

14101547D

HOUSE BILL NO. 240

Offered January 8, 2014

Prefiled December 29, 2013

A BILL to amend and reenact § 51.5-140 of the Code of Virginia, relating to Office of State Long-Term Care Ombudsman; access to clients, patients, individuals, facilities, and records.

Patron—O'Bannon

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That § 51.5-140 of the Code of Virginia is amended and reenacted as follows:****§ 51.5-140. Access to clients, patients, and individuals, facilities, and records by Office of State Long-Term Care Ombudsman.**

The entity designated by the Department to operate the programs of the Office of the State Long-Term Care Ombudsman pursuant to the Older Americans Act (42 U.S.C. § 3001 et seq.), shall, in the investigation of complaints referred to the program, have the same access to (i) residents clients, facilities, and patients' clients' records of licensed adult care residences in accordance with § 63.2-1706 and and unlicensed adult day care centers and assisted living facilities; (ii) patients, facilities, and patients' records of nursing facilities or nursing homes in accordance with § 32.1-25, and shall have access to the as defined in § 32.1-123, hospice facilities as defined in § 32.1-162.1, and home care organizations as defined in § 32.1-162.7; (iii) individuals receiving services from providers, as defined in § 37.2-403, that are licensed, funded, or operated by the Department of Behavioral Health and Developmental Services and their records of such providers relating to such individuals; and (iv) individuals receiving services in state hospitals and training centers operated by the Department of Behavioral Health and Developmental Services. However, if a and records of state hospitals and training centers relating to such individuals, provided the adult day care center, assisted living facility, nursing facility or nursing home, hospice, home care organization, provider, state hospital, or training center has obtained the consent of the client, patient, or individual receiving services or his legal representative. If a client, patient, or individual receiving services is unable to consent to the review of his medical and social records and has no legal guardian, such representatives shall have appropriate access to such records in accordance with this section representative and access to the client's, patient's, or individual's records is necessary to the investigation of a complaint, access to the records shall be granted to the extent necessary to conduct the investigation. Notwithstanding the provisions of § 32.1-125.1, the entity designated by the Department to operate the programs of the Office of the State Long-Term Care Ombudsman shall have access to nursing facilities and nursing homes and state hospitals in accordance with this section If the client, patient, or individual receiving services is unable to consent to the review of his medical record and has a legal representative, and the legal representative refuses to consent to the disclosure, access to the records may be granted notwithstanding the legal representative's refusal upon a finding by the adult day care center, assisted living facility, nursing facility or nursing home, hospice, home care organization, provider, state hospital, or training center that consent to the disclosure is being withheld contrary to the best interests of the client, patient, or individual receiving services. Access to clients, patients, residents, and individuals receiving services; and; their records; and facilities, and adult day care centers, assisted living facilities, nursing facilities or nursing homes, hospices, home care organizations, providers, state hospitals, and training centers shall be available during normal working hours except in emergency situations.

INTRODUCED

HB240