WEST VIRGINIA CODE: §16B-12-2

§16B-12-2. Independent Mental Health Ombudsman.

(a) (1) The Office of the Inspector General shall continue an independent mental health ombudsman;

(2) The duties of the mental health ombudsman shall include, but are not limited to, the following:

(A) Advocating for the well-being, treatment, safety, and rights of consumers of mental health care facilities or psychiatric hospital;

(B) Participating in any procedure to investigate, and resolve complaints filed on behalf of a consumer of a mental health care facility or psychiatric hospital, relating to action, inaction, or decisions of providers of mental and behavioral health, of public agencies, or social service agencies, which may adversely affect the health, safety, welfare, and rights of a consumer of a mental health care facility or psychiatric hospital; and

(C) Monitoring the development and implementation of federal, state, and local legislation, regulations, and policies with respect to mental and behavioral health care and services;

(3) The mental health ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities;

(4)(A) Information relating to any investigation of a complaint that contains the identity of the complainant or consumer shall remain confidential except:

(i) Where imminent risk of serious harm is communicated directly to the mental health ombudsman or his or her staff; or

(ii) Where disclosure is necessary to the Office of Health Facility Licensure and Certification in order for such office to determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure, certification, or both;

(B) The mental health ombudsman shall maintain confidentiality with respect to all matters including the identities of complainants, witnesses, or others from whom information is acquired, except insofar as disclosures may be necessary to enable the mental health care ombudsman to carry out duties of the office or to support recommendations;

(C) All information, records, and reports received by or developed by the mental health ombudsman program which relate to a consumer of a mental health care facility or psychiatric hospital, including written material identifying a consumer are confidential, and are not subject to the provisions of §29-1-1, *et seq*. of this code, and may not be disclosed or released by the mental health ombudsman program, except under the circumstances

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enumerated in this section;

(D) Nothing in this section prohibits the preparation and submission by the mental health ombudsman of statistical data and reports, as required to implement the provisions of this section or any applicable federal law, exclusive of any material that identifies any consumer or complainant; and

(E) The Inspector General shall have access to the records and files of the mental health ombudsman program to verify its effectiveness and quality.

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