of the patient.

(4) Materials, reports, records or other information utilized by the Patients' Advocate, appropriate Regional Ombudsman or State Ombudsman in the investigation of a complaint or report and used to prepare a report of findings shall not be considered public information and shall, therefore, not be available for review.

(Effective August 30, 1978)

**Sec. 17-136d-5. Resolution of complaints and reports by the nursing home ombudsman office**

(a) **Resolution When a Violation of the Public Health Code is Indicated.** (1) When the investigation indicates that there is a possible violation of the provisions of the public health code with respect to licensing requirements, the appropriate Regional Ombudsman or the State Ombudsman shall refer the complaint or report, together with the NHO report of findings, to the Commissioner of Health for appropriate action under the provisions of Section 19-606 to 19-620, inclusive, of the General Statutes, as amended. This referral shall be made known to the complainant or the person making the report, pursuant to Section 4.A (3) of these regulations.

(2) Pursuant to Sections 19-602, 19-603, and 19-606 to 19-626, inclusive, of the General Statutes, as amended, or any regulation in the public health code or the fire safety code relating to the operation or maintenance of a nursing home, the Commissioner of Health shall review and further investigate, if necessary, the complaint referred to his/her by the Regional Ombudsman or State Ombudsman and determine whether a violation is involved. If such a violation is determined, the Commissioner of Health may initiate the appropriate action to enjoin such nursing home facility from continuing such violation or violations.

(3) The Commissioner of Health, within ten (10) working days of receipt of a complaint or report from a Regional Ombudsman or State Ombudsman, shall furnish the appropriate Regional Ombudsman or State Ombudsman a written report of any action taken pursuant to Sections 19-607 to 19-610, inclusive, of the General Statutes, as amended, on the complaint or report. A copy of such report shall be maintained in a registry by the State Ombudsman.

(4) Upon receipt of such a written report from the Commissioner of Health, the appropriate Regional Ombudsman or the State Ombudsman shall, within five (5) days of receipt of the report, review the response, follow-up on the case, and determine whether the action taken appears to be sufficient to resolve the problem indicated in the complaint or report.

(A) If the action taken appears to be sufficient to resolve the problem, the case shall be closed, and a report to that effect shall be submitted to the complainant or the person making the report and to the State Ombudsman who shall maintain a registry of said reports.

(B) If the action taken appears not to have resolved the problem, the appropriate Regional Ombudsman or the State Ombudsman shall take such action(s) as he/she deems necessary to resolve the problem. When sufficient action has been taken to indicate to the appropriate Regional Ombudsman that the complaint has been resolved, the Regional Ombudsman shall follow-up on the case and if the follow-up indicates that the complaint or problem has been resolved, the case shall be closed, and a report to that effect shall be submitted to the complainant or the person making the report and to the State Ombudsman who shall maintain a registry of such reports.

(C) There may be some cases in which a valid complaint cannot be resolved due to legal, administrative, or other limitations beyond the control of the NHO. In such instances, the State Ombudsman may declare the case closed without resolution. A report to that effect, including a brief statement of the reason(s) for taking such action, shall be submitted to the complainant or person making the report and to the Commissioner on Aging, and a copy shall be filed in the registry maintained by the State Ombudsman.

**(b) Resolution When a Violation of the Public Health Code is Not Indicated.**

(1) When the investigation indicates that no violation of the public health code is indicated, the appropriate Regional Ombudsman or the State Ombudsman shall take whatever action he/she deems necessary, and shall notify the complainant or the person making the report of the action taken within fifteen (15) working days after receipt of the complaint.

The action taken to resolve the complaint or reported problem may include, but is not limited to the following:

(A) The complaint or problem may be referred to another public or private agency including the Office of the Attorney General or the State Board of Medical Examiners or any appropriate state licensing board should the Regional Ombudsman or the State Ombudsman believe that the referral is the most effective means of resolving the complaint or problem. Such referral shall only be made if the complainant or person making the report, and/or the patient if the patient is not the complainant or reporter, is informed of the availability of the referral agency and agrees verbally or in writing to such referral of the case. The NHO may informally discuss the case with possible referral agencies prior to the complainant's agreement to the referral, but confidentiality must be maintained.

(B) Negotiations may be entered into between the appropriate Regional Ombudsman or Patient Advocate and the administrator of the nursing home facility to reach an informal agreement or a formal written agreement to resolve the complaint or problem. This agreement may include target dates for specific remedial action(s) to be taken by the nursing home facility administrator.

(2) When the appropriate Regional Ombudsman is not satisfied that the actions taken have resolved the complaint or problem, the Regional Ombudsman shall follow-up on the case. When the follow-up indicates to the Regional Ombudsman that the complaint or problem has been resolved, the case shall be closed. A report to that effect shall be submitted by the Regional Ombudsman to the complainant or the person making the report and to the State Ombudsman who shall maintain a registry of said reports.

(Effective August 30, 1978)

**Promotion of Independent Living for the Elderly Program**

**Secs. 17-136d-6—17-136d-12.**

Transferred and amended, June 2, 1992

**Secs. 17-136d-13—17-136d-49. Reserved**

**A Reporting Law for Protection of the Elderly Which Provides for the Establishment of a Protective Services Program for Elderly Persons**

**Secs. 17-136d-50—17-136d-55.**

Repealed, March 27, 1990.