

STATE OF NEW YORK

10343

IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Clark) --
read once and referred to the Committee on Health

AN ACT to amend the public health law and the elder law, in relation to
coordination between the department of health and the state long-term
care ombudsman regarding residential health care facilities

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

1 Section 1. Subdivision 13 of section 2803 of the public health law, as
2 added by section 1 of part B of chapter 759 of the laws of 2021, is
3 amended to read as follows:

4 [~~13-~~] 14. (a) The commissioner, in consultation with the state long-
5 term care ombudsman, shall promulgate rules and regulations establishing
6 policies and procedures [~~for~~]: (i) for reporting to the department, by
7 staff and volunteers of the long-term care ombudsman program, issues
8 identified or witnessed by such staff and volunteers that relate to
9 actions, inactions or decisions that may adversely effect the health,
10 safety and welfare of residents at residential health care facilities
11 licensed or certified by the department in this state. Such policies and
12 procedures shall include, but not be limited to, establishing a tele-
13 phone hotline and reporting form on the department's website for use by
14 long-term care ombudsman program staff and volunteers for the submission
15 of reports;

16 (ii) for timely and regular communications by the department to the
17 state long-term care ombudsman and long-term care ombudsman program
18 staff and volunteers regarding such issues reported by such staff and
19 volunteers pursuant to subparagraph (i) of this paragraph and the resol-
20 ution of such issues; [~~and~~]

21 (iii) requiring the department to notify ombudsman program staff and
22 volunteers at the facility where such staff and volunteers are assigned
23 of the time when the department will conduct inspections of such facili-
24 ty, including surveillance of such facility, and of any complaints
25 received by the department concerning such facility[~~-~~]; and

26 (iv) requiring the department, prior to licensing, certifying, or
27 recertifying, or prior to granting a certificate of need to, a residen-

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

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1 tial health care facility, to consult with the state long-term care
2 ombudsman to inquire about compliance with relevant federal and state
3 law by such facility or such facility's operators, and about the history
4 and nature of any complaints regarding such facility or such facility's
5 operators.

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

10 § 2. Subparagraphs 15 and 16 of paragraph (d) of subdivision 3 of
11 section 218 of the elder law, as amended by chapter 259 of the laws of
12 2018, are amended and a new subparagraph 17 is added to read as follows:

13 (15) carry out such other activities as the director of the state
14 office for the aging determines to be appropriate pursuant to the feder-
15 al older Americans act of 1965 and other applicable federal and state
16 laws and related regulations as may, from time to time, be amended;
17 [~~and~~]

18 (16) in accordance with the regulations promulgated under this section
19 provide the director of the state office for the aging with notice prior
20 to performing the activities identified in [~~paragraphs~~] subparagraphs
21 four, six and nine of this [~~subdivision~~] paragraph. Such notice shall
22 not give the director of the state office for the aging or any other
23 state official the right to pre-approve the position or communications
24 of the state ombudsman[~~-~~]; and

25 (17) upon request from the department of health, prepare and deliver a
26 report to the department of health documenting the history of complaints
27 tracked by the state ombudsman regarding a residential health care
28 facility or such facility's operator, along with any relevant statements
29 from any ombudsman describing the state of such facility.

30 § 3. This act shall take effect immediately; provided however that
31 section one of this act shall take effect on the same date and in the
32 same manner as section 1 of part B of chapter 759 of the laws of 2021,
33 takes effect.