

2548

2009-2010 Regular Sessions

I N A S S E M B L Y

January 20, 2009

Introduced by M. of A. ENGLEBRIGHT, DINOWITZ -- Multi-Sponsored by -- M.
of A. ARROYO, DESTITO, McENENY -- read once and referred to the
Committee on Aging

AN ACT to amend the elder law, the state finance law and the public
health law, in relation to long term care ombudsman access to assisted
living facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (b) of subdivision 1 of section 218 of the elder
2 law is amended to read as follows:
3 (b) "Long term care facilities" shall mean residential health care
4 facilities as defined in subdivision three of section twenty-eight
5 hundred one of the public health law [and], adult care facilities as
6 defined in subdivision twenty-one of section two of the social services
7 law, AND ASSISTED LIVING RESIDENCES, AS DEFINED IN ARTICLE FORTY-SIX-B
8 OF THE PUBLIC HEALTH LAW, OR ANY FACILITIES WHICH HOLD THEMSELVES OUT OR
9 ADVERTISE THEMSELVES AS PROVIDING ASSISTED LIVING SERVICES AND WHICH ARE
10 REQUIRED TO BE LICENSED OR CERTIFIED UNDER THE SOCIAL SERVICES LAW OR
11 THE PUBLIC HEALTH LAW. Within the amounts appropriated therefor, "long
12 term care facilities" shall also mean managed long term care plans and
13 approved managed long term care or operating demonstrations as defined
14 in section forty-four hundred three-f of the public health law and the
15 term "resident", "residents", "patient" and "patients" shall also
16 include enrollees of such plans.
17 S 2. Paragraph (b) of subdivision 1 of section 218 of the elder law,
18 as amended by section 2 of chapter 642 of the laws of 2004, is amended
19 to read as follows:
20 (b) "Long term care facilities" shall mean residential health care
21 facilities as defined in subdivision three of section twenty-eight
22 hundred one of the public health law, AND ASSISTED LIVING RESIDENCES, AS
23 DEFINED IN ARTICLE FORTY-SIX-B OF THE PUBLIC HEALTH LAW, OR ANY FACILI-

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

LBD06158-01-9

1 TIES WHICH HOLD THEMSELVES OUT OR ADVERTISE THEMSELVES AS PROVIDING
2 ASSISTED LIVING SERVICES AND WHICH ARE REQUIRED TO BE LICENSED OR CERTI-
3 FIED UNDER THE SOCIAL SERVICES LAW OR THE PUBLIC HEALTH LAW and adult
4 care facilities as defined in subdivision twenty-one of section two of
5 the social services law.

6 S 3. Subdivision 3 of section 99-1 of the state finance law, as added
7 by chapter 2 of the laws of 2004, is amended to read as follows:

8 3. Moneys of such fund shall be available to the department of health
9 for the purpose of carrying out the provisions of article forty-six-B of
10 the public health law. Additionally, UP TO five hundred thousand dollars
11 shall be [available] TRANSFERRED ANNUALLY to the state office for the
12 aging for THE PURPOSES OF CARRYING OUT THE PROVISIONS OF the long term
13 care ombudsman program [for the purpose of carrying out the provisions
14 of article forty-six-B of the public health law] PURSUANT TO SECTION TWO
15 HUNDRED EIGHTEEN OF THE ELDER LAW.

16 S 4. Paragraph 1 of subdivision 3 of section 2803-c of the public
17 health law, as amended by chapter 719 of the laws of 1989, is amended to
18 read as follows:

19 1. Pursuant to regulations promulgated by the commissioner, no facili-
20 ty or individual and no general hospital providing medical care to
21 persons having been admitted from such facilities or from adult care
22 facilities covered by the provisions of section four hundred sixty-one-b
23 of the social services law, or to applicants for readmission to such
24 facilities or to adult care facilities covered by the provisions of
25 section four hundred sixty-one-b of the social services law, shall
26 restrict or prohibit the access to the facility or general hospital nor
27 interfere with the performance of the official duties, including confi-
28 dential visits with residents, of duly designated persons participating
29 in the long term care ombudsman program as provided for in [sections
30 five hundred forty-four and five hundred forty-five of the executive
31 law] SECTION TWO HUNDRED EIGHTEEN OF THE ELDER LAW.

32 S 5. This act shall take effect immediately, provided however that the
33 amendments to paragraph (b) of subdivision 1 of section 218 of the elder
34 law made by section two of this act shall take effect on the same date
35 and same manner as section 2 of chapter 642 of the laws of 2004, as
36 amended, takes effect.