

# STATE OF NEW YORK

1418

2019-2020 Regular Sessions

## IN ASSEMBLY

January 15, 2019

Introduced by M. of A. SIMON, ARROYO, BLAKE, COLTON, COOK, CYMBROWITZ, GALEF, GOTTFRIED, JOYNER, M. G. MILLER, L. ROSENTHAL, SEAWRIGHT, BARRON, BARRETT, MOSLEY, ORTIZ, CARROLL, D'URSO -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, DAVILA, JAFFEE, PERRY, SOLAGES, STIRPE -- read once and referred to the Committee on Aging

AN ACT to amend the elder law, in relation to creating a temporary state commission to study and investigate the effects of closures of long term care facilities on the residents of such facilities and their families; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The elder law is amended by adding a new article 4 to read as follows:

### ARTICLE IV

#### LONG TERM CARE FACILITIES

##### Section 270. Definitions.

##### 271. Commission on long term care facilities.

##### § 270. Definitions. As used in this article:

1. "Director" shall mean the director of the office for the aging.

2. "Long term care facilities" shall mean residential health care facilities as defined in subdivision three of section twenty-eight hundred one of the public health law, and assisted living residences, as defined in article forty-six-B of the public health law, or any facilities which hold themselves out or advertise themselves as providing assisted living services and which are required to be licensed or certified under the social services law or the public health law and adult care facilities as defined in subdivision twenty-one of section two of the social services law.

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

LBD01684-01-9

1     3. "State ombudsman" shall mean the state long term care ombudsman  
2 appointed by the director pursuant to subdivision three of section two  
3 hundred eighteen of this chapter.

4     § 271. Commission on long term care facilities. 1. A temporary state  
5 commission, to be known as the commission on long term care facilities  
6 (hereinafter the "commission"), is hereby created to study and make  
7 recommendations concerning the following:

8     (a) the effects of closures of long term care facilities on residents  
9 including, but not limited to, the disruption of any established commu-  
10 nities within the facility and the physical and mental health impli-  
11 cations related to moving a resident to a new facility;

12     (b) the effects of closures of long term care facilities on family  
13 members of residents including, but not limited to, ability to visit  
14 residents based on new distance of facility; availability of appropriate  
15 placement for a resident; and, ensuring the transfer of legal documents  
16 and special care instructions;

17     (c) the availability of long term care facility placements for New  
18 Yorkers who need skilled nursing care or who have Alzheimer's disease or  
19 other dementia;

20     (d) the feasibility of arranging comparable placements, as opposed to  
21 appropriate placements, in other facilities within the same geographical  
22 area when a long term care facility serves fifty or more residents;

23     (e) the effectiveness of current laws, rules, and regulations govern-  
24 ing the process of closing a long term care facility, including notice  
25 to residents and assistance to relocate residents; and

26     (f) such other matters as the commission deems appropriate.

27     2. The commission shall make recommendations for additional legis-  
28 lation and/or regulations to govern the closing of long term care facil-  
29 ities and facilitate the relocation of long term care facility residents  
30 in a manner that is in the best interests of the residents in the event  
31 of a closure of a long term care facility. The commission shall further  
32 study the need, if any, to devise a notification system to alert resi-  
33 dents and families not less than one year in advance of the closure or  
34 potential closure of a long term care facility.

35     3. (a) The commission shall consist of eleven members to be appointed  
36 as follows: five members shall be appointed by the governor and shall  
37 include the commissioner of health, the director of the office for the  
38 aging, the state attorney general, the state ombudsman, and one addi-  
39 tional member who shall be a resident of the state with expertise and  
40 experience in the fields of long term care and advocacy; two members  
41 shall be appointed by the temporary president of the senate; two members  
42 shall be appointed by the speaker of the assembly; one member shall be  
43 appointed by the minority leader of the senate; and one member shall be  
44 appointed by the minority leader of the assembly. All of the members  
45 appointed by the temporary president of the senate, the speaker of the  
46 assembly, the minority leader of the senate and the minority leader of  
47 the assembly shall be residents of the state with expertise and experi-  
48 ence in the fields of long term care and advocacy. No person shall be a  
49 member of such commission while such person is a member of the senate or  
50 assembly. Any vacancy on such commission shall be filled in the same  
51 manner as the original appointment was made. A chairperson and vice-  
52 chairperson of such commission shall be elected by the majority of its  
53 members, all members being present.

54     (b) Except as provided in paragraph (a) of this subdivision, no  
55 member, officer or employee of the commission shall be disqualified from  
56 holding any other public office or employment, nor shall he or she

1 forfeit any such office or employment by reason of his or her appoint-  
2 ment hereunder, notwithstanding the provisions of any general, special  
3 or local law, ordinance or city charter.

4 (c) All members of the commission shall be appointed within sixty days  
5 of the effective date of this section. The first meeting of the commis-  
6 sion shall take place within thirty days after appointment of all  
7 members of the commission.

8 4. The members of the commission shall receive no compensation for  
9 their services.

10 5. The commission may employ and at pleasure remove such personnel as  
11 it may deem necessary for the performance of its functions and fix their  
12 compensation within the amounts made available by appropriation there-  
13 for, if any, or by donation, if any. The commission may meet and hold  
14 public and/or private hearings within or without the state, and shall  
15 have all the powers of a legislative committee pursuant to the legisla-  
16 tive law.

17 6. For the accomplishment of its purposes, the commission shall be  
18 authorized and empowered to undertake any studies, inquiries, surveys or  
19 analyses it may deem relevant through its own personnel or in cooper-  
20 ation with or by agreement with any other public or private agency.

21 7. The commission may request and shall receive from any agency in the  
22 state and from any subdivision, department, board, bureau, commission,  
23 office, agency or other instrumentality of the state or of any political  
24 subdivision thereof such facilities, assistance and data as it deems  
25 necessary or desirable for the proper execution of its powers and duties  
26 and to effectuate the purposes set forth in this section.

27 8. The commission is hereby authorized and empowered to enter into any  
28 agreements and to do and perform any acts that may be necessary, desira-  
29 ble or proper to carry out the purposes and objectives of this section.

30 9. The commission may administer oaths or affirmations, subpoena  
31 witnesses, compel their attendance, examine them under oath or affirma-  
32 tion and require the production of any books, records, documents or  
33 other evidence it may deem relevant or material to an investigation.

34 10. The commission shall make a report of its findings and recommenda-  
35 tions and shall submit such report, including any recommendations for  
36 legislative action as it may deem necessary and appropriate, to the  
37 governor, the temporary president of the senate, the speaker of the  
38 assembly, the minority leader of the senate and the minority leader of  
39 the assembly one year after the first meeting of the commission.

40 § 2. This act shall take effect immediately and shall continue in full  
41 force and effect until one year after the report and recommendations of  
42 the commission on long term care facilities is delivered to the governor  
43 and the legislature when upon such date the provisions of this act shall  
44 be deemed repealed; provided that the office for the aging shall notify  
45 the legislative bill drafting commission upon the occurrence of the  
46 enactment of the legislation provided for in section one of this act in  
47 order that the commission may maintain an accurate and timely effective  
48 data base of the official text of the laws of the state of New York in  
49 furtherance of effectuating the provisions of section 44 of the legisla-  
50 tive law and section 70-b of the public officers law.