DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2013 session. The unannotated South Carolina Code, consisting only of Code text, numbering, and history may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify the Legislative Services Agency at [LSA@scstatehouse.gov](mailto:LPITS@scstatehouse.net) regarding any apparent errors or omissions in content of Code sections on this website, in which case LSA will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 38.

INVESTIGATION OF HEALTH FACILITIES BY OMBUDSMAN

**SECTION 43‑38‑10.** Facility defined.

For purposes of this chapter "facility" means public health centers and tuberculosis, mental, chronic disease and all other types of public or private hospitals and related facilities such as outpatient facilities, rehabilitation facilities, nursing homes, intermediate care facilities, residential care facilities, facilities for persons with developmental disabilities and community mental health centers, including facilities for alcoholics and narcotic addicts but shall not include general hospitals which treat acute injuries or illnesses.

HISTORY: 1980 Act No. 416, Section 1.

**SECTION 43‑38‑20.** Long Term Care Ombudsman Program authorized to investigate complaints; release and disclosure of information from medical records; issuance of report and recommendations.

The Long Term Care Ombudsman Program is authorized to investigate any problem or complaint on behalf of any interested party or any client, patient, or resident of any facility as defined in this chapter. In carrying out the investigation, he may request and receive written statements, documents, exhibits, and other items pertinent to the investigation. These items include medical records of a general hospital in which a client, patient, or resident has been treated during the period under investigation. General hospitals are authorized to release the medical records to the ombudsman upon his written request without the necessity of patient authorization. Any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity, disease, or illness of any complainant or resident of a long term care facility shall not be disclosed by such ombudsman unless:

(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

(ii) such disclosure is required by court order. Following the investigation he may issue such report and recommendations as in his opinion will assist in improving the facility under investigation.

HISTORY: 1980 Act No. 416, Section 2; 1986 Act No. 531, eff June 18, 1986; 1993 Act No. 110, Section 8, eff three months after June 11, 1993.

**SECTION 43‑38‑30.** Cooperation of departments, officers and agencies required.

All departments, officers, agencies and employees of the State shall cooperate with the ombudsman in carrying out his duties pursuant to the provisions of this chapter.

HISTORY: 1980 Act No. 416, Section 3.

**SECTION 43‑38‑40.** Civil and criminal immunity for participants in judicial proceedings; presumption of good faith.

Any person required or permitted to report pursuant to this chapter or who participates in judicial proceedings resulting therefrom, acting in good faith, shall be immune from civil and criminal liability which might otherwise result by reason of such actions. In all such civil or criminal proceedings good faith shall be rebuttably presumed.

HISTORY: 1980 Act No. 416, Section 4.

**SECTION 43‑38‑50.** Exception as to County Homes.

This chapter does not apply to any county operated County Home which is operated exclusively from county funds.

HISTORY: 1980 Act No. 416, Section 5.

**SECTION 43‑38‑60.** Long Term Care Ombudsman Program to designate entities under Older American Act.

The Long Term Care Ombudsman Program may designate entities in accordance with the federal Older Americans Act.

HISTORY: 1993 Act No. 110, Section 4, eff three months after June 11, 1993.