

# 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:

- 1 Section 1. Subdivision 13 of section 2803 of the public health law, as  
2 added by part B of a chapter of the laws of 2021, amending the public  
3 health law relating to requiring the commissioner of health, in consul-  
4 tation with the state long-term care ombudsman, to establish policies  
5 and procedures for reporting, by staff and volunteers of the long-term  
6 care ombudsman program, issues concerning the health, safety and welfare  
7 of residents at residential health care facilities, as proposed in  
8 legislative bills numbers S. 612-B and A. 5436-B, is amended to read as  
9 follows:
- 10 13. (a) The commissioner, in consultation with the state long-term  
11 care ombudsman, shall [~~promulgate rules and regulations establishing~~]  
12 establish policies and procedures for: (i) reporting to the department,  
13 by staff and volunteers of the long-term care ombudsman program, issues  
14 identified or witnessed by such staff and volunteers that relate to  
15 actions, inactions or decisions that may adversely [~~effect~~] affect the  
16 health, safety and welfare of residents at residential health care  
17 facilities licensed or certified by the department in this state. Such  
18 policies and procedures shall include, but not be limited to, establish-  
19 ing a telephone hotline number and reporting form on the department's  
20 website for use by long-term care ombudsman program staff and volunteers  
21 for the submission of reports;
- 22 (ii) timely and regular communications by the department to the state  
23 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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1 ~~volunteers~~] regarding such issues reported by [~~such~~] staff and volun-  
2 teers pursuant to subparagraph (i) of this paragraph and the resolution  
3 of such issues; and

4 (iii) requiring the department to notify the local ombudsman [~~program~~  
5 ~~staff and volunteers at the facility where such staff and volunteers are~~  
6 ~~assigned of the time when~~] entity as defined in paragraph (c) of subdi-  
7 vision one of section two hundred eighteen of the elder law after the  
8 department [~~will conduct inspections of such facility, including~~  
9 ~~surveillance of such facility, and of any complaints received by the~~  
10 ~~department concerning such facility~~] conducts a recertification survey  
11 of a facility.

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

16 § 2. Clause (C) of subparagraph (i) of paragraph (a) of subdivision 12  
17 of section 2803 of the public health law, as added by part C of a chap-  
18 ter of the laws of 2021, amending the public health law relating to  
19 including access to state long-term care ombudsman program staff and  
20 volunteers within the pandemic emergency plan prepared by residential  
21 health care facilities, as proposed in legislative bills numbers S.  
22 612-B and A. 5436-B, is amended to read as follows:

23 (C) that includes a method, consistent with any guidance and regu-  
24 lations issued by the commissioner, to provide all residents with  
25 access, at no cost, to state long-term care ombudsman program staff and  
26 volunteers, and that provides state long-term care ombudsman program  
27 staff and volunteers with access to the facility; and

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

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

36 § 4. This act shall take effect immediately; provided, however, that  
37 section one of this act shall take effect on the same date and in the  
38 same manner as part B of a chapter of the laws of 2021, relating to  
39 requiring the commissioner of health, in consultation with the state  
40 long-term care ombudsman, to establish policies and procedures for  
41 reporting, by staff and volunteers of the long-term care ombudsman  
42 program, issues concerning the health, safety and welfare of residents  
43 at residential health care facilities, as proposed in legislative bills  
44 numbers S. 612-B and A. 5436-B, takes effect; and, provided further,  
45 that section two of this act shall take effect on the same date and in  
46 the same manner as part C of a chapter of the laws of 2021, relating to  
47 including access to state long-term care ombudsman program staff and  
48 volunteers within the pandemic emergency plan prepared by residential  
49 health care facilities, as proposed in legislative bills numbers S.  
50 612-B and A. 5436-B, takes effect.