

1 AN ACT concerning regulation.

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. The purpose of
8 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
17 be provided to Illinois participants for the first time and
18 will produce a cost savings for the State of Illinois by
19 supporting the rebalancing efforts of the Patient Protection
20 and Affordable Care Act.

21 (a) Long Term Care Ombudsman Program. The Department shall
22 establish a Long Term Care Ombudsman Program, through the
23 Office of State Long Term Care Ombudsman ("the Office"), in

1 accordance with the provisions of the Older Americans Act of
2 1965, as now or hereafter amended. The Long Term Care Ombudsman
3 Program is authorized, subject to sufficient appropriations,
4 to advocate on behalf of older persons and persons with
5 disabilities residing in their own homes or community-based
6 settings, relating to matters which may adversely affect the
7 health, safety, welfare, or rights of such individuals.

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

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

11 (i) Enter any long term care facility or assisted
12 living or shared housing establishment or supportive
13 living facility;

14 (ii) Communicate privately and without restriction
15 with any resident, regardless of age, who consents to
16 the communication;

17 (iii) Seek consent to communicate privately and
18 without restriction with any participant or resident,
19 regardless of age;

20 (iv) Inspect the clinical and other records of a
21 participant or resident, regardless of age, with the
22 express written consent of the participant or
23 resident;

24 (v) Observe all areas of the long term care
25 facility or supportive living facilities, assisted
26 living or shared housing establishment except the

1 living area of any resident who protests the
2 observation; and

3 (vi) Subject to permission of the participant or
4 resident requesting services or his or her
5 representative, enter a home or community-based
6 setting.

7 (2) "Long Term Care Facility" means (i) any facility as
8 defined by Section 1-113 of the Nursing Home Care Act, as
9 now or hereafter amended; (ii) any skilled nursing facility
10 or a nursing facility which meets the requirements of
11 Section 1819(a), (b), (c), and (d) or Section 1919(a), (b),
12 (c), and (d) of the Social Security Act, as now or
13 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
14 and 42 U.S.C. 1396r(a), (b), (c), and (d)); (iii) any
15 facility as defined by Section 1-113 of the ID/DD Community
16 Care Act, as now or hereafter amended; ~~and~~ (iv) any
17 facility as defined by Section 1-113 of MC/DD Act, as now
18 or hereafter amended; and (v) any facility licensed under
19 Section 4-105 or 4-201 of the Specialized Mental Health
20 Rehabilitation Act of 2013, as now or hereafter amended.

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

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

1 Aid Code.

2 (2.8) "Community-based setting" means any place of
3 abode other than an individual's private home.

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

9 (3.1) "Ombudsman" means any designated representative
10 of the State Long Term Care Ombudsman Program; provided
11 that the representative, whether he is paid for or
12 volunteers his ombudsman services, shall be qualified and
13 designated by the Office to perform the duties of an
14 ombudsman as specified by the Department in rules and in
15 accordance with the provisions of the Older Americans Act
16 of 1965, as now or hereafter amended.

17 (4) "Participant" means an older person aged 60 or over
18 or an adult with a disability aged 18 through 59 who is
19 eligible for services under any of the following:

20 (i) A medical assistance waiver administered by
21 the State.

22 (ii) A managed care organization providing care
23 coordination and other services to seniors and persons
24 with disabilities.

25 (5) "Resident" means an older person aged 60 or over or
26 an adult with a disability aged 18 through 59 who resides

1 in a long-term care facility.

2 (c) Ombudsman; rules. The Office of State Long Term Care
3 Ombudsman shall be composed of at least one full-time ombudsman
4 and shall include a system of designated regional long term
5 care ombudsman programs. Each regional program shall be
6 designated by the State Long Term Care Ombudsman as a
7 subdivision of the Office and any representative of a regional
8 program shall be treated as a representative of the Office.

9 The Department, in consultation with the Office, shall
10 promulgate administrative rules in accordance with the
11 provisions of the Older Americans Act of 1965, as now or
12 hereafter amended, to establish the responsibilities of the
13 Department and the Office of State Long Term Care Ombudsman and
14 the designated regional Ombudsman programs. The administrative
15 rules shall include the responsibility of the Office and
16 designated regional programs to investigate and resolve
17 complaints made by or on behalf of residents of long term care
18 facilities, supportive living facilities, and assisted living
19 and shared housing establishments, and participants residing
20 in their own homes or community-based settings, including the
21 option to serve residents and participants under the age of 60,
22 relating to actions, inaction, or decisions of providers, or
23 their representatives, of such facilities and establishments,
24 of public agencies, or of social services agencies, which may
25 adversely affect the health, safety, welfare, or rights of such
26 residents and participants. The Office and designated regional

1 programs may represent all residents and participants, but are
2 not required by this Act to represent persons under 60 years of
3 age, except to the extent required by federal law. When
4 necessary and appropriate, representatives of the Office shall
5 refer complaints to the appropriate regulatory State agency.
6 The Department, in consultation with the Office, shall
7 cooperate with the Department of Human Services and other State
8 agencies in providing information and training to designated
9 regional long term care ombudsman programs about the
10 appropriate assessment and treatment (including information
11 about appropriate supportive services, treatment options, and
12 assessment of rehabilitation potential) of the participants
13 they serve.

14 The State Long Term Care Ombudsman and all other ombudsmen,
15 as defined in paragraph (3.1) of subsection (b) must submit to
16 background checks under the Health Care Worker Background Check
17 Act and receive training, as prescribed by the Illinois
18 Department on Aging, before visiting facilities, private
19 homes, or community-based settings. The training must include
20 information specific to assisted living establishments,
21 supportive living facilities, shared housing establishments,
22 private homes, and community-based settings and to the rights
23 of residents and participants guaranteed under the
24 corresponding Acts and administrative rules.

25 (c-5) Consumer Choice Information Reports. The Office
26 shall:

1 (1) In collaboration with the Attorney General, create
2 a Consumer Choice Information Report form to be completed
3 by all licensed long term care facilities to aid
4 Illinoisans and their families in making informed choices
5 about long term care. The Office shall create a Consumer
6 Choice Information Report for each type of licensed long
7 term care facility. The Office shall collaborate with the
8 Attorney General and the Department of Human Services to
9 create a Consumer Choice Information Report form for
10 facilities licensed under the ID/DD Community Care Act or
11 the MC/DD Act.

12 (2) Develop a database of Consumer Choice Information
13 Reports completed by licensed long term care facilities
14 that includes information in the following consumer
15 categories:

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

17 (B) Special Services and Amenities.

18 (C) Staffing.

19 (D) Facility Statistics and Resident Demographics.

20 (E) Ownership and Administration.

21 (F) Safety and Security.

22 (G) Meals and Nutrition.

23 (H) Rooms, Furnishings, and Equipment.

24 (I) Family, Volunteer, and Visitation Provisions.

25 (3) Make this information accessible to the public,
26 including on the Internet by means of a hyperlink labeled

1 "Resident's Right to Know" on the Office's World Wide Web
2 home page. Information about facilities licensed under the
3 ID/DD Community Care Act or the MC/DD Act shall be made
4 accessible to the public by the Department of Human
5 Services, including on the Internet by means of a hyperlink
6 labeled "Resident's and Families' Right to Know" on the
7 Department of Human Services' "For Customers" website.

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

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

12 (6) Include in the Office's Consumer Choice
13 Information Report for each type of licensed long term care
14 facility additional information on each licensed long term
15 care facility in the State of Illinois, including
16 information regarding each facility's compliance with the
17 relevant State and federal statutes, rules, and standards;
18 customer satisfaction surveys; and information generated
19 from quality measures developed by the Centers for Medicare
20 and Medicaid Services.

21 (d) Access and visitation rights.

22 (1) In accordance with subparagraphs (A) and (E) of
23 paragraph (3) of subsection (c) of Section 1819 and
24 subparagraphs (A) and (E) of paragraph (3) of subsection
25 (c) of Section 1919 of the Social Security Act, as now or
26 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and

1 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
2 Older Americans Act of 1965, as now or hereafter amended
3 (42 U.S.C. 3058f), a long term care facility, supportive
4 living facility, assisted living establishment, and shared
5 housing establishment must:

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

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

17 (iii) permit a representative of the Program to
18 communicate privately and without restriction with any
19 participant who consents to the communication
20 regardless of the consent of, or withholding of consent
21 by, a legal guardian or an agent named in a power of
22 attorney executed by the participant.

23 (2) Each long term care facility, supportive living
24 facility, assisted living establishment, and shared
25 housing establishment shall display, in multiple,
26 conspicuous public places within the facility accessible

1 to both visitors and residents and in an easily readable
2 format, the address and phone number of the Office of the
3 Long Term Care Ombudsman, in a manner prescribed by the
4 Office.

5 (e) Immunity. An ombudsman or any representative of the
6 Office participating in the good faith performance of his or
7 her official duties shall have immunity from any liability
8 (civil, criminal or otherwise) in any proceedings (civil,
9 criminal or otherwise) brought as a consequence of the
10 performance of his official duties.

11 (f) Business offenses.

12 (1) No person shall:

13 (i) Intentionally prevent, interfere with, or
14 attempt to impede in any way any representative of the
15 Office in the performance of his official duties under
16 this Act and the Older Americans Act of 1965; or

17 (ii) Intentionally retaliate, discriminate
18 against, or effect reprisals against any long term care
19 facility resident or employee for contacting or
20 providing information to any representative of the
21 Office.

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

24 (3) The State Long Term Care Ombudsman shall notify the
25 State's Attorney of the county in which the long term care
26 facility, supportive living facility, or assisted living

1 or shared housing establishment is located, or the Attorney
2 General, of any violations of this Section.

3 (g) Confidentiality of records and identities. The
4 Department shall establish procedures for the disclosure by the
5 State Ombudsman or the regional ombudsmen entities of files
6 maintained by the program. The procedures shall provide that
7 the files and records may be disclosed only at the discretion
8 of the State Long Term Care Ombudsman or the person designated
9 by the State Ombudsman to disclose the files and records, and
10 the procedures shall prohibit the disclosure of the identity of
11 any complainant, resident, participant, witness, or employee
12 of a long term care provider unless:

13 (1) the complainant, resident, participant, witness,
14 or employee of a long term care provider or his or her
15 legal representative consents to the disclosure and the
16 consent is in writing;

17 (2) the complainant, resident, participant, witness,
18 or employee of a long term care provider gives consent
19 orally; and the consent is documented contemporaneously in
20 writing in accordance with such requirements as the
21 Department shall establish; or

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

23 (h) Legal representation. The Attorney General shall
24 provide legal representation to any representative of the
25 Office against whom suit or other legal action is brought in
26 connection with the performance of the representative's

1 official duties, in accordance with the State Employee
2 Indemnification Act.

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

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

16 (k) Each Regional Ombudsman may, in accordance with rules
17 promulgated by the Office, establish a multi-disciplinary team
18 to act in an advisory role for the purpose of providing
19 professional knowledge and expertise in handling complex
20 abuse, neglect, and advocacy issues involving participants.
21 Each multi-disciplinary team may consist of one or more
22 volunteer representatives from any combination of at least 7
23 members from the following professions: banking or finance;
24 disability care; health care; pharmacology; law; law
25 enforcement; emergency responder; mental health care; clergy;
26 coroner or medical examiner; substance abuse; domestic

1 violence; sexual assault; or other related fields. To support
2 multi-disciplinary teams in this role, law enforcement
3 agencies and coroners or medical examiners shall supply records
4 as may be requested in particular cases. The Regional
5 Ombudsman, or his or her designee, of the area in which the
6 multi-disciplinary team is created shall be the facilitator of
7 the multi-disciplinary team.

8 (Source: P.A. 98-380, eff. 8-16-13; 98-989, eff. 1-1-15;
9 99-180, eff. 7-29-15.)

10 Section 10. The Specialized Mental Health Rehabilitation
11 Act of 2013 is amended by changing Sections 4-103, 4-105, and
12 4-201 as follows:

13 (210 ILCS 49/4-103)

14 Sec. 4-103. Provisional licensure emergency rules. The
15 Department, in consultation with the Division of Mental Health
16 of the Department of Human Services and the Department of
17 Healthcare and Family Services, is granted the authority under
18 this Act to establish provisional licensure and licensing
19 procedures by emergency rule. The Department shall file
20 emergency rules concerning provisional licensure under this
21 Act within 120 days after the effective date of this Act. ~~The~~
22 ~~rules to be filed for provisional licensure shall be for a~~
23 ~~period of 3 years, beginning with the adoption date of the~~
24 ~~emergency rules establishing the provisional license, and~~

1 ~~shall not be extended beyond the date of 3 years after the~~
2 ~~effective date of the emergency rules creating the provisional~~
3 ~~license and licensing process.~~ Rules governing the provisional
4 license and licensing process shall contain rules for the
5 different levels of care offered by the facilities authorized
6 under this Act and shall address each type of care hereafter
7 enumerated:

8 (1) triage centers;

9 (2) crisis stabilization;

10 (3) recovery and rehabilitation supports;

11 (4) transitional living units; or

12 (5) other intensive treatment and stabilization
13 programs designed and developed in collaboration with the
14 Department.

15 (Source: P.A. 98-104, eff. 7-22-13.)

16 (210 ILCS 49/4-105)

17 Sec. 4-105. Provisional licensure duration. A provisional
18 license shall be valid upon fulfilling the requirements
19 established by the Department by emergency rule. The license
20 shall remain valid as long as a facility remains in compliance
21 with the licensure provisions established in rule. Provisional
22 licenses issued upon initial licensure as a specialized mental
23 health rehabilitation facility shall expire at the end of a
24 3-year period, which commences on the date the provisional
25 license is issued. Issuance of a provisional license for any

1 reason other than initial licensure (including, but not limited
2 to, change of ownership, location, number of beds, or services)
3 shall not extend the maximum 3-year period, at the end of which
4 a facility must be licensed pursuant to Section 4-201. The
5 ~~provisional license shall expire when the administrative rule~~
6 ~~established by the Department for provisional licensure~~
7 ~~expires at the end of a 3 year period.~~

8 (Source: P.A. 98-104, eff. 7-22-13.)

9 (210 ILCS 49/4-201)

10 Sec. 4-201. Accreditation and licensure. At the end of the
11 provisional licensure period established in ~~Article 3~~, Part 1
12 of this Article 4 Act, the Department shall license a facility
13 as a specialized mental health rehabilitation facility under
14 this Act that successfully completes and obtains valid national
15 accreditation in behavioral health from a recognized national
16 accreditation entity and complies with licensure standards as
17 established by the Department of Public Health in
18 administrative rule. Rules governing licensure standards shall
19 include, but not be limited to, appropriate fines and sanctions
20 associated with violations of laws or regulations. The
21 following shall be considered to be valid national
22 accreditation in behavioral health from an national
23 accreditation entity:

24 (1) the Joint Commission;

25 (2) the Commission on Accreditation of Rehabilitation

1 Facilities;

2 (3) the Healthcare Facilities Accreditation Program;

3 or

4 (4) any other national standards of care as approved by

5 the Department.

6 (Source: P.A. 98-104, eff. 7-22-13.)

7 Section 99. Effective date. This Act takes effect upon

8 becoming law.