

WEST VIRGINIA CODE: §16-5L-11

§16-5L-11. Access to long-term care facilities.

(a) A state or regional long-term care ombudsman shall, with proper identification, have access to any long-term care facility for the purposes of investigations of a complaint filed pursuant to section ten of this article. The state or regional long-term care ombudsman may enter a facility at a time appropriate to the complaint. The visit may be announced in advance or be made unannounced as appropriate to the complaint under investigation. Upon entry of the facility, the state or regional long-term care ombudsman shall promptly and personally advise one of the following persons of his or her presence: (1) The administrator or acting administrator; (2) the residence director; or (3) another available supervisory agent of the facility. If entry is refused by the person in charge of said facility, the long-term care ombudsman may apply to the magistrate court of the county in which the facility is located for a warrant authorizing entry, and the court shall issue an appropriate warrant if it finds good cause therefor.

(b) For activities other than those specifically related to the investigation of a complaint, a state or regional long-term care ombudsman, upon proper identification, shall have access to any long-term care facility between the hours of 8:00 a.m. and 8:00 p.m. in order to:

- (1) Visit, talk with, and make ombudsman and social services available to all residents;
- (2) Inform residents of their rights and entitlements, and their corresponding obligations, under applicable federal and state laws by means of distribution of educational materials and discussion in groups and with individual residents;
- (3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and other public entitlements; and
- (4) Supervise, direct or assist a long-term care ombudsman volunteer in the performance of his or her assigned duties.

Access to long-term care facilities under this section shall be deemed to include the right to private communication with residents.

(c) A state or regional long-term care ombudsman who has access to a facility under this section shall not enter the living area of a resident without identifying himself or herself to the resident. After identifying himself or herself, an ombudsman shall be permitted to enter the living area of a resident unless that resident communicates on that particular occasion the resident's desire to prevent the ombudsman from entering. A resident shall have the right to terminate, at any time, any visit by a representative of the ombudsman program who has access under this section or any other applicable section of this article.

(d) Access to a facility pursuant to subsection (a) or (b) of this section includes the right to tour the facility unescorted: Provided, That individual residents may terminate at any time any communication by an ombudsman having access under this section and that nothing in this section shall be construed as to grant a long-term care volunteer ombudsman the right of entry to the drug rooms and treatment rooms of a long-term care facility.