STATE OF NEW YORK

749

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by 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 ombudsperson 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 14 of section 2803 of the public health law, as amended by chapter 770 of the laws of 2023, subparagraph (ii) of paragraph (a) as amended and paragraph (c) as added by chapter 49 of the laws of 2024, is amended to read as follows:

14. (a) The commissioner, in consultation with the state long-term care [~~ombudsman~~] ombudsperson, shall establish policies and procedures [~~for~~]: (i) for reporting to the department, by staff and volunteers of the long-term care [~~ombudsman~~] ombudsperson program, on 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~~] ombudsperson program staff and volunteers for the submission of reports;

(ii) for timely and regular resolution to any such issues reported to the department pursuant to subparagraph (i) of this paragraph. No later than sixty days after the receipt of any such issue, the department shall provide the state long-term care [~~ombudsman~~] ombudsperson a report on the status of such issue. Following the initial report, the department shall provide additional reports to the state long-term care [~~ombudsman~~] ombudsperson no less than every ninety days thereafter until

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

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such issue is resolved. Upon resolution of such issue, the department shall provide a timely report to the state long-term care [~~ombudsman~~] **ombudsperson** indicating the manner in which the issue was resolved; [~~and~~]

(iii) requiring the department to notify the local [~~ombudsman~~] **ombudsperson** 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 residential health care facility, to consult with the state long-term care ombudsperson 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~~] **ombudsperson** program or the right to refuse to consent to the involvement of the long-term care [~~ombudsman~~] **ombudsperson**.

(c) As used in this subdivision: (i) "resolution" shall mean closure of a complaint by the department, whether closed as substantiated or unsubstantiated; and (ii) "status" shall mean whether the complaint has been assigned to department staff for investigation, whether the complaint remains open under active investigation, or whether the complaint has reached resolution.

§ 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 .~~] **ombudsperson; 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 ombudsperson regarding a residential health care facility or such facility's operator, along with any relevant statements from any ombudsperson describing the state of such facility.

§ 3. This act shall take effect immediately.