



Rep. Charles Meier

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10200HB4763ham002

LRB102 24738 CPF 37075 a

1 AMENDMENT TO HOUSE BILL 4763

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4763 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Act on the Aging is amended by  
5 changing Section 4.04 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program. The purpose  
8 of the Long Term Care Ombudsman Program is to ensure that older  
9 persons and persons with disabilities receive quality  
10 services. This is accomplished by providing advocacy services  
11 for residents of long term care facilities and participants  
12 receiving home care and community-based care. Managed care is  
13 increasingly becoming the vehicle for delivering health and  
14 long-term services and supports to seniors and persons with  
15 disabilities, including dual eligible participants. The  
16 additional ombudsman authority will allow advocacy services to

1 be provided to Illinois participants for the first time and  
2 will produce a cost savings for the State of Illinois by  
3 supporting the rebalancing efforts of the Patient Protection  
4 and Affordable Care Act.

5 (a) Long Term Care Ombudsman Program. The Department shall  
6 establish a Long Term Care Ombudsman Program, through the  
7 Office of State Long Term Care Ombudsman ("the Office"), in  
8 accordance with the provisions of the Older Americans Act of  
9 1965, as now or hereafter amended. The Long Term Care  
10 Ombudsman Program is authorized, subject to sufficient  
11 appropriations, to advocate on behalf of older persons and  
12 persons with disabilities residing in their own homes or  
13 community-based settings, relating to matters which may  
14 adversely affect the health, safety, welfare, or rights of  
15 such individuals.

16 (b) Definitions. As used in this Section, unless the  
17 context requires otherwise:

18 (1) "Access" means the right to:

19 (i) Enter any long term care facility or assisted  
20 living or shared housing establishment or supportive  
21 living facility;

22 (ii) Communicate privately and without restriction  
23 with any resident, regardless of age, who consents to  
24 the communication;

25 (iii) Seek consent to communicate privately and  
26 without restriction with any participant or resident,

1           regardless of age;

2           (iv) Inspect the clinical and other records of a  
3           participant or resident, regardless of age, with the  
4           express written consent of the participant or  
5           resident;

6           (v) Observe all areas of the long term care  
7           facility or supportive living facilities, assisted  
8           living or shared housing establishment except the  
9           living area of any resident who protests the  
10          observation; and

11          (vi) Subject to permission of the participant or  
12          resident requesting services or his or her  
13          representative, enter a home or community-based  
14          setting.

15          (2) "Long Term Care Facility" means (i) any facility  
16          as defined by Section 1-113 of the Nursing Home Care Act,  
17          as now or hereafter amended; (ii) any skilled nursing  
18          facility or a nursing facility which meets the  
19          requirements of Section 1819(a), (b), (c), and (d) or  
20          Section 1919(a), (b), (c), and (d) of the Social Security  
21          Act, as now or hereafter amended (42 U.S.C. 1395i-3(a),  
22          (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and  
23          (d)); (iii) any facility as defined by Section 1-113 of  
24          the ID/DD Community Care Act, as now or hereafter amended;  
25          (iv) any facility as defined by Section 1-113 of MC/DD  
26          Act, as now or hereafter amended; and (v) any facility

1 licensed under Section 4-105 or 4-201 of the Specialized  
2 Mental Health Rehabilitation Act of 2013, as now or  
3 hereafter amended.

4 (2.5) "Assisted living establishment" and "shared  
5 housing establishment" have the meanings given those terms  
6 in Section 10 of the Assisted Living and Shared Housing  
7 Act.

8 (2.7) "Supportive living facility" means a facility  
9 established under Section 5-5.01a of the Illinois Public  
10 Aid Code.

11 (2.8) "Community-based setting" means any place of  
12 abode other than an individual's private home.

13 (3) "State Long Term Care Ombudsman" means any person  
14 employed by the Department to fulfill the requirements of  
15 the Office of State Long Term Care Ombudsman as required  
16 under the Older Americans Act of 1965, as now or hereafter  
17 amended, and Departmental policy.

18 (3.1) "Ombudsman" means any designated representative  
19 of the State Long Term Care Ombudsman Program; provided  
20 that the representative, whether he is paid for or  
21 volunteers his ombudsman services, shall be qualified and  
22 designated by the Office to perform the duties of an  
23 ombudsman as specified by the Department in rules and in  
24 accordance with the provisions of the Older Americans Act  
25 of 1965, as now or hereafter amended.

26 (4) "Participant" means an older person aged 60 or

1 over or an adult with a disability aged 18 through 59 who  
2 is eligible for services under any of the following:

3 (i) A medical assistance waiver administered by  
4 the State.

5 (ii) A managed care organization providing care  
6 coordination and other services to seniors and persons  
7 with disabilities.

8 (5) "Resident" means an older person aged 60 or over  
9 or an adult with a disability aged 18 through 59 who  
10 resides in a long-term care facility.

11 (c) Ombudsman; rules. The Office of State Long Term Care  
12 Ombudsman shall be composed of at least one full-time  
13 ombudsman and shall include a system of designated regional  
14 long term care ombudsman programs. Each regional program shall  
15 be designated by the State Long Term Care Ombudsman as a  
16 subdivision of the Office and any representative of a regional  
17 program shall be treated as a representative of the Office.

18 The Department, in consultation with the Office, shall  
19 promulgate administrative rules in accordance with the  
20 provisions of the Older Americans Act of 1965, as now or  
21 hereafter amended, to establish the responsibilities of the  
22 Department and the Office of State Long Term Care Ombudsman  
23 and the designated regional Ombudsman programs. The  
24 administrative rules shall include the responsibility of the  
25 Office and designated regional programs to investigate and  
26 resolve complaints made by or on behalf of residents of long

1 term care facilities, supportive living facilities, and  
2 assisted living and shared housing establishments, and  
3 participants residing in their own homes or community-based  
4 settings, including the option to serve residents and  
5 participants under the age of 60, relating to actions,  
6 inaction, or decisions of providers, or their representatives,  
7 of such facilities and establishments, of public agencies, or  
8 of social services agencies, which may adversely affect the  
9 health, safety, welfare, or rights of such residents and  
10 participants. The Office and designated regional programs may  
11 represent all residents and participants, but are not required  
12 by this Act to represent persons under 60 years of age, except  
13 to the extent required by federal law. When necessary and  
14 appropriate, representatives of the Office shall refer  
15 complaints to the appropriate regulatory State agency. The  
16 Department, in consultation with the Office, shall cooperate  
17 with the Department of Human Services and other State agencies  
18 in providing information and training to designated regional  
19 long term care ombudsman programs about the appropriate  
20 assessment and treatment (including information about  
21 appropriate supportive services, treatment options, and  
22 assessment of rehabilitation potential) of the participants  
23 they serve.

24 The State Long Term Care Ombudsman and all other  
25 ombudsmen, as defined in paragraph (3.1) of subsection (b)  
26 must submit to background checks under the Health Care Worker

1 Background Check Act and receive training, as prescribed by  
2 the Illinois Department on Aging, before visiting facilities,  
3 private homes, or community-based settings. The training must  
4 include information specific to assisted living  
5 establishments, supportive living facilities, shared housing  
6 establishments, private homes, and community-based settings  
7 and to the rights of residents and participants guaranteed  
8 under the corresponding Acts and administrative rules.

9 (c-5) Consumer Choice Information Reports. The Office  
10 shall:

11 (1) In collaboration with the Attorney General, create  
12 a Consumer Choice Information Report form to be completed  
13 by all licensed long term care facilities to aid  
14 Illinoisans and their families in making informed choices  
15 about long term care. The Office shall create a Consumer  
16 Choice Information Report for each type of licensed long  
17 term care facility. The Office shall collaborate with the  
18 Attorney General and the Department of Human Services to  
19 create a Consumer Choice Information Report form for  
20 facilities licensed under the ID/DD Community Care Act or  
21 the MC/DD Act.

22 (2) Develop a database of Consumer Choice Information  
23 Reports completed by licensed long term care facilities  
24 that includes information in the following consumer  
25 categories:

26 (A) Medical Care, Services, and Treatment.

- 1 (B) Special Services and Amenities.
- 2 (C) Staffing.
- 3 (D) Facility Statistics and Resident Demographics.
- 4 (E) Ownership and Administration.
- 5 (F) Safety and Security.
- 6 (G) Meals and Nutrition.
- 7 (H) Rooms, Furnishings, and Equipment.
- 8 (I) Family, Volunteer, and Visitation Provisions.

9 (3) Make this information accessible to the public,  
10 including on the Internet by means of a hyperlink labeled  
11 "Resident's Right to Know" on the Office's World Wide Web  
12 home page. Information about facilities licensed under the  
13 ID/DD Community Care Act or the MC/DD Act shall be made  
14 accessible to the public by the Department of Human  
15 Services, including on the Internet by means of a  
16 hyperlink labeled "Resident's and Families' Right to Know"  
17 on the Department of Human Services' "For Customers"  
18 website.

19 (4) Have the authority, with the Attorney General, to  
20 verify that information provided by a facility is  
21 accurate.

22 (5) Request a new report from any licensed facility  
23 whenever it deems necessary.

24 (6) Include in the Office's Consumer Choice  
25 Information Report for each type of licensed long term  
26 care facility additional information on each licensed long



1 term care facility in the State of Illinois, including  
2 information regarding each facility's compliance with the  
3 relevant State and federal statutes, rules, and standards;  
4 customer satisfaction surveys; and information generated  
5 from quality measures developed by the Centers for  
6 Medicare and Medicaid Services.

7 (d) Access and visitation rights.

8 (1) In accordance with subparagraphs (A) and (E) of  
9 paragraph (3) of subsection (c) of Section 1819 and  
10 subparagraphs (A) and (E) of paragraph (3) of subsection  
11 (c) of Section 1919 of the Social Security Act, as now or  
12 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and  
13 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the  
14 Older Americans Act of 1965, as now or hereafter amended  
15 (42 U.S.C. 3058f), a long term care facility, supportive  
16 living facility, assisted living establishment, and shared  
17 housing establishment must:

18 (i) permit immediate access to any resident,  
19 regardless of age, by a designated ombudsman;

20 (ii) permit representatives of the Office, with  
21 the permission of the resident's legal representative  
22 or legal guardian, to examine a resident's clinical  
23 and other records, regardless of the age of the  
24 resident, and if a resident is unable to consent to  
25 such review, and has no legal guardian, permit  
26 representatives of the Office appropriate access, as

1 defined by the Department, in consultation with the  
2 Office, in administrative rules, to the resident's  
3 records; and

4 (iii) permit a representative of the Program to  
5 communicate privately and without restriction with any  
6 participant who consents to the communication  
7 regardless of the consent of, or withholding of  
8 consent by, a legal guardian or an agent named in a  
9 power of attorney executed by the participant.

10 (2) Each long term care facility, supportive living  
11 facility, assisted living establishment, and shared  
12 housing establishment shall display, in an easily readable  
13 format and in a manner prescribed by the Office, the  
14 address and phone number of the Office of the Long Term  
15 Care Ombudsman in a conspicuous place next to the  
16 facility's main entrances for exterior viewing and in  
17 multiple, conspicuous public places within the facility  
18 accessible to both visitors and residents. ~~Each long term~~  
19 ~~care facility, supportive living facility, assisted living~~  
20 ~~establishment, and shared housing establishment shall~~  
21 ~~display, in multiple, conspicuous public places within the~~  
22 ~~facility accessible to both visitors and residents and in~~  
23 ~~an easily readable format, the address and phone number of~~  
24 ~~the Office of the Long Term Care Ombudsman, in a manner~~  
25 ~~prescribed by the Office.~~

26 (e) Immunity. An ombudsman or any representative of the

1 Office participating in the good faith performance of his or  
2 her official duties shall have immunity from any liability  
3 (civil, criminal or otherwise) in any proceedings (civil,  
4 criminal or otherwise) brought as a consequence of the  
5 performance of his official duties.

6 (f) Business offenses.

7 (1) No person shall:

8 (i) Intentionally prevent, interfere with, or  
9 attempt to impede in any way any representative of the  
10 Office in the performance of his official duties under  
11 this Act and the Older Americans Act of 1965; or

12 (ii) Intentionally retaliate, discriminate  
13 against, or effect reprisals against any long term  
14 care facility resident or employee for contacting or  
15 providing information to any representative of the  
16 Office.

17 (2) A violation of this Section is a business offense,  
18 punishable by a fine not to exceed \$501.

19 (3) The State Long Term Care Ombudsman shall notify  
20 the State's Attorney of the county in which the long term  
21 care facility, supportive living facility, or assisted  
22 living or shared housing establishment is located, or the  
23 Attorney General, of any violations of this Section.

24 (g) Confidentiality of records and identities. The  
25 Department shall establish procedures for the disclosure by  
26 the State Ombudsman or the regional ombudsmen entities of

1 files maintained by the program. The procedures shall provide  
2 that the files and records may be disclosed only at the  
3 discretion of the State Long Term Care Ombudsman or the person  
4 designated by the State Ombudsman to disclose the files and  
5 records, and the procedures shall prohibit the disclosure of  
6 the identity of any complainant, resident, participant,  
7 witness, or employee of a long term care provider unless:

8 (1) the complainant, resident, participant, witness,  
9 or employee of a long term care provider or his or her  
10 legal representative consents to the disclosure and the  
11 consent is in writing;

12 (2) the complainant, resident, participant, witness,  
13 or employee of a long term care provider gives consent  
14 orally; and the consent is documented contemporaneously in  
15 writing in accordance with such requirements as the  
16 Department shall establish; or

17 (3) the disclosure is required by court order.

18 (h) Legal representation. The Attorney General shall  
19 provide legal representation to any representative of the  
20 Office against whom suit or other legal action is brought in  
21 connection with the performance of the representative's  
22 official duties, in accordance with the State Employee  
23 Indemnification Act.

24 (i) Treatment by prayer and spiritual means. Nothing in  
25 this Act shall be construed to authorize or require the  
26 medical supervision, regulation or control of remedial care or

1 treatment of any resident in a long term care facility  
2 operated exclusively by and for members or adherents of any  
3 church or religious denomination the tenets and practices of  
4 which include reliance solely upon spiritual means through  
5 prayer for healing.

6 (j) The Long Term Care Ombudsman Fund is created as a  
7 special fund in the State treasury to receive moneys for the  
8 express purposes of this Section. All interest earned on  
9 moneys in the fund shall be credited to the fund. Moneys  
10 contained in the fund shall be used to support the purposes of  
11 this Section.

12 (k) Each Regional Ombudsman may, in accordance with rules  
13 promulgated by the Office, establish a multi-disciplinary team  
14 to act in an advisory role for the purpose of providing  
15 professional knowledge and expertise in handling complex  
16 abuse, neglect, and advocacy issues involving participants.  
17 Each multi-disciplinary team may consist of one or more  
18 volunteer representatives from any combination of at least 7  
19 members from the following professions: banking or finance;  
20 disability care; health care; pharmacology; law; law  
21 enforcement; emergency responder; mental health care; clergy;  
22 coroner or medical examiner; substance abuse; domestic  
23 violence; sexual assault; or other related fields. To support  
24 multi-disciplinary teams in this role, law enforcement  
25 agencies and coroners or medical examiners shall supply  
26 records as may be requested in particular cases. The Regional

1 Ombudsman, or his or her designee, of the area in which the  
2 multi-disciplinary team is created shall be the facilitator of  
3 the multi-disciplinary team.

4 (Source: P.A. 98-380, eff. 8-16-13; 98-989, eff. 1-1-15;  
5 99-180, eff. 7-29-15; 99-712, eff. 8-5-16.)

6 Section 10. The Assisted Living and Shared Housing Act is  
7 amended by adding Section 73 as follows:

8 (210 ILCS 9/73 new)

9 Sec. 73. Posting of Long Term Care Ombudsman Program  
10 information.

11 (a) Except as provided under subsection (b), all licensed  
12 establishments shall post on the home page of the  
13 establishment's website the following:

14 (1) The statement "The Illinois Long Term Care  
15 Ombudsman Program is a free resident advocacy service  
16 available to the public."

17 (2) The Long Term Care Ombudsman Program's statewide  
18 toll-free telephone number.

19 (3) A link to the Long Term Care Ombudsman Program's  
20 website.

21 (b) An establishment:

22 (1) may comply with this Section by posting the  
23 required information on the website of the establishment's  
24 parent company if the establishment does not maintain a

1 unique website; and

2 (2) is not required to comply with this Section if the  
3 establishment and any parent company do not maintain a  
4 website.

5 Section 15. The Life Care Facilities Act is amended by  
6 adding Section 10.2 as follows:

7 (210 ILCS 40/10.2 new)

8 Sec. 10.2. Posting of Long Term Care Ombudsman Program  
9 information.

10 (a) Except as provided under subsection (b), all licensed  
11 facilities shall post on the home page of the facility's  
12 website the following:

13 (1) The statement "The Illinois Long Term Care  
14 Ombudsman Program is a free resident advocacy service  
15 available to the public."

16 (2) The Long Term Care Ombudsman Program's statewide  
17 toll-free telephone number.

18 (3) A link to the Long Term Care Ombudsman Program's  
19 website.

20 (b) A facility:

21 (1) may comply with this Section by posting the  
22 required information on the website of the facility's  
23 parent company if the facility does not maintain a unique  
24 website; and

1           (2) is not required to comply with this Section if the  
2           facility and any parent company do not maintain a website.

3           Section 20. The Nursing Home Care Act is amended by adding  
4           Section 3-613 as follows:

5           (210 ILCS 45/3-613 new)

6           Sec. 3-613. Posting of Long Term Care Ombudsman Program  
7           information.

8           (a) Except as provided under subsection (b), all licensed  
9           facilities shall post on the home page of the facility's  
10           website the following:

11           (1) The statement "The Illinois Long Term Care  
12           Ombudsman Program is a free resident advocacy service  
13           available to the public."

14           (2) The Long Term Care Ombudsman Program's statewide  
15           toll-free telephone number.

16           (3) A link to the Long Term Care Ombudsman Program's  
17           website.

18           (b) A facility:

19           (1) may comply with this Section by posting the  
20           required information on the website of the facility's  
21           parent company if the facility does not maintain a unique  
22           website; and

23           (2) is not required to comply with this Section if the  
24           facility and any parent company do not maintain a website.



1 Section 25. The MC/DD Act is amended by adding Section  
2 3-613 as follows:

3 (210 ILCS 46/3-613 new)

4 Sec. 3-613. Posting of Long Term Care Ombudsman Program  
5 information.

6 (a) Except as provided under subsection (b), all licensed  
7 facilities shall post on the home page of the facility's  
8 website the following:

9 (1) The statement "The Illinois Long Term Care  
10 Ombudsman Program is a free resident advocacy service  
11 available to the public."

12 (2) The Long Term Care Ombudsman Program's statewide  
13 toll-free telephone number.

14 (3) A link to the Long Term Care Ombudsman Program's  
15 website.

16 (b) A facility:

17 (1) may comply with this Section by posting the  
18 required information on the website of the facility's  
19 parent company if the facility does not maintain a unique  
20 website; and

21 (2) is not required to comply with this Section if the  
22 facility and any parent company do not maintain a website.

23 Section 30. The ID/DD Community Care Act is amended by

1 adding Section 3-613 as follows:

2 (210 ILCS 47/3-613 new)

3 Sec. 3-613. Posting of Long Term Care Ombudsman Program  
4 information.

5 (a) Except as provided under subsection (b), all licensed  
6 facilities shall post on the home page of the facility's  
7 website the following:

8 (1) The statement "The Illinois Long Term Care  
9 Ombudsman Program is a free resident advocacy service  
10 available to the public."

11 (2) The Long Term Care Ombudsman Program's statewide  
12 toll-free telephone number.

13 (3) A link to the Long Term Care Ombudsman Program's  
14 website.

15 (b) A facility:

16 (1) may comply with this Section by posting the  
17 required information on the website of the facility's  
18 parent company if the facility does not maintain a unique  
19 website; and

20 (2) is not required to comply with this Section if the  
21 facility and any parent company do not maintain a website.

22 Section 99. Effective date. This Act takes effect January  
23 1, 2023."