

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4
5 Approved

[H 240]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 51.5-140 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 51.5-140. Access to clients, patients, and individuals, facilities, and records by Office of State**
9 **Long-Term Care Ombudsman.**

10 The entity designated by the Department to operate the programs of the Office of the State
11 Long-Term Care Ombudsman pursuant to the Older Americans Act (42 U.S.C. § 3001 et seq.), shall, in
12 the investigation of complaints referred to the program, have ~~the same~~ access to ~~(i) residents, the~~
13 ~~facilities; providing services; the clients, patients, and individuals receiving services; and patients' the~~
14 ~~records of such clients, patients, and individuals in (i) licensed adult care residences in accordance with~~
15 ~~§ 63.2-1706 and assisted living facilities and adult day care centers as those terms are defined in~~
16 ~~§ 63.2-100; (ii) patients, facilities, and patients' records of home care organizations as defined in~~
17 ~~§ 32.1-162.7; (iii) hospice facilities as defined in § 32.1-162.1; (iv) certified nursing facilities or and~~
18 ~~nursing homes in accordance with § 32.1-25, and shall have access to the individuals receiving services~~
19 ~~and their records in as those terms are defined in § 32.1-123; (v) providers as defined in § 37.2-403;~~
20 ~~(vi) state hospitals operated by the Department of Behavioral Health and Developmental Services; and~~
21 ~~(vii) providers of services by an area agency on aging or any private nonprofit or proprietary agency~~
22 ~~whenever the entity has the consent of the client, patient, or individual receiving services or his legal~~
23 ~~representative. However, if a client, patient, or individual receiving services is unable to consent to the~~
24 ~~review of his medical and social records and has no legal guardian, such representatives shall have~~
25 ~~appropriate access to such records in accordance with this section representative and access to the~~
26 ~~records is necessary to investigate a complaint, access shall be granted to the extent necessary to~~
27 ~~conduct the investigation. Further, access shall be granted to the entity if a legal representative of the~~
28 ~~client, patient, or individual receiving services refuses to give consent and the entity has reasonable~~
29 ~~cause to believe that the legal representative is not acting in the best interests of the client, patient, or~~
30 ~~individual receiving services. Notwithstanding the provisions of § 32.1-125.1, the entity designated by~~
31 ~~the Department to operate the programs of the Office of the State Long-Term Care Ombudsman shall~~
32 ~~have access to nursing facilities and nursing homes and state hospitals in accordance with this section.~~
33 ~~Access to patients, residents, and individuals receiving services; and their records; and to facilities; and~~
34 ~~state hospitals shall be available during normal working hours except in emergency situations. Records~~
35 ~~that are confidential under federal or state law shall be maintained as confidential by the entity and~~
36 ~~shall not be further disclosed, except as permitted by law. However, notwithstanding the provisions of~~
37 ~~this section, there shall be no right of access to privileged communications pursuant to § 8.01-581.17.~~

ENROLLED

HB240ER