

# STATE OF NEW YORK

---

612--B

Cal. No. 330

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

---

Introduced by Sens. MAY, RIVERA, SKOUFIS, BIAGGI, COONEY, GAUGHRAN, HARCKHAM, HINCHEY, JACKSON, KRUEGER, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report -- committed to the Committee on Rules -- ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the 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:

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 C. The effective  
6 date for each particular provision contained within such Part is set

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

LBD04808-07-1

1 forth in the last section of such Part. Any provision in any section  
2 contained within a Part, including the effective date of the Part, which  
3 makes a reference to a section "of this act", when used in connection  
4 with that particular component, shall be deemed to mean and refer to the  
5 corresponding section of the Part in which it is found. Section four of  
6 this act sets forth the general effective date of this act.

7 PART A

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

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

17 § 2. This act shall take effect immediately.

18 PART B

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

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

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

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

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

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

51 PART C

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

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

8 § 2. This act shall take effect immediately.

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

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