

1 AN ACT concerning senior citizens.

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

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.

8 (a) Long Term Care Ombudsman Program. The Department
9 shall establish a Long Term Care Ombudsman Program, through
10 the Office of State Long Term Care Ombudsman ("the Office"),
11 in accordance with Sections 711 and 712 ~~the provisions~~ of the
12 Older 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, as now or hereafter
17 amended; that is, it means the right to:

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

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

24 (iii) Seek consent to communicate privately
25 and without restriction with any resident;

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

29 (v) Observe all areas of the long term care
30 facility or supportive living facilities, assisted
31 living or shared housing establishment except the

1 living area of any resident who protests the
2 observation.

3 (2) "Long Term Care Facility" means (i) any
4 facility as defined by Section 1-113 of the Nursing Home
5 Care Act, as now or hereafter amended; and (ii) any
6 skilled nursing facility or a nursing facility which
7 meets the requirements of Section 1819(a), (b), (c), and
8 (d) or Section 1919(a), (b), (c), and (d) of the Social
9 Security Act, as now or hereafter amended (42 U.S.C.
10 1395i-3(a), (b), (c), and (d) and 42 U.S.C. 1396r(a),
11 (b), (c), and (d)).

12 (2.5) "Assisted living establishment" and "shared
13 housing establishment" have the meanings given those
14 terms in Section 10 of the Assisted Living and Shared
15 Housing Act.

16 (2.7) "Supportive living facility" means a facility
17 established under Section 5-5.01a of the Illinois Public
18 Aid Code.

19 (3) "State Long Term Care Ombudsman" means any
20 person employed by the Department to fulfill the
21 requirements of the Office of State Long Term Care
22 Ombudsman as required under the Older Americans Act.

23 (3.1) "Ombudsman" means,-----or any designated
24 representative of a regional sub-State long term care
25 ombudsman program; provided that the representative, whether
26 he is paid for or volunteers his ombudsman services, shall be
27 qualified and designated by the Office authorized--by--the
28 Department to perform the duties of an ombudsman as specified
29 by the Office Department in rules and as required by Sections
30 711 and 712 of the Older Americans Act.

31 (c) Ombudsman; rules. The Office of State Long Term Care
32 Ombudsman shall be composed of at least one full-time
33 ombudsman ~~within the Department~~ and shall include a system of
34 designated regional sub-State long term care ombudsman

1 programs. Each regional sub-State program shall be designated
2 by the State Long Term Care Ombudsman Department as a
3 subdivision of the Office and any designated representative
4 of a regional sub-State program shall be treated as a
5 representative of the Office.

6 The Office and the Department shall promulgate
7 administrative rules in accordance with all Ombudsman
8 provisions of the Older Americans Act, as amended to
9 establish the responsibilities of the Department and the
10 Office of State Long Term Care Ombudsman and the designated
11 regional Ombudsman programs. The administrative rules shall
12 include the responsibility of the Office and designated
13 regional programs to investigate and resolve complaints made
14 by or on behalf of residents of long term care facilities,
15 supportive living facilities, and assisted living and shared
16 housing establishments relating to actions, inaction, or
17 decisions of providers, or their representatives, of long
18 term care facilities, of supported living facilities, of
19 assisted living and shared housing establishments, of public
20 agencies, or of social services agencies, which may adversely
21 affect the health, safety, welfare, or rights of such
22 residents. When necessary and appropriate, representatives of
23 the Office shall refer complaints to the appropriate
24 regulatory State agency. The Office Department shall
25 cooperate with the Department of Human Services in providing
26 information and training to designated regional sub-State
27 long term care ombudsman programs about the appropriate
28 assessment and treatment (including information about
29 appropriate supportive services, treatment options, and
30 assessment of rehabilitation potential) of persons with
31 mental illness (other than Alzheimer's disease and related
32 disorders).

33 (d) Access and visitation rights.

34 (1) In accordance with subparagraphs (A) and (E) of

1 paragraph (3) of subsection (c) of Section 1819 and
2 subparagraphs (A) and (E) of paragraph (3) of subsection
3 (c) of Section 1919 of the Social Security Act, as now or
4 hereafter amended (42 U.S.C. 1395i-3 (c)(3)(A) and (E)
5 and 42 U.S.C. 1396r (c)(3)(A) and (E)), and Section 712
6 of the Older Americans Act of 1965, as now or hereafter
7 amended (42 U.S.C. 3058f), a long term care facility,
8 supportive living facility, assisted living
9 establishment, and shared housing establishment must:

10 (i) permit immediate access to any resident by
11 a designated an ombudsman; and

12 (ii) permit representatives of the Office,
13 with the permission of the resident's legal
14 representative or legal guardian, to examine a
15 resident's clinical and other records, and if a
16 resident is unable to consent to such review, and
17 has no legal guardian, permit representatives of the
18 Office appropriate access, as defined by the Office
19 Department in administrative rules and the Older
20 Americans Act, to the resident's records.

21 (2) Each long term care facility, supportive living
22 facility, assisted living establishment, and shared
23 housing establishment shall display, in multiple,
24 conspicuous public places within the facility accessible
25 to both visitors and residents ~~patients~~ and in an easily
26 readable format, the address and phone number of the
27 Office of the Long Term Care Ombudsman, in a manner
28 prescribed by the Office.

29 (e) Immunity. An ombudsman or any designated other
30 representative of the Office participating in the good faith
31 performance of his or her official duties shall have immunity
32 from any liability (civil, criminal or otherwise) in any
33 proceedings (civil, criminal or otherwise) brought as a
34 consequence of the performance of his official duties.

1 (f) Business offenses.

2 (1) No person shall:

3 (i) Intentionally prevent, interfere with, or
4 attempt to impede in any way any designated
5 representative of the Office in the performance of
6 his official duties under this Act and the Older
7 Americans Act of 1965; or

8 (ii) Intentionally retaliate, discriminate
9 against, or effect reprisals against any long term
10 care facility resident or employee for contacting or
11 providing information to any designated
12 representative of the Office.

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

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

21 (g) Confidentiality of records and identities. No files
22 or records maintained by the Office of State Long Term Care
23 Ombudsman or designated regional program shall be disclosed
24 to anyone other than the designated ombudsman unless the
25 State Long Term Care Ombudsman or the designated ombudsman
26 having the authority over the disposition of such files
27 authorizes the disclosure in writing. Designated ombudsmen
28 ~~The--ombudsman~~ shall not disclose the identity of any
29 complainant, resident, witness or employee of a long term
30 care provider involved in a complaint or report unless such
31 person or such person's guardian or legal representative
32 consents in writing to the disclosure, or the disclosure is
33 required by court order.

34 (h) Legal representation. The Attorney General shall

1 provide legal representation to any designated representative
2 of the Office against whom suit or other legal action is
3 brought in connection with the performance of the
4 representative's official duties, in accordance with the
5 State Employee Indemnification Act.

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

14 (Source: P.A. 90-639, eff. 1-1-99; 91-174, eff. 7-16-99;
15 91-656, eff. 1-1-01; 91-799, eff. 6-13-00.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.