

1 AN ACT concerning State government.

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 shall
9 establish a Long Term Care Ombudsman Program, through the
10 Office of State Long Term Care Ombudsman ("the Office"), in
11 accordance with the provisions of the Older Americans Act of
12 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 1-104
16 of the Nursing Home Care Act, as now or hereafter amended;
17 that is, it means the right to:

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

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

1 (iii) Seek consent to communicate privately and
2 without restriction with any resident, regardless of
3 age;

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

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

12 (2) "Long Term Care Facility" means (i) any facility as
13 defined by Section 1-113 of the Nursing Home Care Act, as
14 now or hereafter amended; and (ii) any skilled nursing
15 facility or a nursing facility which meets the requirements
16 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
17 (b), (c), and (d) of the Social Security Act, as now or
18 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
19 and 42 U.S.C. 1396r(a), (b), (c), and (d)).

20 (2.5) "Assisted living establishment" and "shared
21 housing establishment" have the meanings given those terms
22 in Section 10 of the Assisted Living and Shared Housing
23 Act.

24 (2.7) "Supportive living facility" means a facility
25 established under Section 5-5.01a of the Illinois Public
26 Aid Code.

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

6 (3.1) "Ombudsman" means any designated representative
7 of a regional long term care ombudsman program; provided
8 that the representative, whether he is paid for or
9 volunteers his ombudsman services, shall be qualified and
10 designated by the Office to perform the duties of an
11 ombudsman as specified by the Department in rules and in
12 accordance with the provisions of the Older Americans Act
13 of 1965, as now or hereafter amended.

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

21 The Department, in consultation with the Office, shall
22 promulgate administrative rules in accordance with the
23 provisions of the Older Americans Act of 1965, as now or
24 hereafter amended, to establish the responsibilities of the
25 Department and the Office of State Long Term Care Ombudsman and
26 the designated regional Ombudsman programs. The administrative

1 rules shall include the responsibility of the Office and
2 designated regional programs to investigate and resolve
3 complaints made by or on behalf of residents of long term care
4 facilities, supportive living facilities, and assisted living
5 and shared housing establishments, including the option to
6 serve residents under the age of 60, relating to actions,
7 inaction, or decisions of providers, or their representatives,
8 of long term care facilities, of supported living facilities,
9 of assisted living and shared housing establishments, of public
10 agencies, or of social services agencies, which may adversely
11 affect the health, safety, welfare, or rights of such
12 residents. The Office and designated regional programs may
13 represent all residents, but are not required by this Act to
14 represent persons under 60 years of age, except to the extent
15 required by federal law. When necessary and appropriate,
16 representatives of the Office shall refer complaints to the
17 appropriate regulatory State agency. The Department, in
18 consultation with the Office, shall cooperate with the
19 Department of Human Services and other State agencies in
20 providing information and training to designated regional long
21 term care ombudsman programs about the appropriate assessment
22 and treatment (including information about appropriate
23 supportive services, treatment options, and assessment of
24 rehabilitation potential) of the residents they serve,
25 including children, persons with mental illness (other than
26 Alzheimer's disease and related disorders), and persons with

1 developmental disabilities.

2 The State Long Term Care Ombudsman and all other ombudsmen,
3 as defined in paragraph (3.1) of subsection (b) must submit to
4 background checks under the Health Care Worker Background Check
5 Act and receive training, as prescribed by the Illinois
6 Department on Aging, before visiting facilities. The training
7 must include information specific to assisted living
8 establishments, supportive living facilities, and shared
9 housing establishments and to the rights of residents
10 guaranteed under the corresponding Acts and administrative
11 rules.

12 (c-5) Consumer Choice Information Reports. The Office
13 shall:

14 (1) In collaboration with the Attorney General, create
15 a Consumer Choice Information Report form to be completed
16 by all licensed long term care facilities to aid
17 Illinoisans and their families in making informed choices
18 about long term care. The Office shall create a Consumer
19 Choice Information Report for each type of licensed long
20 term care facility.

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

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

26 (B) Special Services and Amenities.

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

8 (3) Make this information accessible to the public,
9 including on the Internet by means of a hyperlink labeled
10 "Resident's Right to Know" on the Office's World Wide Web
11 home page.

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

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

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) and
22 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
23 Older Americans Act of 1965, as now or hereafter amended
24 (42 U.S.C. 3058f), a long term care facility, supportive
25 living facility, assisted living establishment, and shared
26 housing establishment must:

1 (i) permit immediate access to any resident,
2 regardless of age, by a designated ombudsman; and

3 (ii) permit representatives of the Office, with
4 the permission of the resident's legal representative
5 or legal guardian, to examine a resident's clinical and
6 other records, regardless of the age of the resident,
7 and if a resident is unable to consent to such review,
8 and has no legal guardian, permit representatives of
9 the Office appropriate access, as defined by the
10 Department, in consultation with the Office, in
11 administrative rules, to the resident's records.

12 (2) Each long term care facility, supportive living
13 facility, assisted living establishment, and shared
14 housing establishment shall display, in multiple,
15 conspicuous public places within the facility accessible
16 to both visitors and residents and in an easily readable
17 format, the address and phone number of the Office of the
18 Long Term Care Ombudsman, in a manner prescribed by the
19 Office.

20 (e) Immunity. An ombudsman or any representative of the
21 Office participating in the good faith performance of his or
22 her official duties shall have immunity from any liability
23 (civil, criminal or otherwise) in any proceedings (civil,
24 criminal or otherwise) brought as a consequence of the
25 performance of his official duties.

26 (f) Business offenses.

1 (1) No person shall:

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

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

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

13 (3) The Director of Aging, in consultation with the
14 Office, shall notify the State's Attorney of the county in
15 which the long term care facility, supportive living
16 facility, or assisted living or shared housing
17 establishment is located, or the Attorney General, of any
18 violations of this Section.

19 (g) Confidentiality of records and identities. The
20 Department shall establish procedures for the disclosure by the
21 State Ombudsman or the regional ombudsmen entities of files
22 maintained by the program. The procedures shall provide that
23 the files and records may be disclosed only at the discretion
24 of the State Long Term Care Ombudsman or the person designated
25 by the State Ombudsman to disclose the files and records, and
26 the procedures shall prohibit the disclosure of the identity of

1 any complainant, resident, witness, or employee of a long term
2 care provider unless:

3 (1) the complainant, resident, witness, or employee of
4 a long term care provider or his or her legal
5 representative consents to the disclosure and the consent
6 is in writing;

7 (2) the complainant, resident, witness, or employee of
8 a long term care provider gives consent orally; and the
9 consent is documented contemporaneously in writing in
10 accordance with such requirements as the Department shall
11 establish; or

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

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

19 (i) Treatment by prayer and spiritual means. Nothing in
20 this Act shall be construed to authorize or require the medical
21 supervision, regulation or control of remedial care or
22 treatment of any resident in a long term care facility operated
23 exclusively by and for members or adherents of any church or
24 religious denomination the tenets and practices of which
25 include reliance solely upon spiritual means through prayer for
26 healing.

1 (j) The Long Term Care Ombudsman Fund is created as a
2 special fund in the State treasury to receive moneys for the
3 express purposes of this Section. All interest earned on moneys
4 in the fund shall be credited to the fund. Moneys contained in
5 the fund shall be used to support the purposes of this Section.

6 (Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09;
7 revised 9-5-08.)

8 Section 10. The State Finance Act is amended by adding
9 Sections 5.723 and 5.724 as follows:

10 (30 ILCS 105/5.723 new)

11 Sec. 5.723. The Long Term Care Ombudsman Fund.

12 (30 ILCS 105/5.724 new)

13 Sec. 5.724. The Nursing Home Conversion Fund.

14 Section 15. The Nursing Home Care Act is amended by
15 changing Sections 3-103 and 3-308 as follows:

16 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

17 Sec. 3-103. The procedure for obtaining a valid license
18 shall be as follows:

19 (1) Application to operate a facility shall be made to
20 the Department on forms furnished by the Department.

21 (2) All license applications shall be accompanied with

1 an application fee. The fee for an annual license shall be
2 \$995. Facilities that pay a fee or assessment pursuant to
3 Article V-C of the Illinois Public Aid Code shall be exempt
4 from the license fee imposed under this item (2). The fee
5 for a 2-year license shall be double the fee for the annual
6 license set forth in the preceding sentence. The fees
7 collected shall be deposited with the State Treasurer into
8 the Long Term Care Monitor/Receiver Fund, which has been
9 created as a special fund in the State treasury. This
10 special fund is to be used by the Department for expenses
11 related to the appointment of monitors and receivers as
12 contained in Sections 3-501 through 3-517 of this Act, for
13 the enforcement of this Act, and for implementation of the
14 Abuse Prevention Review Team Act. The Department may reduce
15 or waive a penalty pursuant to Section 3-308 only if that
16 action will not threaten the ability of the Department to
17 meet the expenses required to be met by the Long Term Care
18 Monitor/Receiver Fund. At the end of each fiscal year, any
19 funds in excess of \$1,000,000 held in the Long Term Care
20 Monitor/Receiver Fund shall be deposited in the State's
21 General Revenue Fund. The application shall be under oath
22 and the submission of false or misleading information shall
23 be a Class A misdemeanor. The application shall contain the
24 following information:

- 25 (a) The name and address of the applicant if an
26 individual, and if a firm, partnership, or

1 association, of every member thereof, and in the case
2 of a corporation, the name and address thereof and of
3 its officers and its registered agent, and in the case
4 of a unit of local government, the name and address of
5 its chief executive officer;

6 (b) The name and location of the facility for which
7 a license is sought;

8 (c) The name of the person or persons under whose
9 management or supervision the facility will be
10 conducted;

11 (d) The number and type of residents for which
12 maintenance, personal care, or nursing is to be
13 provided; and

14 (e) Such information relating to the number,
15 experience, and training of the employees of the
16 facility, any management agreements for the operation
17 of the facility, and of the moral character of the
18 applicant and employees as the Department may deem
19 necessary.

20 (3) Each initial application shall be accompanied by a
21 financial statement setting forth the financial condition
22 of the applicant and by a statement from the unit of local
23 government having zoning jurisdiction over the facility's
24 location stating that the location of the facility is not
25 in violation of a zoning ordinance. An initial application
26 for a new facility shall be accompanied by a permit as

1 required by the "Illinois Health Facilities Planning Act".
2 After the application is approved, the applicant shall
3 advise the Department every 6 months of any changes in the
4 information originally provided in the application.

5 (4) Other information necessary to determine the
6 identity and qualifications of an applicant to operate a
7 facility in accordance with this Act shall be included in
8 the application as required by the Department in
9 regulations.

10 (Source: P.A. 93-32, eff. 7-1-03; 93-841, eff. 7-30-04; 94-931,
11 eff. 6-26-06.)

12 (210 ILCS 45/3-308) (from Ch. 111 1/2, par. 4153-308)

13 Sec. 3-308. In the case of a Type "A" violation, a penalty
14 may be assessed from the date on which the violation is
15 discovered. In the case of a Type "B" or Type "C" violation or
16 an administrative warning issued pursuant to Sections 3-401
17 through 3-413 or the rules promulgated thereunder, the facility
18 shall submit a plan of correction as provided in Section 3-303.

19 In the case of a Type "B" violation or an administrative
20 warning issued pursuant to Sections 3-401 through 3-413 or the
21 rules promulgated thereunder, a penalty shall be assessed on
22 the date of notice of the violation, but the Director may
23 reduce the amount or waive such payment for any of the
24 following reasons:

25 (a) The facility submits a true report of correction

1 within 10 days;

2 (b) The facility submits a plan of correction within 10
3 days and subsequently submits a true report of correction
4 within 15 days thereafter;

5 (c) The facility submits a plan of correction within 10
6 days which provides for a correction time that is less than
7 or equal to 30 days and the Department approves such plan;
8 or

9 (d) The facility submits a plan of correction for
10 violations involving substantial capital improvements
11 which provides for correction within the initial 90 day
12 limit provided under Section 3-303.

13 The Director or his or her designee may reallocate the
14 amount of a penalty assessed pursuant to Section 3-305. A
15 facility shall submit to the Director a written request for a
16 penalty reduction, in a form prescribed by the Department,
17 which includes an accounting of all costs for goods and
18 services purchased in correcting the violation. The amount by
19 which a penalty is reduced may not be greater than the amount
20 of the costs reported by the facility. A facility that accepts
21 a penalty reallocation under this Section waives its right to
22 dispute a notice of violation and any remaining fine or penalty
23 in an administrative hearing. The Director shall consider the
24 following factors ~~in determinations to reduce or waive such~~
25 ~~penalties:~~

26 (1) The violation has not caused actual harm to a

1 resident.†

2 (2) The facility has made a diligent effort to correct
3 the violation and to prevent its recurrence.†

4 (3) The facility has no record of a pervasive pattern
5 of the same or similar violations.†~~and~~

6 (4) The facility did not benefit financially from
7 committing or continuing the violation. ~~The facility has a~~
8 ~~record of substantial compliance with this Act and the~~
9 ~~regulations promulgated hereunder.~~

10 At least annually, and upon request, the Department shall
11 provide a list of all reallocations and the reasons for those
12 reallocations.

13 If a plan of correction is approved and carried out for a
14 Type "C" violation, the fine provided under Section 3-305 shall
15 be suspended for the time period specified in the approved plan
16 of correction. If a plan of correction is approved and carried
17 out for a Type "B" violation or an administrative warning
18 issued pursuant to Sections 3-401 through 3-413 or the rules
19 promulgated thereunder, with respect to a violation that
20 continues after the date of notice of violation, the fine
21 provided under Section 3-305 shall be suspended for the time
22 period specified in the approved plan of correction.

23 If a good faith plan of correction is not received within
24 the time provided by Section 3-303, a penalty may be assessed
25 from the date of the notice of the Type "B" or "C" violation or
26 an administrative warning issued pursuant to Sections 3-401

1 through 3-413 or the rules promulgated thereunder served under
2 Section 3-301 until the date of the receipt of a good faith
3 plan of correction, or until the date the violation is
4 corrected, whichever is earlier. If a violation is not
5 corrected within the time specified by an approved plan of
6 correction or any lawful extension thereof, a penalty may be
7 assessed from the date of notice of the violation, until the
8 date the violation is corrected.

9 (Source: P.A. 87-549.)

10 Section 20. The Older Adult Services Act is amended by
11 changing Section 30 as follows:

12 (320 ILCS 42/30)

13 Sec. 30. Nursing home conversion program.

14 (a) The Department of Public Health, in collaboration with
15 the Department on Aging and the Department of Healthcare and
16 Family Services, shall establish a nursing home conversion
17 program. Start-up grants, pursuant to subsections (l) and (m)
18 of this Section, shall be made available to nursing homes as
19 appropriations permit as an incentive to reduce certified beds,
20 retrofit, and retool operations to meet new service delivery
21 expectations and demands.

22 (b) Grant moneys shall be made available for capital and
23 other costs related to: (1) the conversion of all or a part of
24 a nursing home to an assisted living establishment or a special

1 program or unit for persons with Alzheimer's disease or related
2 disorders licensed under the Assisted Living and Shared Housing
3 Act or a supportive living facility established under Section
4 5-5.01a of the Illinois Public Aid Code; (2) the conversion of
5 multi-resident bedrooms in the facility into single-occupancy
6 rooms; and (3) the development of any of the services
7 identified in a priority service plan that can be provided by a
8 nursing home within the confines of a nursing home or
9 transportation services. Grantees shall be required to provide
10 a minimum of a 20% match toward the total cost of the project.

11 (c) Nothing in this Act shall prohibit the co-location of
12 services or the development of multifunctional centers under
13 subsection (f) of Section 20, including a nursing home offering
14 community-based services or a community provider establishing
15 a residential facility.

16 (d) A certified nursing home with at least 50% of its
17 resident population having their care paid for by the Medicaid
18 program is eligible to apply for a grant under this Section.

19 (e) Any nursing home receiving a grant under this Section
20 shall reduce the number of certified nursing home beds by a
21 number equal to or greater than the number of beds being
22 converted for one or more of the permitted uses under item (1)
23 or (2) of subsection (b). The nursing home shall retain the
24 Certificate of Need for its nursing and sheltered care beds
25 that were converted for 15 years. If the beds are reinstated by
26 the provider or its successor in interest, the provider shall

1 pay to the fund from which the grant was awarded, on an
2 amortized basis, the amount of the grant. The Department shall
3 establish, by rule, the bed reduction methodology for nursing
4 homes that receive a grant pursuant to item (3) of subsection
5 (b).

6 (f) Any nursing home receiving a grant under this Section
7 shall agree that, for a minimum of 10 years after the date that
8 the grant is awarded, a minimum of 50% of the nursing home's
9 resident population shall have their care paid for by the
10 Medicaid program. If the nursing home provider or its successor
11 in interest ceases to comply with the requirement set forth in
12 this subsection, the provider shall pay to the fund from which
13 the grant was awarded, on an amortized basis, the amount of the
14 grant.

15 (g) Before awarding grants, the Department of Public Health
16 shall seek recommendations from the Department on Aging and the
17 Department of Healthcare and Family Services. The Department of
18 Public Health shall attempt to balance the distribution of
19 grants among geographic regions, and among small and large
20 nursing homes. The Department of Public Health shall develop,
21 by rule, the criteria for the award of grants based upon the
22 following factors:

23 (1) the unique needs of older adults (including those
24 with moderate and low incomes), caregivers, and providers
25 in the geographic area of the State the grantee seeks to
26 serve;

1 (2) whether the grantee proposes to provide services in
2 a priority service area;

3 (3) the extent to which the conversion or transition
4 will result in the reduction of certified nursing home beds
5 in an area with excess beds;

6 (4) the compliance history of the nursing home; and

7 (5) any other relevant factors identified by the
8 Department, including standards of need.

9 (h) A conversion funded in whole or in part by a grant
10 under this Section must not:

11 (1) diminish or reduce the quality of services
12 available to nursing home residents;

13 (2) force any nursing home resident to involuntarily
14 accept home-based or community-based services instead of
15 nursing home services;

16 (3) diminish or reduce the supply and distribution of
17 nursing home services in any community below the level of
18 need, as defined by the Department by rule; or

19 (4) cause undue hardship on any person who requires
20 nursing home care.

21 (i) The Department shall prescribe, by rule, the grant
22 application process. At a minimum, every application must
23 include:

24 (1) the type of grant sought;

25 (2) a description of the project;

26 (3) the objective of the project;

1 (4) the likelihood of the project meeting identified
2 needs;

3 (5) the plan for financing, administration, and
4 evaluation of the project;

5 (6) the timetable for implementation;

6 (7) the roles and capabilities of responsible
7 individuals and organizations;

8 (8) documentation of collaboration with other service
9 providers, local community government leaders, and other
10 stakeholders, other providers, and any other stakeholders
11 in the community;

12 (9) documentation of community support for the
13 project, including support by other service providers,
14 local community government leaders, and other
15 stakeholders;

16 (10) the total budget for the project;

17 (11) the financial condition of the applicant; and

18 (12) any other application requirements that may be
19 established by the Department by rule.

20 (j) A conversion project funded in whole or in part by a
21 grant under this Section is exempt from the requirements of the
22 Illinois Health Facilities Planning Act. The Department of
23 Public Health, however, shall send to the Health Facilities
24 Planning Board a copy of each grant award made under this
25 Section.

26 (k) Applications for grants are public information, except

1 that nursing home financial condition and any proprietary data
2 shall be classified as nonpublic data.

3 (1) The Department of Public Health may award grants from
4 the Long Term Care Civil Money Penalties Fund established under
5 Section 1919(h) (2) (A) (ii) of the Social Security Act and 42 CFR
6 488.422(g) if the award meets federal requirements.

7 (m) The Nursing Home Conversion Fund is created as a
8 special fund in the State treasury. Moneys appropriated by the
9 General Assembly or transferred from other sources for the
10 purposes of this Section shall be deposited into the Fund. All
11 interest earned on moneys in the fund shall be credited to the
12 fund. Moneys contained in the fund shall be used to support the
13 purposes of this Section.

14 (Source: P.A. 95-331, eff. 8-21-07.)

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