STATE OF NEW YORK

3003

2023-2024 Regular Sessions

IN SENATE

January 26, 2023

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed 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 Assembly, do enact as follows:

Section 1. Subdivision 13 of section 2803 of the public health law, as amended by chapter 19 of the laws of 2022, is amended to read as follows:

[~~13.~~] **14.** (a) The commissioner, in consultation with the state long-term care ombudsman, shall establish policies and procedures [~~for~~]: (i) **for** 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 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) **for** timely and regular communications by the department to the state long-term care ombudsman regarding such issues reported by 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 entity as defined in paragraph (c) of subdivision one of section two hundred eighteen of the elder law after the department conducts a recertification survey of a facility[~~.~~]**; and**

(iv) requiring the department, prior to licensing, certifying, or 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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tial health care facility, to consult with the state long-term care ombudsman to inquire about compliance with relevant federal and state law by such facility or such facility's operators, and about the history and nature of any complaints regarding such facility or such facility's operators.

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

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

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

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

§ 3. This act shall take effect immediately.