

STATE OF KANSAS



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Testimony in Support of House Bill 2590
Presented to the Senate Health and Welfare Committee
By Barbara Hickert
Kansas State Long-Term Care Ombudsman
March 8, 2018

Chairwoman Schmitz and Members of the Committee,

Thank you for the opportunity to testify in favor of HB 2590 which would update the Kansas Long-Term Care Ombudsman Act. The purpose of these changes is to align Kansas statutes with federal law and regulation, but also with our policies and with ombudsman practice.

Since 1978, Title VII of the Federal Older American's Act (OAA) has required states to establish the State Long-Term Care Ombudsman Program (SLTCOP). In Kansas that program operates as an independent agency attached to the Department of Administration. The SLTCOP is charged with protecting the safety, welfare, and rights of Kansans in adult care homes.

One of the program's primary responsibilities is to investigate and resolve complaints made by a resident or by others on behalf of the resident. Ombudsmen handle a variety of complaints about quality of life and care. The purpose of an ombudsman investigation is to determine whether the complaint is valid and to work toward resolution. We gather only the information necessary to understand what the issue is and to resolve it to the satisfaction of the resident. This is substantially different than most agencies where the primary purpose of an investigation is to gather facts to determine whether there has been a violation of laws, standards or regulations.

Staff within the Kansas Office of the Long-Term Care Ombudsman includes a full-time director (the State Long-Term Care Ombudsman), an administrative assistant, seven regional ombudsmen in offices across the state and eighty-five ombudsmen volunteers. The process of becoming certified as an ombudsman is the same for paid staff as it is for volunteer staff. Before either can become certified as an ombudsman, they each undergo a screening process, background checks, conflict of interest screening, and complete our training. They also have the same requirements for ongoing in-service training each year to maintain their certification.

In 2016, new federal regulations governing State Long-Term Care Ombudsman Programs went into effect. These regulations have required many states, including Kansas, to revisit and revise their statutes and their policies and procedures to come into compliance. The revisions contained in HB2590 will help Kansas come into compliance with the requirements set forth in the new federal rule.

The bill clarifies the role of KDADS to provide oversight and monitoring of the State Long-Term Care Ombudsman program. As the State Unit on Aging, KDADS is responsible for all OAA programs. KDADS is required to ensure that the ombudsman program complies with federal and state laws and regulations, that the program has sufficient authority, and that ombudsmen have access to facilities, to residents, and information needed to perform our responsibilities. The Kansas Long-Term Care Ombudsman program will continue to operate as an independent agency attached to the Department of Administration.

Under the definition, the bill further defines what constitutes a “Conflict of Interest” as it applies to an ombudsman. This list is the list we use to help identify conflicts of interest which can impact our effectiveness and our credibility. It also adds the definition of “Resident Representative.” The resident representative is authorized to provide permission for an ombudsman to perform the certain tasks when a resident is unable to communicate informed consent or prefers to have a representative act on his/her behalf. It does not expand the scope of authority of any resident representative beyond what is authorized by law.

The bill adds additional requirements for the appointment of the State Long-Term Care Ombudsman. This includes a new requirement that to be eligible to be appointed the individual can’t have been employed by or participated in the management of a long-term care facility with the previous 12 months. It also adds additional required experience and skills to be eligible for appointment.

The bill further defines the types complaints that ombudsmen investigate to include complaints related to persons or entities outside of the facility. In FFY17, almost 22% of our complaints fell into this “outside of the facility” group of complaints.

The bill updates the act related the ombudsman role in providing information to other agencies, the media, and to legislators to advocate for changes and represent resident interests to these groups. And the bill ensures that ombudsmen have access the information needed to perform our duties.

As I was preparing my testimony, I did discover a technical amendment needed on page 6, line 43. There should be no comma after providers, and the word “agencies” needs to be added after social services, to read: **“Relating to the action, inaction or decisions of providers, or representatives of providers of long-term care, public agencies or health and social services agencies,”**

Thank you again for the opportunity to present this testimony to the Committee, I am happy to respond to questions.