STATE OF NEW YORK

5436--B

R. R. 26

2021-2022 Regular Sessions

IN ASSEMBLY

February 16, 2021

Introduced by M. of A. CLARK, GOTTFRIED, WEINSTEIN, KIM, LUNSFORD, BURDICK, FAHY, WALLACE, SIMON, ZINERMAN, GRIFFIN, GONZALEZ-ROJAS, MAGNARELLI, GALEF, FORREST, THIELE, McDONALD, OTIS, MEEKS, BRONSON, ROZIC, CUSICK, STECK, COLTON, BARRETT, BARRON, CRUZ, ANDERSON, SAYEGH, STIRPE, WOERNER, STERN, GLICK, VANEL, CAHILL, L. ROSENTHAL, PICHARDO, RICHARDSON, ZEBROWSKI, WILLIAMS, BICHOTTE HERMELYN, DINOWITZ, J. D. RIVERA, ABBATE, SILLITTI, BUTTENSCHON, CARROLL, LUPARDO, McMAHON, ABINANTI, GALLAGHER, FALL, JACOBSON, NOLAN, PERRY, PEOPLES-STOKES, HUNTER, JACKSON, SANTABARBARA, KELLES, REYES, COOK -- read once and referred to the Committee on Aging -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- ordered to a third reading, passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the special order of third reading

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 public health law, in relation to requiring 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, safety and welfare of residents at residential health 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:

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

LBD04808-06-1

Section 1. Short title. This act shall be known and may be cited as the "long-term care ombudsman program reform act".

§ 2. Legislative intent. This act enacts into law legislation relating to the long-term care ombudsman program. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

PART A

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

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

§ 2. This act shall take effect immediately.

PART B

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

13. (a) The commissioner, in consultation with the state long-term care ombudsman, shall promulgate rules and regulations establishing policies and procedures for: (i) reporting to the department, by staff and volunteers of the long-term care ombudsman program, issues identified or witnessed by such staff and volunteers that relate to actions, inactions or decisions that may adversely effect the health, safety and welfare of residents at residential health care facilities licensed or certified by the department in this state. Such policies and procedures shall include, but not be limited to, establishing a telephone hotline and reporting form on the department's website for use by long-term care ombudsman program staff and volunteers for the submission of reports;

(ii) timely and regular communications by the department to the state long-term care ombudsman and long-term care ombudsman program staff and volunteers regarding such issues reported by such staff and volunteers pursuant to subparagraph (i) of this paragraph and the resolution of such issues; and

(iii) requiring the department to notify ombudsman program staff and volunteers at the facility where such staff and volunteers are assigned of the time when the department will conduct inspections of such facility, including surveillance of such facility, and of any complaints received by the department concerning such facility.

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

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

PART C

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

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

§ 2. This act shall take effect immediately.

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

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