STATE OF NEW YORK

8592

IN ASSEMBLY

January 10, 2022

Introduced by M. of A. CLARK -- read once and referred to the Committee on Aging

AN ACT to amend the public health law, in relation to the state long-term care ombudsman program; and to amend part C of a chapter of the laws of 2021 amending the public health law relating to including access to state long-term care ombudsman program staff and volunteers within the pandemic emergency plan prepared by residential health care facilities, as proposed in legislative bills numbers S. 612-B and A. 5436-B, in relation to the effectiveness thereof

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

Section 1. Subdivision 13 of section 2803 of the public health law, as added by part B of a chapter of the laws of 2021, amending the public health law relating 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, as proposed in legislative bills numbers S. 612-B and A. 5436-B, is amended to read as follows:

13. (a) The commissioner, in consultation with the state long-term care ombudsman, shall [~~promulgate rules and regulations establishing~~] **establish** 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~~] **affect** 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 **number** 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~~

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

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~~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 **the local** ombudsman [~~program staff and volunteers at the facility where such staff and volunteers are assigned of the time when~~] **entity as defined in paragraph (c) of subdivision one of section two hundred eighteen of the elder law after** the department [~~will conduct inspections of such facility, including surveillance of such facility, and of any complaints received by the department concerning such facility~~] **conducts a recertification survey of a 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. Clause (C) of subparagraph (i) of paragraph (a) of subdivision 12 of section 2803 of the public health law, as added by part C of a chapter of the laws of 2021, amending the public health law relating to including access to state long-term care ombudsman program staff and volunteers within the pandemic emergency plan prepared by residential health care facilities, as proposed in legislative bills numbers S. 612-B and A. 5436-B, is amended to read as follows:

(C) that includes a method**, consistent with any guidance and regulations issued by the commissioner,** 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

§ 3. Section 2 of part C of a chapter of the laws of 2021, amending the public health law relating to including access to state long-term care ombudsman program staff and volunteers within the pandemic emergency plan prepared by residential health care facilities, as proposed in legislative bills numbers S. 612-B and A. 5436-B, is amended to read as follows:

§ 2. This act shall take effect [~~immediately~~] **on the ninetieth day after it shall have become a law**.

§ 4. This act shall take effect immediately; provided, however, that section one of this act shall take effect on the same date and in the same manner as part B of a chapter of the laws of 2021, relating 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, as proposed in legislative bills numbers S. 612-B and A. 5436-B, takes effect; and, provided further, that section two of this act shall take effect on the same date and in the same manner as part C of a chapter of the laws of 2021, relating to including access to state long-term care ombudsman program staff and volunteers within the pandemic emergency plan prepared by residential health care facilities, as proposed in legislative bills numbers S. 612-B and A. 5436-B, takes effect.