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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 8.5. MELLO-GRANLUND OLDER CALIFORNIANS ACT [9000 - 9850]** ( *Division 8.5 repealed and added by Stats. 1996, Ch. 1097, Sec. 13. )*

**CHAPTER 11. State Ombudsman [9700 - 9745]** ( *Chapter 11 added by Stats. 1996, Ch. 1097, Sec. 13. )*

**ARTICLE 3. Investigation and Resolution of Complaints [9720.5 - 9726.1]** ( *Article 3 added by Stats. 1996, Ch. 1097, Sec. 13. )*

**9720.5.** The office shall give priority to investigations and complaint resolutions in 24-hour long-term care facilities.

(*Repealed and added by Stats. 1996, Ch. 1097, Sec. 13. Effective January 1, 1997.*)

**9721.** (a) The office may refer any complaint to any appropriate state or local government agency. The following state licensing authorities shall give priority to any complaint referred to them by the office, except that any complaint alleging an immediate threat to resident health and safety may be given first priority:

- (1) Licensing and Certification Division of the State Department of Health Services.
- (2) Community Care Licensing Division of the State Department of Social Services.
- (3) Board of Examiners for Nursing Home Administrators.
- (4) Board of Registered Nurses.
- (5) Medical Board of California.
- (6) Board of Pharmacy.
- (7) Board of Vocational Nurse and Psychiatric Technician Examiners.

(b) Any licensing authority that responds to a complaint against a long-term care facility that was referred to the authority by the office shall forward to the office copies of related inspection reports and plans of correction and notify the office of any citations and civil penalties levied against the long-term care facility.

(*Repealed and added by Stats. 1996, Ch. 1097, Sec. 13. Effective January 1, 1997.*)

**9722.** (a) Representatives of the office shall have the right to enter long-term care 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 State Ombudsman to effectively carry out this chapter, for any of the purposes described in this subdivision.

(b) Nothing in this chapter shall be construed to restrict, limit, or increase any existing right of any organizations or individuals not described in subdivision (a) to enter, or provide assistance to patients or residents of, long-term care facilities.

(c) Nothing in this chapter shall restrict any right or privilege of any patient or resident of a long-term care facility to receive visitors of his or her choice.

(d) Notwithstanding any other provision of law, a long-term care facility, upon request by a representative of the office, shall 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.

(*Amended by Stats. 2012, Ch. 649, Sec. 15. (SB 345) Effective January 1, 2013.*)

**9723.** The State Ombudsman shall have access to any record of a state or local government agency that is necessary to carry out his or her responsibilities under this chapter, including any record rendered confidential under Section 1094 of the Unemployment Insurance Code or Section 10850.

*(Repealed and added by Stats. 1996, Ch. 1097, Sec. 13. Effective January 1, 1997.)*

**9724.** Notwithstanding Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, in order for the office to carry out its responsibilities under this chapter, the office shall have access to the medical or personal records of a patient or resident of a long-term care facility that are retained by the facility, under the following conditions:

- (a) If the patient or resident has the ability to write, access may only be obtained by the written consent of the patient or resident.
- (b) If the patient or resident is unable to write, oral consent may be given in the presence of a third party as witness.
- (c) If the patient or resident is under a California guardianship or conservatorship of the person that provides the guardian or conservator with the authority to approve review of records, the office shall obtain the permission of the guardian or conservator for review of the records, unless any of the following apply:

- (1) The existence of the guardianship or conservatorship is unknown to the office or the facility.
- (2) The guardian or conservator cannot be reached within three working days.
- (3) The office has reason to believe the guardian or conservator is not acting in the best interests of the ward or the conservatee.

(d) If the patient or resident is unable to express written or oral consent and there is no guardian, conservator, or legal representative, or the notification of the guardian, conservator, or legal representative is not applicable for reasons set forth in subdivision (c), inspection of records may be made by ombudsmen when there is sufficient cause for the inspection. The licensee may, at his or her discretion, permit other representatives of the office to inspect records in the performance of their official duties. Copies may be reproduced by the office. The licensee and facility personnel who disclose records pursuant to this subdivision shall not be liable for the disclosure. If investigation of records is sought pursuant to this subdivision, the ombudsman shall, upon request, produce a statement signed by the ombudsman coordinator authorizing the ombudsman to review the records.

(e) Facilities providing copies of records pursuant to this section may charge the actual copying cost for each page copied.

(f) Upon request by the office, a long-term care facility shall provide to the office, within 24 hours, the name, address, and telephone number of the conservator, legal representative, or next-of-kin of any patient or resident.

*(Amended by Stats. 2012, Ch. 649, Sec. 16. (SB 345) Effective January 1, 2013.)*

**9725.** All records and files of the office relating to any complaint or investigation made pursuant to this chapter and the identities of complainants, witnesses, patients, or residents shall remain confidential, unless disclosure is authorized by the patient or resident or his or her conservator of the person or legal representative, required by court order, or release of the information is to a law enforcement agency, public protective service agency, licensing or certification agency in a manner consistent with federal laws and regulations.

*(Repealed and added by Stats. 1996, Ch. 1097, Sec. 13. Effective January 1, 1997.)*

**9726.** (a) The office shall establish a toll-free telephone hotline to receive telephone calls concerning any crises discovered by any person in a long-term care facility, as defined in subdivision (b) of Section 9701. The telephone hotline established under this section shall be operated to include at least all of the following:

- (1) The telephone hotline shall be available 24 hours a day, seven days a week.
- (2) The operator shall respond to a crisis call by contacting the appropriate office, agency, or individual in the local community in which the crisis occurred.
- (3) The toll-free telephone hotline number shall be posted conspicuously in either the facility foyer, lobby, residents' activity room, or other conspicuous location easily accessible to residents in each licensed facility by the licensee. The office shall issue, in conjunction with the State Department of Social Services and the State Department of Public Health, guidelines concerning the posting of the toll-free telephone hotline number. The posting shall, at a minimum, include the purpose of the toll-free telephone hotline number.

(b) The office shall respond to telephone hotline calls.

(c) The toll-free telephone hotline shall be staffed in a manner consistent with available resources in the office. The office may contract for the services of organizations to staff the telephone hotline. The office shall seek to provide opportunities for older individuals to be employed to staff the hotline. The State Department of Public Health and the State Department of Social Services, and other appropriate departments, shall make available to the department and the office training and technical assistance as needed.

*(Amended by Stats. 2012, Ch. 649, Sec. 17. (SB 345) Effective January 1, 2013.)*

**9726.1** (a) The office and approved organizations may do any of the following:

- (1) Advise the public of any inspection report, statements of deficiency, and plans of correction, for any long-term care facilities within its service area.
- (2) Promote visitation programs to long-term care facilities within its service area.
- (3) Establish and assist in the development of resident, family, and friends' councils.
- (4) Sponsor other community involvement in long-term care facilities.
- (5) Present community education and training programs to long-term care facilities, human service workers, families, and the general public, about long-term care and residents' rights issues.

(b) Those programs created under this section that are held in a facility shall be developed in consultation with the facility. If the facility and the ombudsman cannot agree on these programs, the State Ombudsman may assist in resolving the dispute.

*(Amended by Stats. 2012, Ch. 649, Sec. 18. (SB 345) Effective January 1, 2013.)*