**Section 270.142 Access to Resident and Participant Information and Records**

a) Ombudsmen and representatives of the Office shall have access to:

1) The name and contact information of the resident's or participant's representative.

2) Administrative records, policies and documents of long-term care facilities, medical assistance waiver services, and managed care organizations to which residents, participants or the general public has access.

3) Copies of all licensing and certification records maintained by the State or long-term care facility with respect to long-term care facilities.

4) A resident's or participant's medical, social or other records relating to the resident or participant if:

A) The resident, participant or representative communicates informed consent to the access and the consent is given in writing or through the use of auxiliary aids and services;

B) The resident, participant or representative communicates informed consent orally, visually or through the use of auxiliary aids and services, and that consent is documented contemporaneously by a representative of the Office in accordance with its policies and procedures.

5) The Health Insurance Portability and Accountability Act of 1996 (HIPPA) Privacy Rule (45 CFR 160 and 164), does not preclude release by covered entities of resident or participant private health information or other resident or participant identifying information to the Ombudsman Program, including but not limited to residents' or participants' medical, social or other records, a list of resident names and room numbers, or information collected in the course of a State or federal survey or inspection process. (See 45 CFR 1324.11(e)(2)(vii).)

b) In limited circumstances, the State Ombudsman or his/her designee may grant access to resident or participant records to investigate a complaint when:

1) the resident or participant representative refuses to consent; and

2) a representative of the Office has reasonable cause to believe that the resident's or participant's representative is not acting in the best interests of the resident or participant.

c) Failure to provide access to records or information, in accordance with this Subpart, may result in a finding of willful interference.

(Source: Added at 43 Ill. Reg. 980, effective January 1, 2019)