

# STATE OF NEW YORK

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612

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

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

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

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1 corresponding section of the Part in which it is found. Section four of  
2 this act sets forth the general effective date of this act.

3 PART A

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

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

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

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

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

27 PART B

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

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

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

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

1 teers regarding any complaints received by the department concerning  
2 such facility.

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

8 PART C

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

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

16 § 2. This act shall take effect immediately.

17 PART D

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

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

25 § 2. This act shall take effect immediately.

26 PART E

27 Section 1. The public health law is amended by adding a new section  
28 2803-c-1 to read as follows:

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

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

44 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
45 sion, section or part of this act shall be adjudged by any court of  
46 competent jurisdiction to be invalid, such judgement shall not affect,  
47 impair, or invalidate the remainder thereof, but shall be confined in  
48 its operation to the clause, sentence, paragraph, subdivision, section  
49 or part thereof directly involved in the controversy in which such  
50 judgement shall have been rendered. It is hereby declared to be the

1 intent of the legislature that this act would have been enacted even if  
2 such invalid provisions had not been included herein.

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