

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 Sections 4.01 and 4.04 as follows:

6 (20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

7 Sec. 4.01. Additional powers and duties of the Department.

8 In addition to powers and duties otherwise provided by law, the
9 Department shall have the following powers and duties:

10 (1) To evaluate all programs, services, and facilities for
11 the aged and for minority senior citizens within the State and
12 determine the extent to which present public or private
13 programs, services and facilities meet the needs of the aged.

14 (2) To coordinate and evaluate all programs, services, and
15 facilities for the Aging and for minority senior citizens
16 presently furnished by State agencies and make appropriate
17 recommendations regarding such services, programs and
18 facilities to the Governor and/or the General Assembly.

19 (3) To function as the sole State agency to develop a
20 comprehensive plan to meet the needs of the State's senior
21 citizens and the State's minority senior citizens.

22 (4) To receive and disburse State and federal funds made
23 available directly to the Department including those funds made

1 available under the Older Americans Act and the Senior
2 Community Service Employment Program for providing services
3 for senior citizens and minority senior citizens or for
4 purposes related thereto, and shall develop and administer any
5 State Plan for the Aging required by federal law.

6 (5) To solicit, accept, hold, and administer in behalf of
7 the State any grants or legacies of money, securities, or
8 property to the State of Illinois for services to senior
9 citizens and minority senior citizens or purposes related
10 thereto.

11 (6) To provide consultation and assistance to communities,
12 area agencies on aging, and groups developing local services
13 for senior citizens and minority senior citizens.

14 (7) To promote community education regarding the problems
15 of senior citizens and minority senior citizens through
16 institutes, publications, radio, television and the local
17 press.

18 (8) To cooperate with agencies of the federal government in
19 studies and conferences designed to examine the needs of senior
20 citizens and minority senior citizens and to prepare programs
21 and facilities to meet those needs.

22 (9) To establish and maintain information and referral
23 sources throughout the State when not provided by other
24 agencies.

25 (10) To provide the staff support that may reasonably be
26 required by the Council.

1 (11) To make and enforce rules and regulations necessary
2 and proper to the performance of its duties.

3 (12) To establish and fund programs or projects or
4 experimental facilities that are specially designed as
5 alternatives to institutional care.

6 (13) To develop a training program to train the counselors
7 presently employed by the Department's aging network to provide
8 Medicare beneficiaries with counseling and advocacy in
9 Medicare, private health insurance, and related health care
10 coverage plans. The Department shall report to the General
11 Assembly on the implementation of the training program on or
12 before December 1, 1986.

13 (14) To make a grant to an institution of higher learning
14 to study the feasibility of establishing and implementing an
15 affirmative action employment plan for the recruitment,
16 hiring, training and retraining of persons 60 or more years old
17 for jobs for which their employment would not be precluded by
18 law.

19 (15) To present one award annually in each of the
20 categories of community service, education, the performance
21 and graphic arts, and the labor force to outstanding Illinois
22 senior citizens and minority senior citizens in recognition of
23 their individual contributions to either community service,
24 education, the performance and graphic arts, or the labor
25 force. The awards shall be presented to 4 senior citizens and
26 minority senior citizens selected from a list of 44 nominees

1 compiled annually by the Department. Nominations shall be
2 solicited from senior citizens' service providers, area
3 agencies on aging, senior citizens' centers, and senior
4 citizens' organizations. The Department shall establish a
5 central location within the State to be designated as the
6 Senior Illinoisans Hall of Fame for the public display of all
7 the annual awards, or replicas thereof.

8 (16) To establish multipurpose senior centers through area
9 agencies on aging and to fund those new and existing
10 multipurpose senior centers through area agencies on aging, the
11 establishment and funding to begin in such areas of the State
12 as the Department shall designate by rule and as specifically
13 appropriated funds become available.

14 (17) To develop the content and format of the
15 acknowledgment regarding non-recourse reverse mortgage loans
16 under Section 6.1 of the Illinois Banking Act; to provide
17 independent consumer information on reverse mortgages and
18 alternatives; and to refer consumers to independent counseling
19 services with expertise in reverse mortgages.

20 (18) To develop a pamphlet in English and Spanish which may
21 be used by physicians licensed to practice medicine in all of
22 its branches pursuant to the Medical Practice Act of 1987,
23 pharmacists licensed pursuant to the Pharmacy Practice Act, and
24 Illinois residents 65 years of age or older for the purpose of
25 assisting physicians, pharmacists, and patients in monitoring
26 prescriptions provided by various physicians and to aid persons

1 65 years of age or older in complying with directions for
2 proper use of pharmaceutical prescriptions. The pamphlet may
3 provide space for recording information including but not
4 limited to the following:

5 (a) name and telephone number of the patient;

6 (b) name and telephone number of the prescribing
7 physician;

8 (c) date of prescription;

9 (d) name of drug prescribed;

10 (e) directions for patient compliance; and

11 (f) name and telephone number of dispensing pharmacy.

12 In developing the pamphlet, the Department shall consult
13 with the Illinois State Medical Society, the Center for
14 Minority Health Services, the Illinois Pharmacists Association
15 and senior citizens organizations. The Department shall
16 distribute the pamphlets to physicians, pharmacists and
17 persons 65 years of age or older or various senior citizen
18 organizations throughout the State.

19 (19) To conduct a study of the feasibility of implementing
20 the Senior Companion Program throughout the State.

21 (20) The reimbursement rates paid through the community
22 care program for chore housekeeping services and home care
23 aides shall be the same.

24 (21) From funds appropriated to the Department from the
25 Meals on Wheels Fund, a special fund in the State treasury that
26 is hereby created, and in accordance with State and federal

1 guidelines and the intrastate funding formula, to make grants
2 to area agencies on aging, designated by the Department, for
3 the sole purpose of delivering meals to homebound persons 60
4 years of age and older.

5 (22) To distribute, through its area agencies on aging,
6 information alerting seniors on safety issues regarding
7 emergency weather conditions, including extreme heat and cold,
8 flooding, tornadoes, electrical storms, and other severe storm
9 weather. The information shall include all necessary
10 instructions for safety and all emergency telephone numbers of
11 organizations that will provide additional information and
12 assistance.

13 (23) To develop guidelines for the organization and
14 implementation of Volunteer Services Credit Programs to be
15 administered by Area Agencies on Aging or community based
16 senior service organizations. The Department shall hold public
17 hearings on the proposed guidelines for public comment,
18 suggestion, and determination of public interest. The
19 guidelines shall be based on the findings of other states and
20 of community organizations in Illinois that are currently
21 operating volunteer services credit programs or demonstration
22 volunteer services credit programs. The Department shall offer
23 guidelines for all aspects of the programs including, but not
24 limited to, the following:

25 (a) types of services to be offered by volunteers;

26 (b) types of services to be received upon the

1 redemption of service credits;

2 (c) issues of liability for the volunteers and the
3 administering organizations;

4 (d) methods of tracking service credits earned and
5 service credits redeemed;

6 (e) issues of time limits for redemption of service
7 credits;

8 (f) methods of recruitment of volunteers;

9 (g) utilization of community volunteers, community
10 service groups, and other resources for delivering
11 services to be received by service credit program clients;

12 (h) accountability and assurance that services will be
13 available to individuals who have earned service credits;
14 and

15 (i) volunteer screening and qualifications.

16 The Department shall submit a written copy of the guidelines to
17 the General Assembly by July 1, 1998.

18 (24) To hold conferences, trainings, and other programs for
19 which the Department shall determine by rule a reasonable fee
20 to cover related administrative costs. Rules to implement the
21 fee authority granted by this paragraph (24) must be adopted in
22 accordance with all provisions of the Illinois Administrative
23 Procedure Act and all rules and procedures of the Joint
24 Committee on Administrative Rules; any purported rule not so
25 adopted, for whatever reason, is unauthorized.

26 (Source: P.A. 95-298, eff. 8-20-07; 95-689, eff. 10-29-07;

1 95-876, eff. 8-21-08; 96-918, eff. 6-9-10.)

2 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

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

17 (a) Long Term Care Ombudsman Program. The Department shall
18 establish a Long Term Care Ombudsman Program, through the
19 Office of State Long Term Care Ombudsman ("the Office"), in
20 accordance with the provisions of the Older Americans Act of
21 1965, as now or hereafter amended. The Long Term Care Ombudsman
22 Program is authorized, subject to sufficient appropriations,
23 to advocate on behalf of older persons and persons with
24 disabilities residing in their own homes or community-based
25 settings, relating to matters which may adversely affect the

1 health, safety, welfare, or rights of such individuals.

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

4 (1) "Access" has the same meaning as in Section 1-104
5 of the Nursing Home Care Act, as now or hereafter amended;
6 that is, it means the right to:

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

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

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

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

20 (v) Observe all areas of the long term care
21 facility or supportive living facilities, assisted
22 living or shared housing establishment except the
23 living area of any resident who protests the
24 observation; and -

25 (vi) Subject to permission of the participant or
26 resident requesting services or his or her

1 representative, enter a home or community-based
2 setting.

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

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

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

20 (2.8) "Community-based setting" means any place of
21 abode other than an individual's private home.

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

1 (3.1) "Ombudsman" means any designated representative
2 of the State Long Term Care Ombudsman Program ~~a regional~~
3 ~~long term care ombudsman program~~; provided that the
4 representative, whether he is paid for or volunteers his
5 ombudsman services, shall be qualified and designated by
6 the Office to perform the duties of an ombudsman as
7 specified by the Department in rules and in accordance with
8 the provisions of the Older Americans Act of 1965, as now
9 or hereafter amended.

10 (4) "Participant" means an older person or persons with
11 disabilities who are eligible for services under any of the
12 following:

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

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

18 (5) "Resident" means an older individual who resides in
19 a long-term care facility.

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

1 The Department, in consultation with the Office, shall
2 promulgate administrative rules in accordance with the
3 provisions of the Older Americans Act of 1965, as now or
4 hereafter amended, to establish the responsibilities of the
5 Department and the Office of State Long Term Care Ombudsman and
6 the designated regional Ombudsman programs. The administrative
7 rules shall include the responsibility of the Office and
8 designated regional programs to investigate and resolve
9 complaints made by or on behalf of residents of long term care
10 facilities, supportive living facilities, and assisted living
11 and shared housing establishments, and participants residing
12 in their own homes or community-based settings, including the
13 option to serve residents and participants under the age of 60,
14 relating to actions, inaction, or decisions of providers, or
15 their representatives, of such ~~long term care~~ facilities, ~~of~~
16 ~~supported living facilities,~~ ~~of assisted living~~ and ~~shared~~
17 ~~housing~~ establishments, of public agencies, or of social
18 services agencies, which may adversely affect the health,
19 safety, welfare, or rights of such residents and participants.
20 The Office and designated regional programs may represent all
21 residents and participants, but are not required by this Act to
22 represent persons under 60 years of age, except to the extent
23 required by federal law. When necessary and appropriate,
24 representatives of the Office shall refer complaints to the
25 appropriate regulatory State agency. The Department, in
26 consultation with the Office, shall cooperate with the

1 Department of Human Services and other State agencies in
2 providing information and training to designated regional long
3 term care ombudsman programs about the appropriate assessment
4 and treatment (including information about appropriate
5 supportive services, treatment options, and assessment of
6 rehabilitation potential) of the participants ~~residents~~ they
7 serve, ~~including children, persons with mental illness (other~~
8 ~~than Alzheimer's disease and related disorders), and persons~~
9 ~~with developmental disabilities.~~

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

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

23 (1) In collaboration with the Attorney General, create
24 a Consumer Choice Information Report form to be completed
25 by all licensed long term care facilities to aid
26 Illinoisans and their families in making informed choices

1 about long term care. The Office shall create a Consumer
2 Choice Information Report for each type of licensed long
3 term care facility. The Office shall collaborate with the
4 Attorney General and the Department of Human Services to
5 create a Consumer Choice Information Report form for
6 facilities licensed under the MR/DD Community Care Act.

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

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

12 (B) Special Services and Amenities.

13 (C) Staffing.

14 (D) Facility Statistics and Resident Demographics.

15 (E) Ownership and Administration.

16 (F) Safety and Security.

17 (G) Meals and Nutrition.

18 (H) Rooms, Furnishings, and Equipment.

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

20 (3) Make this information accessible to the public,
21 including on the Internet by means of a hyperlink labeled
22 "Resident's Right to Know" on the Office's World Wide Web
23 home page. Information about facilities licensed under the
24 MR/DD Community Care Act shall be made accessible to the
25 public by the Department of Human Services, including on
26 the Internet by means of a hyperlink labeled "Resident's

1 and Families' Right to Know" on the Department of Human
2 Services' "For Customers" website.

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

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

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

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, participant, witness, or employee
2 of a long term care provider unless:

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

7 (2) the complainant, resident, participant, witness,
8 or employee of a long term care provider gives consent
9 orally; and the consent is documented contemporaneously in
10 writing in accordance with such requirements as the
11 Department shall 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. 96-328, eff. 8-11-09; 96-758, eff. 8-25-09;
7 96-1372, eff. 7-29-10; 97-38, eff. 6-28-11.)

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