

# OMBUDSMAN FOR OLDER MINNESOTANS

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## I. STATUTORY REFERENCES AND DEFINITIONS

Minn. Stat. §§ [144.335](#); [144.651-.652](#) - Medical Records

Minn. Stat. § [256.9742](#) - Duties and Powers of Ombudsman

Minn. Stat. § [256.974](#) - Office of Ombudsman

Minn. Stat. § [256.01](#), subd. 7 - Ombudsman Appointed By the Commissioner of Human Services

Minn. Stat. § [13.46](#), subd. 1(c)(2) - Welfare System

[42 U.S.C. 3027\(a\)\(12\)](#) - Older Americans Act

The Ombudsman for Older Minnesotans serves in the classified service under [Minn. Stat. § 256.01, subd. 7](#), in an office within the Minnesota Board on Aging. The Minnesota Board on Aging may designate local programs for the provision of ombudsman services to clients in one county or multi-county areas. The local program may not be an agency engaged in the provision of nursing home care, hospital care, or home care either directly or by contracts or have the responsibility for planning, coordinating, funding, or administering nursing home care, hospital care, or home care services.

## II. CLASSIFICATION OF INFORMATION

Data obtained by the Ombudsman for Older Minnesotans (hereinafter "Ombudsman") must retain the same classification as in the disseminating agency. Unless another statute or court order applies, information generated by the Ombudsman is considered private data on individuals but may be shared as necessary for the Ombudsman to carry out its duties. It should be explained to individuals that data provided to the Ombudsman may be shared with courts and other entities pursuant to the Ombudsman's investigation and enforcement powers.

## III. ADDITIONAL CONSIDERATIONS

The Ombudsman for Older Minnesotans is **not** listed in statutes as a member of the welfare system. [Minn. Stat. § 13.46, subd. 1\(c\)](#) However, the Ombudsman is appointed by the Commissioner of Human Services, and is under the Commissioner's authority. [Minn. Stat. § 256.01, subd. 7](#) Therefore, the Ombudsman is considered a part of the welfare system and must abide by data practices laws that apply to agencies of the welfare system. The Ombudsman has the authority to review any data about long-term care facilities, home care or acute care facility operations and procedures without the consent of the responsible authority.

Before reviewing a client's records, the Ombudsman should first try to obtain the consent of the client or the client's legal guardian. If a client is unable to consent or the guardian refuses consent, then the Ombudsman may inspect individual records without consent. When requesting a client's records, the Ombudsman must either produce a copy of the client's written consent or a signed written statement as to why the individual or the individual's guardian did not consent to release of the information.

## IV. CROSS REFERENCES WITH OTHER SECTIONS OF THE MANUAL

[Nursing Homes](#)

[Regional Treatment Centers](#)