WEST VIRGINIA CODE: §16-5L-13

§16-5L-13. Subpoena powers.

(a) The state long-term care ombudsman, or the designee of the state long-term care ombudsman, may, in the course of any investigation carried out pursuant to section ten of this article:

(1) Apply to the circuit court of the appropriate county or the circuit court of the county of Kanawha for the issuance of a subpoena to compel at a specific time and place, by subpoena, the appearance, before a person authorized to administer oaths, the sworn testimony of any person whom the state or regional long-term care ombudsman reasonably believes may be able to give information relating to a matter under investigation; or

(2) Apply to the circuit court of the appropriate county or the circuit court of the county of Kanawha for the issuance of a subpoena duces tecum to compel any person to produce at a specific time and place, before a person authorized to administer oaths, any documents, books, records, papers, objects or other evidence which the state or regional long-term care ombudsman reasonably believes may relate to a matter under investigation.

(b) No subpoena or subpoena duces tecum applied for by the state ombudsman or designee pursuant to subsection (a) of this section shall be issued until a circuit court judge in term or vacation thereof has personally reviewed the application and accompanying affidavits and approved, by a signed order entered by the judge, the issuance of the subpoena or subpoena duces tecum. Subpoenas or subpoenas duces tecum applied for pursuant to this section may be issued on an ex parte basis following review and approval of the application by the judge in term or vacation thereof.

(c) The Attorney General shall, upon request, provide legal counsel and services to the long-term care ombudsman program in all administrative proceedings and in all proceedings in any circuit court and the West Virginia Supreme Court of Appeals. The prosecuting attorney of any county shall provide without compensation legal counsel and services in criminal actions to the long-term care ombudsman program in circuit court proceedings in that county.

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