

AN ACT concerning State government.

**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 Sections 4.01 and 4.04 as follows:

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

Sec. 4.01. Additional powers and duties of the Department. In addition to powers and duties otherwise provided by law, the Department shall have the following powers and duties:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) name and telephone number of the patient;
- (b) name and telephone number of the prescribing physician;
- (c) date of prescription;
- (d) name of drug prescribed;
- (e) directions for patient compliance; and
- (f) name and telephone number of dispensing pharmacy.

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

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

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

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

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

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

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

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

(b) types of services to be received upon the

redemption of service credits;

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

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

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

(f) methods of recruitment of volunteers;

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

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

(i) volunteer screening and qualifications.

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

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

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

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

(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" has the same meaning as in Section 1-104 of the Nursing Home Care Act, as now or hereafter amended; that is, it 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; and (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)); and any facility as defined by Section 1-113 of the MR/DD Community Care Act, 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 ~~a regional 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 or persons with disabilities who are 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 individual 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 ~~long term care facilities, of supported living facilities, of assisted living and shared housing~~ 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 ~~residents~~ they serve, ~~including children, persons with mental illness (other than Alzheimer's disease and related disorders), and persons with developmental disabilities.~~

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, ~~and~~ 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 MR/DD Community Care 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 MR/DD Community Care 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; and

(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.

(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 Director of Aging, in consultation with the Office, 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.

(Source: P.A. 96-328, eff. 8-11-09; 96-758, eff. 8-25-09; 96-1372, eff. 7-29-10; 97-38, eff. 6-28-11.)

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