

ACTION REQUIRED

SB 345 (Wolk), Chapter 649, Statutes of 2102

Affects: Any Adult Residential Care Facility, Adult Day Program or Residential Care Facility for the Elderly.

Subject: Office of State Long-Term Care Ombudsman, Long-Term Care Ombudsman Program Independence and Improvement Act of 2012.

Summary: This bill amends Sections 9701, 9710.5, 9712, 9713, 9714, 9714.5, 9716, 9717, 9719, 9722, 9724, 9726, and 9726.1 of, and adds Sections 9712.5 and 9716.11 to, and repeals Section 9720 of, the Welfare and Institutions Code, relating to public social services. This bill aligns Welfare and Institutions Code Sections related to the Office of the State Long Term Care Ombudsman and its roles and responsibilities corresponding to federal law, the Older Americans Act, Title VII, Chapter 2, Sections 711/712.

In part, this bill:

- Allows the representatives of the Office of the State Long-Term Care Ombudsman the right to enter the above identified facilities and to unescorted, unhindered movement within them for the purposes of identifying, hearing, investigating, and resolving complaints, observing and monitoring conditions of residents and facilities, speaking confidentially with residents, and providing services to assist residents in protecting their health, safety, welfare, and rights. Entry shall be provided at any time deemed necessary and reasonable by the Office of the State Ombudsman to effectively carry out this chapter. [Welfare and Institutions Code section 9722 (a)].
- Requires the above identified facility licensees, upon request by a representative of the Office of the State Long-Term Care Ombudsman, to provide a roster, census, or other list of the names and room numbers or room locations of all current residents or patients residing in the facility. [Welfare and Institutions Code section 9722 (d)].

Implementation: If a Licensing Program Analyst receives a complaint related to a violation of Welfare and Institutions Code sections 9722 (a) or (d), the Licensing Program Analyst shall follow standard complaint investigation procedures. In addition, the Licensing Program Analyst shall:

- Apply the appropriate law or regulation if a violation has been substantiated. For example; if an administrator/licensee, upon request by a representative of the Office of the State Long-Term Care Ombudsman, refuses to provide a roster*, census, or list of resident names and room numbers or locations of all residents occupying the facility, then the Licensing Program Analyst should cite: Administrator - Qualifications and Duties, Title 22 Division 6, Chapter 8 of the California Code of Regulations, Section 87405(a). The finding may read: Administrator failed to comply with Welfare and Institutions Code, section 9722(d) which requires licensees of Residential Care Facilities for the Elderly, Adult Residential Facilities and Adult Day Programs to provide, upon request of the Long-Term Care Ombudsman, a

roster, census, or list of resident names and room numbers or locations of all residents occupying the facility to the Long-Term Care Ombudsman. *Note: the term “roster” does not include the Register of Residents as identified in Title 22, Division 6 Chapter 8, section 87508 of the California Code of Regulations.

- As part of the plan of correction process, advise the licensee of their responsibility to comply with all laws related to operation of the facility. This advisory shall be documented in the plan of correction section of the LIC 9099.
- Consult with a Licensing Program Manager prior to issuing any complaint findings.
- Submit copies of LIC 9099s, specific to the above identified violations, to the Adult and Senior Care Program Headquarter office as soon as possible.

Note: Notwithstanding the above implementation instructions, Licensing Program Analysts shall continue to only accept complaints that violate the provisions of Health and Safety Code section 1569 et seq. and Title 22, Division 6, Chapter 8 of the California Code of Regulations.

For legislative information related to this new law:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0301-0350/sb_345_bill_20120927_chaptered.html