

# WEST VIRGINIA CODE: §16-5L-5

## **§16-5L-5. State long-term care ombudsman; qualifications; duties.**

(a) The state commission on aging shall employ a state long-term care ombudsman to effect the purposes of this article. The state long-term care ombudsman shall have at least a master's degree in gerontology, social work, health or a related field and shall have demonstrated experience in one of the following areas: (1) The field of aging; (2) health care; (3) community programs; (4) long-term care issues; (5) working with health care providers; (6) working with an involvement in volunteer programs; and (7) administrative and managerial experience. In lieu of the above educational and experience qualifications, the state long-term care ombudsman shall have a four-year degree in gerontology, social work, health or a related field, plus five years of full-time equivalent experience in gerontology, social work, health or a related field. The state long-term care ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities. The state long-term care ombudsman shall not have been employed within the past two years prior to the date of his or her employment under this section by a long-term care facility, or by any association of long-term care facilities, or by any organization or corporation that directly or indirectly regulates, owns, or operates a long-term care facility.

(b) Neither the state long-term care ombudsman nor any member of his or her immediate family shall have, or have had within the two years preceding his or her employment under this section, any pecuniary interest in the provision of long-term care. For the purposes of this section, the term "immediate family" shall mean the spouse, children, natural mother, natural father, natural brothers or natural sisters of the state long-term care ombudsman.

(c) The duties of the state long-term care ombudsman shall include, but are not limited to, the following:

(1) Establishing a mandatory statewide procedure to receive, investigate, and resolve complaints filed on behalf of a resident, or filed on the state or regional long-term care ombudsman's own initiative on behalf of residents, relating to action, inaction or decisions of providers of long-term care services, or the representatives of such providers, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare and rights of such residents;

(2) Monitoring the development and implementation of federal, state and local legislation, regulations and policies with respect to long-term care facilities;

(3) Advocating for the rights of residents in long-term care facilities;

(4) Establishing a mandatory statewide training program and certification procedures for regional long-term care ombudsmen, excluding clerical staff, which shall include training in the following areas: (i) The review of medical records; (ii) regulatory requirements for long-

term care facilities; (iii) confidentiality of records; (iv) techniques of complaint investigation; (v) the effects of institutionalization; and (vi) the special needs of the elderly;

(5) Establishing and maintaining 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 faced by residents as a class. Such data shall be submitted to the office of health facility licensure and certification on a regular basis;

(6) Promulgating mandatory statewide rules, regulations and training related to the use of long-term care ombudsman volunteers in the program, including procedures to assure that the responsibility and authority of ombudsman volunteers shall be restricted to activities which do not involve access to confidential resident or facility records, which do not involve complaint investigation other than information gathering to ascertain the nature and facts of a complaint, and which do not involve the initiation or pursuit of legal proceedings, actions or remedies; and

(7) Other duties as mandated by the Older Americans Act of 1965, as amended.