

3882

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 28, 2011

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Introduced by M. of A. ENGLEBRIGHT -- 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-  
24    TIES WHICH HOLD THEMSELVES OUT OR ADVERTISE THEMSELVES AS PROVIDING

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

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

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

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

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

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

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