

STATE OF NEW YORK

9026

IN SENATE

October 5, 2020

Introduced by Sens. MAY, RIVERA, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the elder law, in relation to directing the office of the state long-term care ombudsman to provide opportunities for volunteers to work as resident advocates within the long-term care ombudsman program (Part A); to amend the public health law, in relation to directing the commissioner of health, in consultation with the state long-term care ombudsman, to establish policies and procedures for reporting, by staff and volunteers of the long-term care ombudsman program, issues concerning the health and safety of residents at nursing homes and residential health care facilities (Part B); 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); to amend the public health law, in relation to requiring translations of a patient's rights (Part D); and to amend the public health law, in relation to the posting of information relating to the long-term care ombudsman program (Part E)

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

PART A

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

LBD17251-03-0

1 Section 1. The elder law is amended by adding a new section 218-a to
2 read as follows:

3 § 218-a. Volunteer resident advocates. 1. The office of the state
4 long-term care ombudsman is hereby authorized and directed to provide
5 opportunities for volunteers to work as resident advocates within the
6 long-term care ombudsman program. Such office shall provide that such
7 resident advocates have the same rights and responsibilities as long-
8 term care ombudsmen as set forth in section two hundred eighteen of this
9 title.

10 2. The office of the state long-term care ombudsman shall facilitate
11 and coordinate the planning and implementation of a program to advertise
12 and promote awareness of volunteer resident advocates. Such program
13 shall utilize promotional materials, media advertising, billboards,
14 social media and the official website of the long-term care ombudsman
15 program.

16 3. The office of the state long-term care ombudsman is hereby author-
17 ized and directed to promote rules and regulations necessary for the
18 implementation of this section.

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

24 PART B

25 Section 1. Section 2803 of the public health law is amended by adding
26 a new subdivision 13 to read as follows:

27 13. (a) The commissioner, in consultation with the state long-term
28 care ombudsman, shall promulgate rules and regulations establishing
29 policies and procedures for reporting to the department, by staff and
30 volunteers of the long-term care ombudsman program, issues observed,
31 discovered or witnessed by such staff and volunteers that concern the
32 health and safety of residents at nursing homes and residential health
33 care facilities in this state. Such policies and procedures shall
34 include, but not be limited to, establishing a telephone hotline and
35 reporting form on the department's website for use by long-term care
36 ombudsman program staff and volunteers for the submission of reports.

37 (b) The commissioner, in consultation with the state long-term care
38 ombudsman, shall promulgate rules and regulations establishing standards
39 for timely and regular communications by the department to the state
40 long-term care ombudsman and long-term care ombudsman program staff and
41 volunteers regarding issues reported by such staff and volunteers pursu-
42 ant to paragraph (a) of this subdivision and the resolution of such
43 issues.

44 (c) The commissioner, in consultation with the state long-term care
45 ombudsman, shall promulgate rules and regulations providing that the
46 department shall notify ombudsman program staff and volunteers, at the
47 facility where such staff and volunteers are assigned, of the time when
48 the department will conduct inspections of such facility, including
49 surveillance of such facility, and to notify ombudsman staff and volun-
50 teers regarding any complaints received by the department concerning
51 such facility.

52 § 2. This act shall take effect on the ninetieth day after it shall
53 have become a law. Effective immediately, the addition, amendment and/or
54 repeal of any rule or regulation necessary for the implementation of

1 this act on its effective date are authorized to be made and completed
2 on or before such effective date.

3 PART C

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

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

11 § 2. This act shall take effect immediately.

12 PART D

13 Section 1. Section 2803-c of the public health law is amended by
14 adding a new subdivision 6 to read as follows:

15 6. The department shall translate and make available to all facilities
16 the statement in the six most common non-English languages spoken by
17 individuals with limited-English proficiency in New York state as based
18 on the most recent census. Each facility shall post and make available
19 copies of said statement for residents.

20 § 2. This act shall take effect immediately.

21 PART E

22 Section 1. The public health law is amended by adding a new section
23 2803-c-1 to read as follows:

24 § 2803-c-1. Rights of patients in certain medical facilities; long-
25 term care ombudsman program. The commissioner shall require that every
26 nursing home and residential health care facility providing health
27 related service, as defined in subdivisions two and three and paragraph
28 (b) of subdivision four of section twenty-eight hundred one of this
29 article, prominently post in each resident's room, contact information
30 for the state and regional offices of the long term care ombudsman
31 program as provided for in section two hundred eighteen of the elder
32 law, as well as contact information for the facility representative.
33 Such nursing homes and residential health care facilities shall also
34 provide updated contact information for the state and regional offices
35 and facility representatives to all residents and their families twice a
36 year.

37 § 2. This act shall take effect on the one hundred twentieth day after
38 it shall have become a law.

39 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
40 sion, section or part of this act shall be adjudged by any court of
41 competent jurisdiction to be invalid, such judgement shall not affect,
42 impair, or invalidate the remainder thereof, but shall be confined in
43 its operation to the clause, sentence, paragraph, subdivision, section
44 or part thereof directly involved in the controversy in which such
45 judgement shall have been rendered. It is hereby declared to be the
46 intent of the legislature that this act would have been enacted even if
47 such invalid provisions had not been included herein.

48 § 4. This act shall take effect immediately provided, however, that
49 the applicable effective date of Parts A through E of this act shall be
50 as specifically set forth in the last section of such Parts.