

1 AN ACT in relation to aging.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Attorney General Act is amended by adding
5 Section 6.6 as follows:

6 (15 ILCS 205/6.6 new)

7 Sec. 6.6. Long Term Care Ombudsman Program.

8 (a) Long Term Care Ombudsman Program. The Attorney
9 General shall establish a Long Term Care Ombudsman Program,
10 through the Office of State Long Term Care Ombudsman ("the
11 Office"), in accordance with the provisions of the Older
12 Americans Act of 1965, as now or hereafter amended.

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

15 (1) "Access" has the same meaning as in Section
16 1-104 of the Nursing Home Care Act, including the right
17 to:

18 (i) enter any long term care facility or
19 assisted living or shared housing establishment;

20 (ii) communicate privately and without
21 restriction with any resident who consents to the
22 communication;

23 (iii) seek consent to communicate privately
24 and without restriction with any resident;

25 (iv) inspect the clinical and other records of
26 a resident with the express written consent of the
27 resident; and

28 (v) observe all areas of the long term care
29 facility or assisted living or shared housing
30 establishment except the living area of any resident
31 who protests the observation.

1 (2) "Long Term Care Facility" means (i) any
2 facility as defined by Section 1-113 of the Nursing Home
3 Care Act; and (ii) any skilled nursing facility or a
4 nursing facility that meets the requirements of Section
5 1819(a), (b), (c), and (d) or Section 1919(a), (b), (c),
6 and (d) of the Social Security Act, as now or hereafter
7 amended (42 U.S.C. 1395i-3(a), (b), (c), and (d) and 42
8 U.S.C. 1396r(a), (b), (c), and (d)).

9 (3) "Assisted living establishment" and "shared
10 housing establishment" have the meanings given those
11 terms in Section 10 of the Assisted Living and Shared
12 Housing Act.

13 (4) "Ombudsman" means any person employed by the
14 Attorney General to fulfill the requirements of the
15 Office of State Long Term Care Ombudsman, or any
16 representative of a sub-State long term care ombudsman
17 program; provided that the representative, whether he or
18 she is paid for or volunteers ombudsman services, shall
19 be qualified and authorized by the Attorney General to
20 perform the duties of an ombudsman as specified by the
21 Attorney General.

22 (c) Ombudsman; rules. The Office of State Long Term Care
23 Ombudsman shall be composed of at least one full-time
24 ombudsman and shall include a system of designated sub-State
25 long term care ombudsman programs. Each sub-State program
26 shall be designated by the Attorney General as a subdivision
27 of the Office, and any representative of a sub-State program
28 shall be treated as a representative of the Office.

29 The Attorney General shall establish the responsibilities
30 of the Office of State Long Term Care Ombudsman. This shall
31 include the responsibility of the Office to investigate and
32 resolve complaints made by or on behalf of residents of long
33 term care facilities and assisted living and shared housing
34 establishments relating to actions, inaction, or decisions of

1 providers, or their representatives, of long term care
2 facilities, of assisted living and shared housing
3 establishments, of public agencies, or of social services
4 agencies, that may adversely affect the health, safety,
5 welfare, or rights of the residents. When necessary and
6 appropriate, representatives of the Office shall refer
7 complaints to the appropriate regulatory State agency. The
8 Attorney General shall cooperate with the Department of Human
9 Services in providing information and training to designated
10 sub-State long term care ombudsman programs about the
11 appropriate assessment and treatment (including information
12 about appropriate supportive services, treatment options, and
13 assessment of rehabilitation potential) of persons with
14 mental illness (other than Alzheimer's disease and related
15 disorders).

16 (d) Access and visitation rights.

17 (1) In accordance with subparagraphs (A) and (E) of
18 paragraph (3) of subsection (c) of Section 1819 and
19 subparagraphs (A) and (E) of paragraph (3) of subsection
20 (c) of Section 1919 of the Social Security Act, as now or
21 hereafter amended (42 U.S.C. 1395i-3 (c)(3)(A) and (E)
22 and 42 U.S.C. 1396r (c)(3)(A) and (E)), and Section 712
23 of the Older Americans Act of 1965, as now or hereafter
24 amended (42 U.S.C. 3058f), a long term care facility,
25 assisted living establishment, and shared housing
26 establishment must:

27 (i) permit immediate access to any resident by
28 an ombudsman; and

29 (ii) permit representatives of the Office,
30 with the permission of the resident or the
31 resident's legal representative or legal guardian,
32 to examine the resident's clinical and other records
33 and, if the resident is unable to consent to an
34 examination and has no legal guardian, permit

1 representatives of the Office appropriate access, as
2 defined by the Attorney General, to the resident's
3 records.

4 (2) Each long term care facility, assisted living
5 establishment, and shared housing establishment shall
6 display, in multiple, conspicuous public places within
7 the facility accessible to both visitors and patients and
8 in an easily readable format, the address and phone
9 number of the Office, in a manner prescribed by the
10 Office.

11 (e) Immunity. An ombudsman or any other representative
12 of the Attorney General participating in the good faith
13 performance of his or her official duties shall have immunity
14 from any liability (civil, criminal, or otherwise) in any
15 proceedings (civil, criminal, or otherwise) brought as a
16 consequence of the performance of his or her official duties.

17 (f) Business offenses.

18 (1) No person shall:

19 (i) intentionally prevent, interfere with, or
20 attempt to impede in any way any representative of
21 the Office in the performance of his or her official
22 duties under this Act and the Older Americans Act of
23 1965; or

24 (ii) intentionally retaliate, discriminate
25 against, or effect reprisals against any long term
26 care facility resident or employee for contacting or
27 providing information to any representative of the
28 Office.

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

31 (g) Confidentiality of records and identities. No files
32 or records maintained by the Office of State Long Term Care
33 Ombudsman shall be disclosed unless the State Ombudsman or
34 the ombudsman having the authority over the disposition of

1 the files authorizes the disclosure in writing. The ombudsman
2 shall not disclose the identity of any complainant, resident,
3 witness, or employee of a long term care provider involved in
4 a complaint or report unless that person or that person's
5 guardian or legal representative consents in writing to the
6 disclosure, or the disclosure is required by court order.

7 (h) Treatment by prayer and spiritual means. Nothing in
8 this Section shall be construed to authorize or require the
9 medical supervision, regulation, or control of remedial care
10 or treatment of any resident in a long term care facility
11 operated exclusively by and for members or adherents of any
12 church or religious denomination the tenets and practices of
13 which include reliance solely upon spiritual means through
14 prayer for healing.

15 (i) The Department on Aging shall immediately transfer
16 to the Attorney General all relevant records and all pending
17 matters formerly under the purview of the Department's Long
18 Term Care Ombudsman Program. The immunity and
19 confidentiality provisions of this Section apply to the
20 ombudsmen and representatives of the Department's former Long
21 Term Care Ombudsman Program.

22 (20 ILCS 105/4.04 rep.)

23 Section 10. The Illinois Act on the Aging is amended by
24 repealing Section 4.04.