

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Act on the Aging is amended by
5 changing Section 4.04 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program. The purpose
8 of the Long Term Care Ombudsman Program is to ensure that older
9 persons and persons with disabilities receive quality
10 services. This is accomplished by providing advocacy services
11 for residents of long term care facilities and participants
12 receiving home care and community-based care. Managed care is
13 increasingly becoming the vehicle for delivering health and
14 long-term services and supports to seniors and persons with
15 disabilities, including dual eligible participants. The
16 additional ombudsman authority will allow advocacy services to
17 be provided to Illinois participants for the first time and
18 will produce a cost savings for the State of Illinois by
19 supporting the rebalancing efforts of the Patient Protection
20 and Affordable Care Act.

21 (a) Long Term Care Ombudsman Program. The Department shall
22 establish a Long Term Care Ombudsman Program, through the
23 Office of State Long Term Care Ombudsman ("the Office"), in

1 accordance with the provisions of the Older Americans Act of
2 1965, as now or hereafter amended. The Long Term Care
3 Ombudsman Program is authorized, subject to sufficient
4 appropriations, to advocate on behalf of older persons and
5 persons with disabilities residing in their own homes or
6 community-based settings, relating to matters which may
7 adversely affect the health, safety, welfare, or rights of
8 such individuals.

9 (b) Definitions. As used in this Section, unless the
10 context requires otherwise:

11 (1) "Access" means the right to:

12 (i) Enter any long term care facility or assisted
13 living or shared housing establishment or supportive
14 living facility;

15 (ii) Communicate privately and without restriction
16 with any resident, regardless of age, who consents to
17 the communication;

18 (iii) Seek consent to communicate privately and
19 without restriction with any participant or resident,
20 regardless of age;

21 (iv) Inspect and copy the clinical and other
22 records of a participant or resident, regardless of
23 age, with the express written consent of the
24 participant or resident, or if consent is given
25 orally, visually, or through the use of auxiliary aids
26 and services, such consent is documented

1 contemporaneously by a representative of the Office in
2 accordance with such procedures;

3 (v) Observe all areas of the long term care
4 facility or supportive living facilities, assisted
5 living or shared housing establishment except the
6 living area of any resident who protests the
7 observation; and

8 (vi) Subject to permission of the participant or
9 resident requesting services or his or her
10 representative, enter a home or community-based
11 setting.

12 (2) "Long Term Care Facility" means (i) any facility
13 as defined by Section 1-113 of the Nursing Home Care Act,
14 as now or hereafter amended; (ii) any skilled nursing
15 facility or a nursing facility which meets the
16 requirements of Section 1819(a), (b), (c), and (d) or
17 Section 1919(a), (b), (c), and (d) of the Social Security
18 Act, as now or hereafter amended (42 U.S.C. 1395i-3(a),
19 (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and
20 (d)); (iii) any facility as defined by Section 1-113 of
21 the ID/DD Community Care Act, as now or hereafter amended;
22 (iv) any facility as defined by Section 1-113 of MC/DD
23 Act, as now or hereafter amended; and (v) any facility
24 licensed under Section 4-105 or 4-201 of the Specialized
25 Mental Health Rehabilitation Act of 2013, as now or
26 hereafter amended.

1 (2.5) "Assisted living establishment" and "shared
2 housing establishment" have the meanings given those terms
3 in Section 10 of the Assisted Living and Shared Housing
4 Act.

5 (2.7) "Supportive living facility" means a facility
6 established under Section 5-5.01a of the Illinois Public
7 Aid Code.

8 (2.8) "Community-based setting" means any place of
9 abode other than an individual's private home.

10 (3) "State Long Term Care Ombudsman" means any person
11 employed by the Department to fulfill the requirements of
12 the Office of State Long Term Care Ombudsman as required
13 under the Older Americans Act of 1965, as now or hereafter
14 amended, and Departmental policy.

15 (3.1) "Ombudsman" means any designated representative
16 of the State Long Term Care Ombudsman Program; provided
17 that the representative, whether he is paid for or
18 volunteers his ombudsman services, shall be qualified and
19 designated by the Office to perform the duties of an
20 ombudsman as specified by the Department in rules and in
21 accordance with the provisions of the Older Americans Act
22 of 1965, as now or hereafter amended.

23 (4) "Participant" means an older person aged 60 or
24 over or an adult with a disability aged 18 through 59 who
25 is eligible for services under any of the following:

26 (i) A medical assistance waiver administered by

1 the State.

2 (ii) A managed care organization providing care
3 coordination and other services to seniors and persons
4 with disabilities.

5 (5) "Resident" means an older person aged 60 or over
6 or an adult with a disability aged 18 through 59 who
7 resides in a long-term care facility.

8 (c) Ombudsman; rules. The Office of State Long Term Care
9 Ombudsman shall be composed of at least one full-time
10 ombudsman and shall include a system of designated regional
11 long term care ombudsman programs. Each regional program shall
12 be designated by the State Long Term Care Ombudsman as a
13 subdivision of the Office and any representative of a regional
14 program shall be treated as a representative of the Office.

15 The Department, in consultation with the Office, shall
16 promulgate administrative rules in accordance with the
17 provisions of the Older Americans Act of 1965, as now or
18 hereafter amended, to establish the responsibilities of the
19 Department and the Office of State Long Term Care Ombudsman
20 and the designated regional Ombudsman programs. The
21 administrative rules shall include the responsibility of the
22 Office and designated regional programs to investigate and
23 resolve complaints made by or on behalf of residents of long
24 term care facilities, supportive living facilities, and
25 assisted living and shared housing establishments, and
26 participants residing in their own homes or community-based

1 settings, including the option to serve residents and
2 participants under the age of 60, relating to actions,
3 inaction, or decisions of providers, or their representatives,
4 of such facilities and establishments, of public agencies, or
5 of social services agencies, which may adversely affect the
6 health, safety, welfare, or rights of such residents and
7 participants. The Office and designated regional programs may
8 represent all residents and participants, but are not required
9 by this Act to represent persons under 60 years of age, except
10 to the extent required by federal law. When necessary and
11 appropriate, representatives of the Office shall refer
12 complaints to the appropriate regulatory State agency. The
13 Department, in consultation with the Office, shall cooperate
14 with the Department of Human Services and other State agencies
15 in providing information and training to designated regional
16 long term care ombudsman programs about the appropriate
17 assessment and treatment (including information about
18 appropriate supportive services, treatment options, and
19 assessment of rehabilitation potential) of the participants
20 they serve.

21 The State Long Term Care Ombudsman and all other
22 ombudsmen, as defined in paragraph (3.1) of subsection (b)
23 must submit to background checks under the Health Care Worker
24 Background Check Act and receive training, as prescribed by
25 the Illinois Department on Aging, before visiting facilities,
26 private homes, or community-based settings. The training must

1 include information specific to assisted living
2 establishments, supportive living facilities, shared housing
3 establishments, private homes, and community-based settings
4 and to the rights of residents and participants guaranteed
5 under the corresponding Acts and administrative rules.

6 (c-5) Consumer Choice Information Reports. The Office
7 shall:

8 (1) In collaboration with the Attorney General, create
9 a Consumer Choice Information Report form to be completed
10 by all licensed long term care facilities to aid
11 Illinoisans and their families in making informed choices
12 about long term care. The Office shall create a Consumer
13 Choice Information Report for each type of licensed long
14 term care facility. The Office shall collaborate with the
15 Attorney General and the Department of Human Services to
16 create a Consumer Choice Information Report form for
17 facilities licensed under the ID/DD Community Care Act or
18 the MC/DD Act.

19 (2) Develop a database of Consumer Choice Information
20 Reports completed by licensed long term care facilities
21 that includes information in the following consumer
22 categories:

23 (A) Medical Care, Services, and Treatment.

24 (B) Special Services and Amenities.

25 (C) Staffing.

26 (D) Facility Statistics and Resident Demographics.

1 (E) Ownership and Administration.

2 (F) Safety and Security.

3 (G) Meals and Nutrition.

4 (H) Rooms, Furnishings, and Equipment.

5 (I) Family, Volunteer, and Visitation Provisions.

6 (3) Make this information accessible to the public,
7 including on the Internet by means of a hyperlink on the
8 Office's World Wide Web home page. Information about
9 facilities licensed under the ID/DD Community Care Act or
10 the MC/DD Act shall be made accessible to the public by the
11 Department of Human Services, including on the Internet by
12 means of a hyperlink on the Department of Human Services'
13 "For Customers" website.

14 (4) Have the authority, with the Attorney General, to
15 verify that information provided by a facility is
16 accurate.

17 (5) Request a new report from any licensed facility
18 whenever it deems necessary.

19 (6) Include in the Office's Consumer Choice
20 Information Report for each type of licensed long term
21 care facility additional information on each licensed long
22 term care facility in the State of Illinois, including
23 information regarding each facility's compliance with the
24 relevant State and federal statutes, rules, and standards;
25 customer satisfaction surveys; and information generated
26 from quality measures developed by the Centers for

1 Medicare and Medicaid Services.

2 (d) Access and visitation rights.

3 (1) In accordance with subparagraphs (A) and (E) of
4 paragraph (3) of subsection (c) of Section 1819 and
5 subparagraphs (A) and (E) of paragraph (3) of subsection
6 (c) of Section 1919 of the Social Security Act, as now or
7 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
8 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
9 Older Americans Act of 1965, as now or hereafter amended
10 (42 U.S.C. 3058f), a long term care facility, supportive
11 living facility, assisted living establishment, and shared
12 housing establishment must:

13 (i) permit immediate access to any resident,
14 regardless of age, by a designated ombudsman;

15 (ii) permit representatives of the Office, with
16 the permission of the resident, the resident's legal
17 representative, or the resident's legal guardian, to
18 examine and copy a resident's clinical and other
19 records, including reports of incidents or occurrences
20 made to State agencies, regardless of the age of the
21 resident, and if a resident is unable to consent to
22 such review, and has no legal guardian, permit
23 representatives of the Office appropriate access, as
24 defined by the Department, in consultation with the
25 Office, in administrative rules, to the resident's
26 records; and

1 (iii) permit a representative of the Program to
2 communicate privately and without restriction with any
3 participant who consents to the communication
4 regardless of the consent of, or withholding of
5 consent by, a legal guardian or an agent named in a
6 power of attorney executed by the participant.

7 (2) Each long term care facility, supportive living
8 facility, assisted living establishment, and shared
9 housing establishment shall display, in multiple,
10 conspicuous public places within the facility accessible
11 to both visitors and residents and in an easily readable
12 format, the address and phone number of the Office of the
13 Long Term Care Ombudsman, in a manner prescribed by the
14 Office.

15 (e) Immunity. An ombudsman or any representative of the
16 Office participating in the good faith performance of his or
17 her official duties shall have immunity from any liability
18 (civil, criminal or otherwise) in any proceedings (civil,
19 criminal or otherwise) brought as a consequence of the
20 performance of his official duties.

21 (f) Business offenses.

22 (1) No person shall:

23 (i) Intentionally prevent, interfere with, or
24 attempt to impede in any way any representative of the
25 Office in the performance of his official duties under
26 this Act and the Older Americans Act of 1965; or

1 (ii) Intentionally retaliate, discriminate
2 against, or effect reprisals against any long term
3 care facility resident or employee for contacting or
4 providing information to any representative of the
5 Office.

6 (2) A violation of this Section is a business offense,
7 punishable by a fine not to exceed \$501.

8 (3) The State Long Term Care Ombudsman shall notify
9 the State's Attorney of the county in which the long term
10 care facility, supportive living facility, or assisted
11 living or shared housing establishment is located, or the
12 Attorney General, of any violations of this Section.

13 (g) Confidentiality of records and identities. The
14 Department shall establish procedures for the disclosure by
15 the State Ombudsman or the regional ombudsmen entities of
16 files maintained by the program. The procedures shall provide
17 that the files and records may be disclosed only at the
18 discretion of the State Long Term Care Ombudsman or the person
19 designated by the State Ombudsman to disclose the files and
20 records, and the procedures shall prohibit the disclosure of
21 the identity of any complainant, resident, participant,
22 witness, or employee of a long term care provider unless:

23 (1) the complainant, resident, participant, witness,
24 or employee of a long term care provider or his or her
25 legal representative consents to the disclosure and the
26 consent is in writing;

1 (2) the complainant, resident, participant, witness,
2 or employee of a long term care provider gives consent
3 orally; and the consent is documented contemporaneously in
4 writing in accordance with such requirements as the
5 Department shall establish; or

6 (3) the disclosure is required by court order.

7 (h) Legal representation. The Attorney General shall
8 provide legal representation to any representative of the
9 Office against whom suit or other legal action is brought in
10 connection with the performance of the representative's
11 official duties, in accordance with the State Employee
12 Indemnification Act.

13 (i) Treatment by prayer and spiritual means. Nothing in
14 this Act shall be construed to authorize or require the
15 medical supervision, regulation or control of remedial care or
16 treatment of any resident in a long term care facility
17 operated exclusively by and for members or adherents of any
18 church or religious denomination the tenets and practices of
19 which include reliance solely upon spiritual means through
20 prayer for healing.

21 (j) The Long Term Care Ombudsman Fund is created as a
22 special fund in the State treasury to receive moneys for the
23 express purposes of this Section. All interest earned on
24 moneys in the fund shall be credited to the fund. Moneys
25 contained in the fund shall be used to support the purposes of
26 this Section.

1 (k) Each Regional Ombudsman may, in accordance with rules
2 promulgated by the Office, establish a multi-disciplinary team
3 to act in an advisory role for the purpose of providing
4 professional knowledge and expertise in handling complex
5 abuse, neglect, and advocacy issues involving participants.
6 Each multi-disciplinary team may consist of one or more
7 volunteer representatives from any combination of at least 7
8 members from the following professions: banking or finance;
9 disability care; health care; pharmacology; law; law
10 enforcement; emergency responder; mental health care; clergy;
11 coroner or medical examiner; substance abuse; domestic
12 violence; sexual assault; or other related fields. To support
13 multi-disciplinary teams in this role, law enforcement
14 agencies and coroners or medical examiners shall supply
15 records as may be requested in particular cases. The Regional
16 Ombudsman, or his or her designee, of the area in which the
17 multi-disciplinary team is created shall be the facilitator of
18 the multi-disciplinary team.

19 (Source: P.A. 102-1033, eff. 1-1-23; 103-329, eff. 1-1-24.)