



Ohio Revised Code

Section 173.19 Investigating and resolving complaints.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

(A) The office of the state long-term care ombudsman program, through the state long-term care ombudsman and the regional long-term care ombudsman programs, shall receive, investigate, and attempt to resolve complaints made by residents, recipients, sponsors, long-term care providers, or any person acting on behalf of a resident or recipient, relating to either of the following:

- (1) The health, safety, welfare, or civil rights of a resident or recipient or any violation of a resident's rights described in sections 3721.10 to 3721.17 of the Revised Code;
- (2) Any action or inaction or decision by any of the following that may adversely affect the health, safety, welfare, or rights of a resident or recipient: a long-term care provider or a representative of a long-term care provider; a medicaid managed care organization, as defined in section 5167.01 of the Revised Code; a government entity; or a private social service agency.

(B) The department of aging shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the handling of complaints received under this section, including procedures for conducting investigations of complaints. The rules shall include procedures to ensure that no representative of the office investigates any complaint involving a long-term care provider with which the representative was once employed or associated.

The state ombudsman and regional programs shall establish procedures for handling complaints consistent with the department's rules. Complaints shall be dealt with in accordance with the procedures established under this division.

(C) The office of the state long-term care ombudsman program may decline to investigate any complaint if it determines any of the following:

- (1) That the complaint is frivolous, vexatious, or not made in good faith;



(2) That the complaint was made so long after the occurrence of the incident on which it is based that it is no longer reasonable to conduct an investigation;

(3) That an adequate investigation cannot be conducted because of insufficient funds, insufficient staff, lack of staff expertise, or any other reasonable factor that would result in an inadequate investigation despite a good faith effort;

(4) That an investigation by the office would create a real or apparent conflict of interest.

(D) If a regional long-term care ombudsman program declines to investigate a complaint, it shall refer the complaint to the state long-term care ombudsman.

(E) Each complaint to be investigated by a regional program shall be assigned to a representative of the office of the state long-term care ombudsman program. If the representative determines that the complaint is valid, the representative shall assist the parties in attempting to resolve it. If the representative is unable to resolve it, the representative shall refer the complaint to the state ombudsman.

In order to carry out the duties of sections 173.14 to 173.28 of the Revised Code, a representative has the right to private communication with residents and their sponsors and access to long-term care facilities, including the right to tour resident areas unescorted and the right to tour facilities unescorted as reasonably necessary to the investigation of a complaint. Access to facilities shall be during reasonable hours or, during investigation of a complaint, at other times appropriate to the complaint.

When community-based long-term care services are provided at a location other than the recipient's home, a representative has the right to private communication with the recipient and the recipient's sponsors and access to the community-based long-term care site, including the right to tour the site unescorted. Access to the site shall be during reasonable hours or, during the investigation of a complaint, at other times appropriate to the complaint.

(F) The state ombudsman shall determine whether complaints referred to the ombudsman under division (D) or (E) of this section warrant investigation. The ombudsman's determination in this



matter is final.

(G) No long-term care provider or other entity, no person employed by a long-term care provider or other entity, and no other individual shall do either of the following:

(1) Knowingly deny a representative of the office of the state long-term care ombudsman program the right to private communication or access described in division (E) of this section;

(2) Engage in willful interference.

As used in division (G)(2) of this section, "willful interference" means any action or inaction that is intended to prevent, interfere with, or impede a representative of the office of the state long-term care ombudsman program from exercising any of the rights or performing any of the duties of an ombudsman set forth in sections 173.14 to 173.28 of the Revised Code.