



Sen. Heather A. Steans

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LRB099 18342 MJP 45799 a

1 AMENDMENT TO SENATE BILL 2504

2 AMENDMENT NO. _____. Amend Senate Bill 2504 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 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

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 Ombudsman
10 Program is authorized, subject to sufficient appropriations,
11 to advocate on behalf of older persons and persons with
12 disabilities residing in their own homes or community-based
13 settings, relating to matters which may adversely affect the
14 health, safety, welfare, or rights of such individuals.

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

17 (1) "Access" 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;

24 (iii) Seek consent to communicate privately and
25 without restriction with any participant or resident,
26 regardless of age;

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

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

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

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

1 Rehabilitation Act of 2013, as now or hereafter amended.

2 (2.5) "Assisted living establishment" and "shared
3 housing establishment" have the meanings given those terms
4 in Section 10 of the Assisted Living and Shared Housing
5 Act.

6 (2.7) "Supportive living facility" means a facility
7 established under Section 5-5.01a of the Illinois Public
8 Aid Code.

9 (2.8) "Community-based setting" means any place of
10 abode other than an individual's private home.

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

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

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

1 (i) A medical assistance waiver administered by
2 the State.

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

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

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

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

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

21 The State Long Term Care Ombudsman and all other ombudsmen,
22 as defined in paragraph (3.1) of subsection (b) must submit to
23 background checks under the Health Care Worker Background Check
24 Act and receive training, as prescribed by the Illinois
25 Department on Aging, before visiting facilities, private
26 homes, or community-based settings. The training must include

1 information specific to assisted living establishments,
2 supportive living facilities, shared housing establishments,
3 private homes, and community-based settings and to the rights
4 of residents and participants guaranteed under the
5 corresponding Acts and administrative rules.

6 (c-5) Consumer Choice Information Reports. The Office
7 shall:

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

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

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

24 (B) Special Services and Amenities.

25 (C) Staffing.

26 (D) Facility Statistics and Resident Demographics.

1 (E) Ownership and Administration.

2 (F) Safety and Security.

3 (G) Meals and Nutrition.

4 (H) Rooms, Furnishings, and Equipment.

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

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

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

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

19 (6) Include in the Office's Consumer Choice
20 Information Report for each type of licensed long term care
21 facility additional information on each licensed long term
22 care facility in the State of Illinois, including
23 information regarding each facility's compliance with the
24 relevant State and federal statutes, rules, and standards;
25 customer satisfaction surveys; and information generated
26 from quality measures developed by the Centers for Medicare

1 and Medicaid Services.

2 (d) Access and visitation rights.

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

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

15 (ii) permit representatives of the Office, with
16 the permission of the resident's legal representative
17 or legal guardian, to examine a resident's clinical and
18 other records, regardless of the age of the resident,
19 and if a resident is unable to consent to such review,
20 and has no legal guardian, permit representatives of
21 the Office appropriate access, as defined by the
22 Department, in consultation with the Office, in
23 administrative rules, to the resident's records; and

24 (iii) permit a representative of the Program to
25 communicate privately and without restriction with any
26 participant who consents to the communication

1 regardless of the consent of, or withholding of consent
2 by, a legal guardian or an agent named in a power of
3 attorney executed by the participant.

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

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

18 (f) Business offenses.

19 (1) No person shall:

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

24 (ii) Intentionally retaliate, discriminate
25 against, or effect reprisals against any long term care
26 facility resident or employee for contacting or

1 providing information to any representative of the
2 Office.

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

5 (3) The State Long Term Care Ombudsman shall notify the
6 State's Attorney of the county in which the long term care
7 facility, supportive living facility, or assisted living
8 or shared housing establishment is located, or the Attorney
9 General, of any violations of this Section.

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

20 (1) the complainant, resident, participant, witness,
21 or employee of a long term care provider or his or her
22 legal representative consents to the disclosure and the
23 consent is in writing;

24 (2) the complainant, resident, participant, witness,
25 or employee of a long term care provider gives consent
26 orally; and the consent is documented contemporaneously in

1 writing in accordance with such requirements as the
2 Department shall establish; or

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

4 (h) Legal representation. The Attorney General shall
5 provide legal representation to any representative of the
6 Office against whom suit or other legal action is brought in
7 connection with the performance of the representative's
8 official duties, in accordance with the State Employee
9 Indemnification Act.

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

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

23 (k) Each Regional Ombudsman may, in accordance with rules
24 promulgated by the Office, establish a multi-disciplinary team
25 to act in an advisory role for the purpose of providing
26 professional knowledge and expertise in handling complex

1 abuse, neglect, and advocacy issues involving participants.
2 Each multi-disciplinary team may consist of one or more
3 volunteer representatives from any combination of at least 7
4 members from the following professions: banking or finance;
5 disability care; health care; pharmacology; law; law
6 enforcement; emergency responder; mental health care; clergy;
7 coroner or medical examiner; substance abuse; domestic
8 violence; sexual assault; or other related fields. To support
9 multi-disciplinary teams in this role, law enforcement
10 agencies and coroners or medical examiners shall supply records
11 as may be requested in particular cases. The Regional
12 Ombudsman, or his or her designee, of the area in which the
13 multi-disciplinary team is created shall be the facilitator of
14 the multi-disciplinary team.

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

17 Section 10. The Specialized Mental Health Rehabilitation
18 Act of 2013 is amended by changing Sections 4-103, 4-105, and
19 4-201 as follows:

20 (210 ILCS 49/4-103)

21 Sec. 4-103. Provisional licensure emergency rules. The
22 Department, in consultation with the Division of Mental Health
23 of the Department of Human Services and the Department of
24 Healthcare and Family Services, is granted the authority under

1 this Act to establish provisional licensure and licensing
2 procedures by emergency rule. The Department shall file
3 emergency rules concerning provisional licensure under this
4 Act within 120 days after the effective date of this Act. ~~The~~
5 ~~rules to be filed for provisional licensure shall be for a~~
6 ~~period of 3 years, beginning with the adoption date of the~~
7 ~~emergency rules establishing the provisional license, and~~
8 ~~shall not be extended beyond the date of 3 years after the~~
9 ~~effective date of the emergency rules creating the provisional~~
10 ~~license and licensing process.~~ Rules governing the provisional
11 license and licensing process shall contain rules for the
12 different levels of care offered by the facilities authorized
13 under this Act and shall address each type of care hereafter
14 enumerated:

15 (1) triage centers;

16 (2) crisis stabilization;

17 (3) recovery and rehabilitation supports;

18 (4) transitional living units; or

19 (5) other intensive treatment and stabilization
20 programs designed and developed in collaboration with the
21 Department.

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

23 (210 ILCS 49/4-105)

24 Sec. 4-105. Provisional licensure duration. A provisional
25 license shall be valid upon fulfilling the requirements

1 established by the Department by emergency rule. The license
2 shall remain valid as long as a facility remains in compliance
3 with the licensure provisions established in rule. Provisional
4 licenses issued upon initial licensure as a specialized mental
5 health rehabilitation facility shall expire at the end of a
6 3-year period, which commences on the date the provisional
7 license is issued. Issuance of a provisional license for any
8 reason other than initial licensure (including, but not limited
9 to, change of ownership, location, number of beds, or services)
10 shall not extend the maximum 3-year period, at the end of which
11 a facility must be licensed pursuant to Section 4-201. The
12 ~~provisional license shall expire when the administrative rule~~
13 ~~established by the Department for provisional licensure~~
14 ~~expires at the end of a 3 year period.~~

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

16 (210 ILCS 49/4-201)

17 Sec. 4-201. Accreditation and licensure. At the end of the
18 provisional licensure period established in ~~Article 3~~, Part 1
19 of this Article 4 Act, the Department shall license a facility
20 as a specialized mental health rehabilitation facility under
21 this Act that successfully completes and obtains valid national
22 accreditation in behavioral health from a recognized national
23 accreditation entity and complies with licensure standards as
24 established by the Department of Public Health in
25 administrative rule. Rules governing licensure standards shall

1 include, but not be limited to, appropriate fines and sanctions
2 associated with violations of laws or regulations. The
3 following shall be considered to be valid national
4 accreditation in behavioral health from an national
5 accreditation entity:

6 (1) the Joint Commission;

7 (2) the Commission on Accreditation of Rehabilitation
8 Facilities;

9 (3) the Healthcare Facilities Accreditation Program;

10 or

11 (4) any other national standards of care as approved by
12 the Department.

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

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