

AN ACT concerning regulation.

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

Section 5. The Illinois Act on the Aging is amended by changing Section 4.04 as follows:

(20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

Sec. 4.04. Long Term Care Ombudsman Program. The purpose of the Long Term Care Ombudsman Program is to ensure that older persons and persons with disabilities receive quality services. This is accomplished by providing advocacy services for residents of long term care facilities and participants receiving home care and community-based care. Managed care is increasingly becoming the vehicle for delivering health and long-term services and supports to seniors and persons with disabilities, including dual eligible participants. The additional ombudsman authority will allow advocacy services to be provided to Illinois participants for the first time and will produce a cost savings for the State of Illinois by supporting the rebalancing efforts of the Patient Protection and Affordable Care Act.

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

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

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

(1) "Access" means the right to:

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

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

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

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

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

living area of any resident who protests the observation; and

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

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

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

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

Aid Code.

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

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

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

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

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

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

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

in a long-term care facility.

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

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

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

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

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

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

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

- (A) Medical Care, Services, and Treatment.
- (B) Special Services and Amenities.
- (C) Staffing.
- (D) Facility Statistics and Resident Demographics.
- (E) Ownership and Administration.
- (F) Safety and Security.
- (G) Meals and Nutrition.
- (H) Rooms, Furnishings, and Equipment.
- (I) Family, Volunteer, and Visitation Provisions.

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

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

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

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

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

(d) Access and visitation rights.

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



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

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

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

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

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

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

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

(f) Business offenses.

(1) No person shall:

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

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

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

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

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

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

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

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

(3) the disclosure is required by court order.

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

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

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

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

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

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

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

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

(210 ILCS 49/4-103)

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

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

- (1) triage centers;
- (2) crisis stabilization;
- (3) recovery and rehabilitation supports;
- (4) transitional living units; or
- (5) other intensive treatment and stabilization programs designed and developed in collaboration with the Department.

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

(210 ILCS 49/4-105)

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

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

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

(210 ILCS 49/4-201)

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

- (1) the Joint Commission;
- (2) the Commission on Accreditation of Rehabilitation

Facilities;

(3) the Healthcare Facilities Accreditation Program;

or

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

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

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