

SECOND REGULAR SESSION

HOUSE BILL NO. 1441

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GRAHAM (Sponsor), SAGER, BROOKS, BURNETT, YAEGER,
SHOEMAKER AND WHORTON (Co-sponsors).

Read 1st time February 10, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4096L.011

AN ACT

To repeal sections 660.600 and 660.603, RSMo, and to enact in lieu thereof two new sections relating to the long-term care ombudsman program.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 660.600 and 660.603, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 660.600 and 660.603, to read as follows:

660.600. As used in sections 660.600 to 660.608, the following terms mean:

- 2 (1) "Division", the division of [aging] **senior services** of the department of [social]
3 **health and senior** services;
4 (2) "Long-term care facility", any facility licensed pursuant to chapter 198, RSMo, and
5 long-term care facilities connected with hospitals licensed pursuant to chapter 197, RSMo;
6 (3) "Office", the office of the state ombudsman for long-term care facility residents;
7 (4) "Ombudsman", the state ombudsman for long-term care facility residents;
8 (5) "Regional ombudsman coordinators", designated individuals working for, or under
9 contract with, the area agencies on aging, and who are so designated by the area agency on aging
10 and certified by the ombudsman as meeting the qualifications established by the division;
11 (6) "Resident", any person who is receiving care or treatment in a long-term care facility.

660.603. 1. There is hereby established within the department of health and senior
2 services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the
3 purpose of helping to assure the adequacy of care received by residents of long-term care
4 facilities and to improve the quality of life experienced by them, in accordance with the federal
5 Older Americans Act, 42 U.S.C. 3001, et seq.

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

6 2. The office shall be administered by the state ombudsman, who shall devote his or her
7 entire time to the duties of his or her position.

8 3. The office shall establish and implement procedures for receiving, processing,
9 responding to, and resolving complaints made by or on behalf of residents of long-term care
10 facilities relating to action, inaction, or decisions of providers, or their representatives, of
11 long-term care services, of public agencies or of social service agencies, which may adversely
12 affect the health, safety, welfare or rights of such residents.

13 4. The department shall establish and implement procedures for resolution of complaints.
14 The ombudsman or representatives of the office shall have the authority to:

15 (1) Enter any long-term care facility and have access to residents of the facility at a
16 reasonable time and in a reasonable manner. The ombudsman shall have access to review
17 resident records, if given permission by the resident or the resident's legal guardian. Residents
18 of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

19 (2) Make the necessary inquiries and review such information and records as the
20 ombudsman or representative of the office deems necessary to accomplish the objective of
21 verifying these complaints.

22 5. The office shall acknowledge complaints, report its findings, make recommendations,
23 gather and disseminate information and other material, and publicize its existence.

24 6. The ombudsman may recommend to the relevant governmental agency changes in the
25 rules and regulations adopted or proposed by such governmental agency which do or may
26 adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility.
27 The office shall analyze and monitor the development and implementation of federal, state and
28 local laws, regulations and policies with respect to long-term care facilities and services in the
29 state and shall recommend to the department changes in such laws, regulations and policies
30 deemed by the office to be appropriate.

31 7. The office shall promote community contact and involvement with residents of
32 facilities through the use of volunteers and volunteer programs directed by the regional
33 ombudsman coordinators.

34 8. The office shall develop and establish by regulation of the department statewide
35 policies and standards for implementing the activities of the ombudsman program, including the
36 qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

37 9. The office shall develop and propose programs for use, training and coordination of
38 volunteers in conjunction with the regional ombudsman coordinators and may:

39 (1) Establish and conduct recruitment programs for volunteers;

40 (2) Establish and conduct training seminars, meetings and other programs for volunteers;

41 and

42 (3) Supply personnel, written materials and such other reasonable assistance, including
43 publicizing their activities, as may be deemed necessary.

44 10. The regional ombudsman coordinators and ombudsman volunteers shall have the
45 authority to report instances of abuse and neglect to the ombudsman hotline operated by the
46 department. **Ombudsman volunteers may only be relieved of their duties by the regional
47 ombudsman, in consultation with the state ombudsman, for just cause after such
48 ombudsman volunteer has received adequate due process protections. No long-term care
49 facility shall have the authority to relieve an ombudsman volunteer from his or her duties.**

50 11. **Every long-term care facility licensed in this state shall be required to accept
51 an ombudsman volunteer if an ombudsman volunteer is available.** If the regional
52 ombudsman coordinator or volunteer finds that a nursing home administrator is not willing to
53 work with the ombudsman program to resolve complaints, the state ombudsman **and the
54 division of health care standards and licensure** shall be notified. The department shall
55 establish procedures by rule in accordance with chapter 536, RSMo, for implementation of this
56 subsection. **Any long-term care facility that is not willing to work with the ombudsman
57 program to resolve complaints shall be subject to licensure sanction for failure to
58 participate in the ombudsman program.**

59 12. The office shall prepare and distribute to each facility written notices which set forth
60 the address and telephone number of the office, a brief explanation of the function of the office,
61 the procedure to follow in filing a complaint and other pertinent information.

62 13. The administrator of each facility shall ensure that such written notice is given to
63 every resident or the resident's guardian upon admission to the facility and to every person
64 already in residence, or to his **or her** guardian. The administrator shall also post such written
65 notice in a conspicuous, public place in the facility in the number and manner set forth in the
66 regulations adopted by the department.

67 14. The office shall inform residents, their guardians or their families of their rights and
68 entitlements under state and federal laws and rules and regulations by means of the distribution
69 of educational materials and group meetings.