STATE OF NEW YORK

5746--A

2025-2026 Regular Sessions

IN SENATE

February 28, 2025

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, in relation to creating the district long-term care ombudsperson council program

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

Section 1. Subparagraph 1 of paragraph (e) of subdivision 1 of section 218 of the elder law, as added by chapter 259 of the laws of 2018, is amended, and a new paragraph (i) is added to read as follows:

(1) is an employee or volunteer of the state office for the aging or of a designated local [~~ombudsman~~] **ombudsperson** entity**, or a member of a district long-term care ombudsperson council program** and represents the state long-term care [~~ombudsman~~] **ombudsperson** program;

(i) "District council" or "district council program" shall mean the district long-term care ombudsperson council program established in subdivision four of this section.

§ 2. The opening paragraph and subparagraph 7 of paragraph (d) of subdivision 3 of section 218 of the elder law, the opening paragraph as amended by chapter 259 of the laws of 2018 and subparagraph 7 as amended by chapter 770 of the laws of 2023, are amended to read as follows:

The state [~~ombudsman~~] **ombudsperson**, personally or through [~~authorized representatives~~] **the district long-term care ombudsperson council program established in subdivision four of this section,** shall:

(7) develop a certification training program and continuing education for [~~ombudsmen~~] **ombudsperson** which at a minimum shall specify the minimum hours of training, the annual number of hours of in-service training, and the content of the training, including, but not limited to, training relating to cultural competency and diversity, federal, state,

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

LBD08874-03-6

and local laws, regulations, and policies with respect to long-term care facilities in the state, investigative and resolution techniques, and such other training-related matters as the state [~~ombudsman~~] ombudsperson determines to be appropriate, for the purposes of training members of the district long-term care ombudsperson council program described in subdivision four of this section, such training shall also include an overview of such program;

§ 3. Subdivision 4 of section 218 of the elder law, as amended by chapter 259 of the laws of 2018, is amended to read as follows:

4. Local long-term care [~~ombudsman~~] ombudsperson program and district long-term ombudsperson council program. (a) The state [~~ombudsman~~] ombudsperson, in accordance with applicable state contracting procedures, [~~may~~] shall designate an entity to operate a local long-term care [~~ombudsman~~] ombudsperson program for [~~one or more counties~~] each assembly district, and shall monitor the performance of each such entity. If the state office for the aging is aware or becomes aware of any evidence that the designation of an entity to operate a long-term care [~~ombudsman~~] ombudsperson program by the state long-term care [~~ombudsman~~] ombudsperson would result in legal concerns or liability for the state office for the aging or office of the state long-term care [~~ombudsman~~] ombudsperson, the state [~~ombudsman~~] ombudsperson will comply with the state office for the aging's determination that such designation should not be made.

(b) The designated entity shall be an area agency on aging, a public agency or a private not-for-profit corporation which is free from any conflict of interest that cannot be remedied. Any actual and potential conflicts of interest shall be identified and addressed in accordance with subdivision ten of this section.

(b-1) The state ombudsperson shall create, in each assembly district, a district long-term care ombudsperson council program to coordinate the volunteers of each local long-term care ombudsperson program within their district. Each district council shall consist of the following members:

(i) a trained district coordinator, appointed by the state ombudsperson, to serve as chair, who shall be paid an annual salary of forty-five thousand dollars;

(ii) a trained district coordinator to serve as co-chair, appointed by the state ombudsperson, who shall be paid an annual salary of twenty thousand dollars;

(iii) a trained district coordinator, appointed by the state ombudsperson, to serve as secretary, who shall be paid an annual salary of twenty thousand dollars; and

(iv) eight or more residents of such district, approved by the chair, co-chair, and secretary of the district council, to serve as trained district advocates, each of whom shall be paid an annual stipend of one hundred fifty dollars.

(b-2) The positions of long-term care ombudsperson program volunteer and district long-term care ombudsperson council program advocate shall be listed with the human resources departments of the department of health, state office for the aging, and any other relevant agency. Such listing shall be included on each such agency's website and marketing materials, and such listing shall be displayed on the department of labor website and in state run care facilities.

(b-3) Information about the role and responsibility of the district council program and the contact information of the members of such district council program providing services to a long-term care facility

shall be included in the welcome packet of all new residents to such facility alongside the patient bill of rights.

(c)(1) Each local long-term care [~~ombudsman~~] **ombudsperson** program shall be directed by a qualified individual who is employed and paid by the local entity and who shall have the duties and responsibilities as provided in regulations, consistent with the provisions of this section and of Title VII of the federal older Americans act of 1965, as amended. **Such director shall work with the district council to carry out the requirements of this section.** In addition, upon designation, the entity is responsible for providing for adequate and qualified staff, which may include trained volunteers to perform the functions of the local long-term care [~~ombudsman~~] **ombudsperson** program.

(2) No local program staff **or district council staff**, including the supervisor and any volunteers, shall perform or carry out the activities on behalf of the state long-term care [~~ombudsman~~] **ombudsperson** program **or the district ombudsperson long-term council program** unless such staff has been verified as completing the training program developed by the state [~~ombudsman~~] **ombudsperson** and has been approved by the state [~~ombudsman~~] **ombudsperson** as qualified to carry out the activities on behalf of the local program **or district council program**.

(3) For purposes of the district council such trainings shall be given annually for all new recruits to such program and shall be available in both in-person and online formats. Each council member shall also be required to complete two or more professional development trainings annually. Such professional development trainings shall be developed by the state ombudsperson.

(d) When the state [~~ombudsman~~] **ombudsperson** determines that a local long-term care [~~ombudsman~~] **ombudsperson** program does not meet the standards set forth in this section and in any related regulations, the state [~~ombudsman~~] **ombudsperson**, in coordination with the state office for the aging, may refuse, suspend, or remove the designation of the local [~~ombudsmen~~] **ombudsperson** entity. Prior to taking such action, the state [~~ombudsman~~] **ombudsperson** shall send to the affected local program a notice of the state [~~ombudsman's~~] **ombudsperson's** intentions to refuse, suspend, or remove the designation; provided, however, if the state office for the aging is aware or becomes aware of evidence that the designation or continued designation of an entity to operate a long-term care [~~ombudsman~~] **ombudsperson** program would result in legal concerns or liability for the state office for the aging or the office of the state long-term care [~~ombudsman~~] **ombudsperson**, the state [~~ombudsman~~] **ombudsperson** will comply with the state office for the aging's determination that such designation should not be made or that such designation be refused, suspended, or removed.

(e) The state [~~ombudsman~~] **ombudsperson** shall develop a grievance process to offer an opportunity for reconsideration of any decision to refuse, suspend, or remove the designation of a local [~~ombudsman~~] **ombudsperson** entity. Notwithstanding the grievance process, the state [~~ombudsman~~] **ombudsperson** shall make the final determination to designate or to refuse, suspend, or remove the designation of a local [~~ombudsman~~] **ombudsperson** entity; provided, however, if the state office for the aging is aware or becomes aware of any evidence that the designation of an entity to operate a long-term care [~~ombudsman~~] **ombudsperson** program by the state long-term care [~~ombudsman~~] **ombudsperson** or that the failure of the state [~~ombudsman~~] **ombudsperson** to refuse, suspend, or remove the designation of a local [~~ombudsman~~] **ombudsperson** entity would result in legal concerns or liability for the state office for the aging or the

office of the state long-term care [~~ombudsman~~] ombudsperson, the state [~~ombudsman~~] ombudsperson will comply with the state office for the aging's determination that such designation should not be made or that such designation be refused, suspended, or removed.

(f) Each district shall receive the sum of eighty-six thousand two hundred dollars annually for the purposes of administrating the district long-term care ombudsperson council program.

§ 4. Subdivision 14 of section 218 of the elder law, as amended by chapter 776 of the laws of 2022, is amended to read as follows:

14. Annual report. (a) On or before March thirty-first, two thousand five, and annually thereafter, the state [~~ombudsman~~] ombudsperson shall submit to the governor, commissioner of the federal administration on aging, speaker of the assembly, temporary president of the senate, director of the state office for the aging, commissioner of the department of health, and the commissioner of children and family services a report and make such report available to the public:

[~~(a)~~] (i) describing the activities carried out by the office of the state long-term care [~~ombudsman~~] ombudsperson during the prior calendar year;

[~~(b)~~] (ii) containing and analyzing data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems, including an examination of any recurring complaints to determine if there are systemic issues in such facilities;

[~~(c)~~] (iii) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

[~~(d)~~] (iv) containing recommendations for appropriate state legislation, rules and regulations and other action based on data collected pursuant to this section, concerns raised by residents and families of residents, and observations made when visiting long-term care facilities, to improve the quality of the care and life of the residents, protecting the health, safety and welfare and rights of the residents and resolving resident complaints and identified problems or barriers;

[~~(e)~~] (v) containing an analysis of the success of the long-term care [~~ombudsman~~] ombudsperson program, including success in providing services to residents;

[~~(f)~~] (vi) describing barriers that prevent the optimal operation of the [~~ombudsman~~] ombudsperson program;

[~~(g)~~] (vii) describing any organizational conflicts of interest in the ombudsman program that have been identified and the steps taken to remove or remedy such conflicts;

[~~(h)~~] (viii) containing all complaints received by the state [~~ombudsman~~] ombudsperson relating to long-term care facilities including but not limited to complaints that suggest the possible occurrence of physical abuse, mistreatment, neglect or Medicaid fraud, listed by type of complaint, facility name and by region;

[~~(i)~~] (ix) containing the number of visits to each long-term care facility, listed by facility name and by region, and names of long-term care facilities that did not receive any visits in the prior year; and

[~~(j)~~] (x) any other matters as the state [~~ombudsman~~] ombudsperson, in consultation with the director of the state office for the aging, determines to be appropriate.

(b) On or before March thirty-first, two thousand twenty-seven, and annually thereafter, each district long-term care ombudsperson council program shall submit to the attorney general a report and make such report available to the public:

(i) describing the activities carried out by the district council program during the prior calendar year;

(ii) containing and analyzing data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems;

(iii) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

(iv) containing recommendations for appropriate state legislation, rules and regulations and other action to improve the quality of the care and life of the residents, protecting the health, safety and welfare and rights of the residents and resolving resident complaints and identified problems or barriers;

(v) containing an analysis of the success of the district council program, including success in providing services to residents;

(vi) describing barriers that prevent the optimal operation of the district council program;

(vii) describing any organizational conflicts of interest in the district council program that have been identified and the steps taken to remove or remedy such conflicts;

(viii) any other matters as the district council determines to be appropriate; and

(ix) in the cases of new nursing homes that are opening in a particular district under a different name or with ownership from a previous facility that was closed or cited for issues by the department of health, provide recommendations for the nursing home to be approved for opening.

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