

**ADOPTED REGULATION OF THE  
ADMINISTRATOR OF THE AGING AND DISABILITY  
SERVICES DIVISION OF THE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES**

**LCB File No. R017-10**

Effective July 22, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-9 and 11, NRS 427A.070; §10, NRS 427A.165.

A REGULATION relating to services to aging persons; revising provisions relating to advocacy for residents of facilities for long-term care, including, under certain circumstances, advocacy during the process of discharging a resident from such a facility; establishing the minimum number of hours and the content of the training of advocates required to be provided by the State Long-Term Care Ombudsman; requiring each such facility to post a notice relating to the Ombudsman and advocates; and providing other matters properly relating thereto.

**Section 1.** Chapter 427A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

**Sec. 2.** *For the purposes of NRS 427A.125, the Administrator will interpret the term “family council” to mean a group of family members of residents of a facility for long-term care that is formed to discuss concerns about the facility, communicate those concerns to the staff of the facility and cooperate with the staff in developing solutions to the concerns.*

**Sec. 3.** *For the purposes of NRS 427A.125, the Administrator will interpret the term “resident council” to mean a group of residents of a facility for long-term care that is formed to discuss concerns about the facility, communicate those concerns to the staff of the facility and cooperate with the staff in developing solutions to the concerns.*

**Sec. 4.** *For the purposes of NRS 427A.145, the Administrator will interpret the phrase “person or persons designated as responsible for decisions regarding the resident” to mean a person or persons designated by a resident as able to receive information about the resident and make decisions on the resident’s behalf, including, without limitation, such a person who is a member of the resident’s family or the resident’s attorney-in-fact.*

**Sec. 5.** *For the purposes of NRS 427A.155, the Administrator will interpret the term “notify” to include verbal notification.*

**Sec. 6.** *In attempting to resolve a complaint made by or on behalf of a resident of a facility for long-term care, the Ombudsman or an advocate, upon request, may advocate for and assist a resident or a member of a resident’s family during the process of discharging the resident from a facility for long-term care, including, without limitation, any appeal from a notice of discharge given to the resident.*

**Sec. 7.** *The training of advocates provided by the Ombudsman pursuant to NRS 427A.125 will include, without limitation:*

*1. A minimum of 40 hours of initial training which is based on standards of the Administration on Aging of the United States Department of Health and Human Services and which includes, without limitation:*

*(a) An introduction to the Ombudsman Program administered by the Administration on Aging, including the history of that program and related state programs and the role and responsibilities of ombudsmen; and*

*(b) Instruction concerning:*

*(1) Federal, state and local law and policies with respect to the program established in this State by the Ombudsman to assist residents of facilities for long-term care and with*

*respect to facilities for long-term care in this State, including laws and policies concerning confidentiality and consent;*

*(2) Ethics, advocacy and problem solving with respect to the program established in this State; and*

*(3) Investigative techniques, periodic visits to facilities for long-term care and techniques for resolving complaints with respect to the program established in this State; and*

*2. At least 8 hours of in-service training on an annual basis.*

**Sec. 8.** *The Ombudsman or an advocate may assist in the forming and activities of the residents' councils and family councils in any facility for long-term care.*

**Sec. 9.** *1. A volunteer advocate may enter any facility for long-term care and any area within the facility at reasonable times with or without prior notice. Upon arrival at the facility, the volunteer advocate shall make his or her presence known to the staff of the facility and shall present appropriate identification.*

*2. A volunteer advocate who visits a long-term care facility shall:*

*(a) Meet with residents of the facility and the staff of the facility during the visit; and*

*(b) Report to the Ombudsman or a designee of the Ombudsman concerning the visit.*

**Sec. 10.** *1. Each facility for long-term care shall post a notice which describes the purpose of the Ombudsman and an advocate and sets forth the procedure for making a complaint to the Ombudsman or an advocate if a resident's rights have been violated.*

*2. The notice described in subsection 1:*

*(a) Must be posted in prominent locations throughout the facility for long-term care, including, without limitation:*

*(1) The entry area;*

*(2) The dining area; and*

*(3) An area where residents convene for activities; and*

*(b) Must include, without limitation:*

*(1) The name of the program established in this State by the Ombudsman to assist residents of facilities for long-term care; and*

*(2) The address and telephone number of each office of the Aging and Disability Services Division in this State.*

*3. As used in this section, “resident’s rights” includes the rights of a resident of a facility for long-term care as set forth in 42 C.F.R. § 483.10.*

**Sec. 11.** NAC 427A.010 is hereby amended to read as follows:

427A.010 As used in NAC 427A.010 to 427A.310, inclusive, *and sections 2 to 10, inclusive, of this regulation*, unless the context otherwise requires:

1. *“Advocate” includes a volunteer advocate appointed by the Administrator pursuant to NRS 427A.127.*

2. “Complainant” means a resident who files a complaint pursuant to NRS 427A.125 to 427A.165, inclusive, or a person who files a complaint on behalf of a resident. The term includes a person claiming retaliation for having filed a complaint, a person who provides information regarding a complaint, and an advocate or the representative of an advocate.

~~{2.}~~ 3. “Hearing officer” means the Specialist for the Rights of Elderly Persons or a person designated by him or her.

~~{3.}~~ 4. “Person” means a natural person, partnership, association, corporation or other public or private entity.

~~[4.]~~ 5. “Resident” means a resident of a facility for long-term care who is 60 years of age or older.

~~[5.]~~ 6. “Respondent” means a person against whom a complaint has been filed.

~~[6.]~~ 7. “Specialist for the Rights of Elderly Persons” means the person appointed pursuant to NRS 427A.1232.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R017-10**

The Aging and Disability Services Division of the Department of Health and Human Services adopted regulations assigned LCB File No. R017-10 which pertain to chapter 427A of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

- 1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.**  
Notice of public workshop was posted on February 24, 2010 and workshop was held on March 17, 2010. Notice of public hearing was posted on May 25, 2010 and public workshop was held on June 24, 2010. Posting included e-mailing notices to public libraries in all counties in which Aging and Disability Services Division does not have an office, to all Division offices, to a list of other public places where interested parties would see the notice. They were also posted on the Division web site. Written comments were accepted up to the day before the workshop and the day before the hearing. Summaries may be obtained at the Aging and Disability Services Division, 3416 Goni Road #132, Carson City NV 89706.
- 2. The number of persons who: (a) attended each hearing; (b) testified at each hearing; and (c) submitted to the agency written statements.**  
Twenty-eight people attended the workshop statewide, and 1 person testified. No written statements were received.  
Twenty-four people attended the hearing statewide, and nobody testified. No written statements were received.
- 3. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**  
Small business impact statement and proposed regulations were sent to 43 nursing facilities and 44 residential facilities for groups. There were 15 respondents from nursing facilities and five respondents from group homes. One nursing facility respondent stated that allowing “any number of visits” by the long-term care ombudsman staff could be disruptive and another objected to the “aesthetic” aspect to numerous postings throughout the facility regarding information about the ombudsman program. There were five respondents from group homes, and four indicated not impact. One indicated that frequent routine visits from the ombudsman would affect the residents’ privacy.
- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**  
Not applicable.

5. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
  - a. **Both adverse and beneficial effects;**  
No effects.
  - b. **Both immediate and long-term effects;**  
No effects.
  
6. **The estimated cost to the agency for enforcement of the adopted regulation.**  
None
  
7. **A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**  
None.
  
8. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**  
Not applicable.
  
9. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**  
None