

# STATE OF NEW YORK

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5436--A

2021-2022 Regular Sessions

## IN ASSEMBLY

February 16, 2021

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Introduced by M. of A. CLARK, KIM, LUNSFORD, BURDICK, FAHY, WALLACE, SIMON, ZINERMAN, GRIFFIN, GONZALEZ-ROJAS, MAGNARELLI, GALEF, FORREST, THIELE, McDONALD, OTIS, MEEKS, GOTTFRIED, BRONSON, ROZIC, CUSICK, STECK, COLTON -- read once and referred to the Committee on Aging -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, in relation to directing the office of the state long-term care ombudsman to advertise and promote the long-term care ombudsman program (Part A); to amend the elder law, in relation to directing the director of the state office for the aging, in consultation with the state long-term care ombudsman and the commissioners of the departments responsible for the license or certification of long-term care facilities, to establish policies and procedures for reporting, by staff and volunteers of the long-term care ombudsman program, issues concerning the health, safety and welfare of residents at long-term care facilities (Part B); and to amend the public health law, in relation to including access to state long-term care ombudsman program staff and volunteers within the pandemic emergency plan prepared by residential health care facilities (Part C)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "long-term care ombudsman program reform act".  
3 § 2. Legislative intent. This act enacts into law legislation relating  
4 to the long-term care ombudsman program. Each component is wholly  
5 contained within a Part identified as Parts A through C. The effective  
6 date for each particular provision contained within such Part is set  
7 forth in the last section of such Part. Any provision in any section  
8 contained within a Part, including the effective date of the Part, which  
9 makes a reference to a section "of this act", when used in connection

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 with that particular component, shall be deemed to mean and refer to the  
2 corresponding section of the Part in which it is found. Section four of  
3 this act sets forth the general effective date of this act.

4 PART A

5 Section 1. Section 218 of the elder law is amended by adding a new  
6 subdivision 15 to read as follows:

7 15. Long-term care ombudsman program. The office of the state long-  
8 term care ombudsman shall facilitate and coordinate the planning and  
9 implementation of an awareness program to advertise and promote the  
10 long-term care ombudsman program. Such program shall utilize educational  
11 and informational materials such as media advertising, billboards,  
12 social media and the official website of the long-term care ombudsman  
13 program.

14 § 2. This act shall take effect immediately.

15 PART B

16 Section 1. Section 218 of the elder law is amended by adding a new  
17 subdivision 16 to read as follows:

18 16. Regulations and reporting for the long-term care ombudsman  
19 program. (a) The director of the state office for the aging, in consul-  
20 tation with the state long-term care ombudsman and the commissioners of  
21 the departments responsible for the license or certification of long-  
22 term care facilities, shall promulgate rules and regulations establish-  
23 ing uniform policies and procedures for: (i) reporting to the appropri-  
24 ate agency, by staff and volunteers of the long-term care ombudsman  
25 program, issues identified or witnessed by such staff and volunteers  
26 that relate to actions, inactions or decisions that may adversely effect  
27 the health, safety and welfare of residents at long-term care facilities  
28 in this state. Such policies and procedures shall include, but not be  
29 limited to, establishing a telephone hotline and reporting form on the  
30 appropriate agency's website for use by long-term care ombudsman program  
31 staff and volunteers for the submission of reports;

32 (ii) timely and regular communications by the appropriate agency to  
33 the state long-term care ombudsman and long-term care ombudsman program  
34 staff and volunteers regarding such issues reported by such staff and  
35 volunteers pursuant to subparagraph (i) of this paragraph and the resol-  
36 ution of such issues; and

37 (iii) requiring the appropriate agency to notify ombudsman program  
38 staff and volunteers at the facility where such staff and volunteers are  
39 assigned of any complaints received by the appropriate agency concerning  
40 such facility.

41 (b) Nothing in this subdivision shall be construed to limit in any way  
42 a resident's right to privacy and confidentiality pursuant to the regu-  
43 lations of the long-term care ombudsman program or the right to refuse  
44 to consent to the involvement of the long-term care ombudsman.

45 § 2. This act shall take effect on the ninetieth day after it shall  
46 have become a law. Effective immediately, the addition, amendment and/or  
47 repeal of any rule or regulation necessary for the implementation of  
48 this act on its effective date are authorized to be made and completed  
49 on or before such effective date.

50 PART C

1 Section 1. Subparagraph (i) of paragraph (a) of subdivision 12 of  
2 section 2803 of the public health law is amended by adding a new clause  
3 (C) to read as follows:

4 (C) that includes a method to provide all residents with access, at no  
5 cost, to state long-term care ombudsman program staff and volunteers,  
6 and that provides state long-term care ombudsman program staff and  
7 volunteers with access to the facility; and

8 § 2. This act shall take effect immediately.

9 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
10 sion, section or part of this act shall be adjudged by any court of  
11 competent jurisdiction to be invalid, such judgement shall not affect,  
12 impair, or invalidate the remainder thereof, but shall be confined in  
13 its operation to the clause, sentence, paragraph, subdivision, section  
14 or part thereof directly involved in the controversy in which such  
15 judgement shall have been rendered. It is hereby declared to be the  
16 intent of the legislature that this act would have been enacted even if  
17 such invalid provisions had not been included herein.

18 § 4. This act shall take effect immediately provided, however, that  
19 the applicable effective date of Parts A through C of this act shall be  
20 as specifically set forth in the last section of such Parts.