

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
 2 Committee

3 Representative Roberson, K. offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 400.0060, Florida Statutes, is amended
 8 to read:

9 400.0060 Definitions.—When used in this part, unless the
 10 context clearly dictates otherwise, the term:

11 (1) "Administrative assessment" means a review of
 12 conditions in a long-term care facility which impact the rights,
 13 health, safety, and welfare of residents with the purpose of
 14 noting needed improvement and making recommendations to enhance
 15 the quality of life for residents.

16 (2) "Agency" means the Agency for Health Care
 17 Administration.

18 (3) "Department" means the Department of Elderly Affairs.

19 (4) "District" means a geographical area designated by the
 20 state ombudsman in which individuals certified as ombudsmen

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21 carry out the duties of the state ombudsman program. "~~Local~~
22 ~~council~~" means a local long-term care ombudsman council
23 ~~designated by the ombudsman pursuant to s. 400.0069. Local~~
24 ~~councils are also known as district long-term care ombudsman~~
25 ~~councils or district councils.~~

26 (5) "Long-term care facility" means a nursing home
27 facility, assisted living facility, adult family-care home,
28 board and care facility, facility where continuing long-term
29 care is provided, or any other similar residential adult care
30 facility.

31 (6) "Office" means the Office of State Long-Term Care
32 Ombudsman created by s. 400.0063.

33 (7) "Ombudsman" means an individual who has been certified
34 by the state ombudsman as meeting the requirements of ss.
35 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~
36 ~~Secretary of Elderly Affairs to head the Office of State Long-~~
37 ~~Term Care Ombudsman.~~

38 (8) "Representative of the office" means the state
39 ombudsman, employees of the office, and individuals certified as
40 ombudsmen.

41 (9)~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age
42 or older who resides in a long-term care facility.

43 (10)~~(9)~~ "Secretary" means the Secretary of Elderly
44 Affairs.

45 (11)~~(10)~~ "State council" means the State Long-Term Care
46 Ombudsman Council created by s. 400.0067.

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47 (12) "State ombudsman" means the individual appointed by
48 the Secretary of Elderly Affairs to head the Office of State
49 Long-Term Care Ombudsman.

50 (13) "State ombudsman program" means the program operating
51 under the direction of the office.

52 Section 2. Section 400.0061, Florida Statutes, is amended
53 to read:

54 400.0061 Legislative findings and intent; long-term care
55 facilities.-

56 (1) The Legislature finds that conditions in long-term
57 care facilities in this state are such that the rights, health,
58 safety, and welfare of residents are not fully ensured by rules
59 of the Department of Elderly Affairs or the Agency for Health
60 Care Administration or by the good faith of owners or operators
61 of long-term care facilities. Furthermore, there is a need for a
62 formal mechanism whereby a long-term care facility resident, a
63 representative of a long-term care facility resident, or any
64 other concerned citizen may make a complaint against the
65 facility or its employees, or against other persons who are in a
66 position to restrict, interfere with, or threaten the rights,
67 health, safety, or welfare of a long-term care facility
68 resident. The Legislature finds that concerned citizens are
69 often more effective advocates for the rights of others than
70 governmental agencies. The Legislature further finds that in
71 order to be eligible to receive an allotment of funds authorized
72 and appropriated under the federal Older Americans Act, the
73 state must establish and operate an Office of State Long-Term
74 Care Ombudsman, to be headed by the state ~~Long-Term Care~~

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75 ombudsman, and carry out a state ~~long-term care~~ ombudsman
76 program.

77 (2) It is the intent of the Legislature, therefore, to
78 utilize voluntary citizen ombudsmen ~~ombudsman councils~~ under the
79 leadership of the state ombudsman, and, through them, to operate
80 a state ~~an~~ ombudsman program, which shall, without interference
81 by any executive agency, undertake to discover, investigate, and
82 determine the presence of conditions or individuals that ~~which~~
83 constitute a threat to the rights, health, safety, or welfare of
84 the residents of long-term care facilities. To ensure that the
85 effectiveness and efficiency of such investigations are not
86 impeded by advance notice or delay, the Legislature intends that
87 representatives of the office ~~the ombudsman and ombudsman~~
88 ~~councils and their designated representatives~~ not be required to
89 obtain warrants in order to enter into or conduct investigations
90 or onsite administrative assessments of long-term care
91 facilities. It is the further intent of the Legislature that the
92 environment in long-term care facilities be conducive to the
93 dignity and independence of residents and that investigations by
94 representatives of the office ~~ombudsman councils~~ shall further
95 the enforcement of laws, rules, and regulations that safeguard
96 the health, safety, and welfare of residents.

97 Section 3. Section 400.0063, Florida Statutes, is amended
98 to read:

99 400.0063 Establishment of Office of State Long-Term Care
100 Ombudsman; designation of ombudsman and legal advocate.—

101 (1) There is created an Office of State Long-Term Care
102 Ombudsman in the Department of Elderly Affairs.

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103 (2) (a) The Office of State Long-Term Care Ombudsman shall
104 be headed by the state ~~Long-Term Care~~ ombudsman, who shall serve
105 on a full-time basis and shall personally, or through
106 representatives of the office, carry out the purposes and
107 functions of the state ombudsman program ~~office~~ in accordance
108 with state and federal law.

109 (b) The state ombudsman shall be appointed by and shall
110 serve at the pleasure of the Secretary of Elderly Affairs. The
111 secretary shall appoint a person who has expertise and
112 experience in the fields of long-term care and advocacy to serve
113 as state ombudsman.

114 (3) (a) There is created in the office the position of
115 legal advocate, who shall be selected by and serve at the
116 pleasure of the state ombudsman and shall be a member in good
117 standing of The Florida Bar.

118 (b) The duties of the legal advocate shall include, but
119 not be limited to:

120 1. Assisting the state ombudsman in carrying out the
121 duties of the office with respect to the abuse, neglect,
122 exploitation, or violation of rights of residents of long-term
123 care facilities.

124 2. Assisting the state council and representatives of the
125 office ~~local councils~~ in carrying out their responsibilities
126 under this part.

127 3. Pursuing administrative, legal, and other appropriate
128 remedies on behalf of residents.

129 4. Serving as legal counsel to the state council and
130 representatives of the office ~~local councils, or individual~~

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131 ~~members thereof~~, against whom any suit or other legal action is
132 initiated in connection with the performance of the official
133 duties of the state ombudsman program ~~councils or an individual~~
134 ~~member~~.

135 Section 4. Section 400.0065, Florida Statutes, is amended
136 to read:

137 400.0065 Office of State Long-Term Care Ombudsman; duties
138 and responsibilities.-

139 (1) The purpose of the Office of State Long-Term Care
140 Ombudsman shall be to:

141 (a) Identify, investigate, and resolve complaints made by
142 or on behalf of residents of long-term care facilities relating
143 to actions or omissions by providers or representatives of
144 providers of long-term care services, other public or private
145 agencies, guardians, or representative payees that may adversely
146 affect the health, safety, welfare, or rights of the residents.

147 (b) Provide services that assist in protecting the health,
148 safety, welfare, and rights of residents.

149 (c) Inform residents, their representatives, and other
150 citizens about obtaining the services of the state ~~Long-Term~~
151 ~~Care~~ ombudsman program and its representatives.

152 (d) Ensure that residents have regular and timely access
153 to the services provided through the office and that residents
154 and complainants receive timely responses from representatives
155 of the office to their complaints.

156 (e) Represent the interests of residents before
157 governmental agencies and seek administrative, legal, and other

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158 remedies to protect the health, safety, welfare, and rights of
159 the residents.

160 (f) Administer the state council ~~and local councils~~.

161 (g) Analyze, comment on, and monitor the development and
162 implementation of federal, state, and local laws, rules, and
163 regulations, and other governmental policies and actions, that
164 pertain to the health, safety, welfare, and rights of the
165 residents, with respect to the adequacy of long-term care
166 facilities and services in the state, and recommend any changes
167 in such laws, rules, regulations, policies, and actions as the
168 office determines to be appropriate and necessary.

169 (h) Provide technical support for the development of
170 resident and family councils to protect the well-being and
171 rights of residents.

172 (2) The state ~~Long Term Care~~ ombudsman shall have the duty
173 and authority to:

174 (a) Establish and coordinate districts ~~local councils~~
175 throughout the state.

176 (b) Perform the duties specified in state and federal law,
177 rules, and regulations.

178 (c) Within the limits of appropriated federal and state
179 funding, employ such personnel as are necessary to perform
180 adequately the functions of the office and provide or contract
181 for legal services to assist the state council and
182 representatives of the office ~~local councils~~ in the performance
183 of their duties. ~~Staff positions established for the purpose of~~
184 ~~coordinating the activities of each local council and assisting~~
185 ~~its members may be filled by the ombudsman after approval by the~~

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186 ~~secretary. Notwithstanding any other provision of this part,~~
187 ~~upon certification by the ombudsman that the staff member hired~~
188 ~~to fill any such position has completed the initial training~~
189 ~~required under s. 400.0091, such person shall be considered a~~
190 ~~representative of the State Long-Term Care Ombudsman Program for~~
191 ~~purposes of this part.~~

192 (d) Contract for services necessary to carry out the
193 activities of the office.

194 (e) Apply for, receive, and accept grants, gifts, or other
195 payments, including, but not limited to, real property, personal
196 property, and services from a governmental entity or other
197 public or private entity or person, and make arrangements for
198 the use of such grants, gifts, or payments.

199 (f) Coordinate, to the greatest extent possible, state and
200 local ombudsman services with the protection and advocacy
201 systems for individuals with developmental disabilities and
202 mental illnesses and with legal assistance programs for the poor
203 through adoption of memoranda of understanding and other means.

204 ~~(g) Enter into a cooperative agreement with the Statewide~~
205 ~~Advocacy Council for the purpose of coordinating and avoiding~~
206 ~~duplication of advocacy services provided to residents.~~

207 ~~(g)(h)~~ Enter into a cooperative agreement with the
208 Medicaid Fraud Division as prescribed under s. 731(e)(2)(B) of
209 the Older Americans Act.

210 ~~(h)(i)~~ Prepare an annual report describing the activities
211 carried out by the office, the state council, and the districts
212 ~~local councils~~ in the year for which the report is prepared. The
213 state ombudsman shall submit the report to the secretary, the

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214 United States Assistant Secretary for Aging, the Governor, the
215 President of the Senate, the Speaker of the House of
216 Representatives, the Secretary of Children and Families, and the
217 Secretary of Health Care Administration at least 30 days before
218 the convening of the regular session of the Legislature. ~~The~~
219 ~~secretary shall in turn submit the report to the United States~~
220 ~~Assistant Secretary for Aging, the Governor, the President of~~
221 ~~the Senate, the Speaker of the House of Representatives, the~~
222 ~~Secretary of Children and Family Services, and the Secretary of~~
223 ~~Health Care Administration.~~ The report shall, at a minimum:

224 1. Contain and analyze data collected concerning
225 complaints about and conditions in long-term care facilities and
226 the disposition of such complaints.

227 2. Evaluate the problems experienced by residents.

228 3. Analyze the successes of the state ombudsman program
229 during the preceding year, including an assessment of how
230 successfully the office ~~program~~ has carried out its
231 responsibilities under the Older Americans Act.

232 4. Provide recommendations for policy, regulatory, and
233 statutory changes designed to solve identified problems; resolve
234 residents' complaints; improve residents' lives and quality of
235 care; protect residents' rights, health, safety, and welfare;
236 and remove any barriers to the optimal operation of the state
237 ~~Long-Term Care~~ ombudsman program.

238 5. Contain recommendations from the state ~~Long-Term Care~~
239 ~~Ombudsman~~ council regarding program functions and activities and
240 recommendations for policy, regulatory, and statutory changes

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241 designed to protect residents' rights, health, safety, and
242 welfare.

243 6. Contain any relevant recommendations from
244 representatives of the office ~~the local councils~~ regarding
245 program functions and activities.

246 Section 5. Section 400.0067, Florida Statutes, is amended
247 to read:

248 400.0067 State Long-Term Care Ombudsman Council; duties;
249 membership.—

250 (1) There is created, within the Office of State Long-Term
251 Care Ombudsman, the State Long-Term Care Ombudsman Council.

252 (2) The state ~~Long-Term Care Ombudsman~~ council shall:

253 (a) Serve as an advisory body to assist the state
254 ombudsman in reaching a consensus among districts ~~local councils~~
255 on issues affecting residents and impacting the optimal
256 operation of the program.

257 (b) Serve as an appellate body in receiving from the
258 districts ~~local councils~~ complaints not resolved at the district
259 ~~local~~ level. Any individual member or members of the state
260 council may enter any long-term care facility involved in an
261 appeal, pursuant to the conditions specified in s. 400.0074(2).

262 (c) Assist the state ombudsman to discover, investigate,
263 and determine the existence of abuse or neglect in any long-term
264 care facility, and work with the adult protective services
265 program as required in ss. 415.101-415.113.

266 (d) Assist the state ombudsman in eliciting, receiving,
267 responding to, and resolving complaints made by or on behalf of
268 residents.

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269 (e) Elicit and coordinate state, district local, and
270 voluntary organizational assistance for the purpose of improving
271 the care received by residents.

272 (f) Assist the state ombudsman in preparing the annual
273 report described in s. 400.0065.

274 (3) The state ~~Long-Term Care Ombudsman~~ council shall be
275 composed of one active certified ombudsman from each district
276 ~~local council member elected by each local council~~ plus three
277 at-large members appointed by the secretary Governor.

278 (a) Each district manager, in consultation with the
279 district ombudsmen, ~~local council~~ shall select a district
280 ombudsman ~~elect by majority vote a representative from among the~~
281 ~~council members~~ to represent the interests of the district local
282 ~~council~~ on the state council. A ~~local council chair may not~~
283 ~~serve as the representative of the local council on the state~~
284 ~~council~~.

285 (b)1. The state ombudsman secretary, ~~after consulting with~~
286 ~~the ombudsman~~, shall submit to the secretary Governor a list of
287 individuals ~~persons~~ recommended for appointment to the at-large
288 positions on the state council. The list shall not include the
289 name of any person who is currently serving in a district ~~on a~~
290 ~~local council~~.

291 2. The secretary Governor shall appoint three at-large
292 members chosen from the list.

293 3. If the secretary Governor does not appoint an at-large
294 member to fill a vacant position within 60 days after the list
295 is submitted, the ~~secretary, after consulting with the state~~

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296 ombudsman, shall appoint an at-large member to fill that vacant
297 position.

298 ~~(4) (a) (c) 1.~~ All State council members shall serve 3-year
299 terms.

300 ~~2.~~ A member of the state council may not serve more than
301 two consecutive terms.

302 ~~(b) 3.~~ A district manager, in consultation with the
303 district ombudsmen, local council may recommend replacement
304 removal of its selected ombudsman ~~elected representative~~ from
305 the state council ~~majority vote~~. If the district manager, in
306 consultation with the district ombudsmen, selects a replacement
307 ombudsman, council votes to remove its representative, the local
308 council chair shall immediately notify the state ombudsman must
309 be notified. ~~The secretary shall advise the Governor of the~~
310 ~~local council's vote upon receiving notice from the ombudsman.~~

311 ~~(c) 4.~~ The position of any member missing three state
312 council meetings within a 1-year period without cause may be
313 declared vacant by the state ombudsman. The findings of the
314 state ombudsman regarding cause shall be final and binding.

315 ~~(d) 5.~~ Any vacancy on the state council shall be filled in
316 the same manner as the original appointment.

317 ~~(e) (d) 1.~~ The state council shall elect a chair to serve
318 for a term of 1 year. A chair may not serve more than two
319 consecutive terms.

320 2. The chair shall select a vice chair from among the
321 members. The vice chair shall preside over the state council in
322 the absence of the chair.

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323 3. The chair may create additional executive positions as
324 necessary to carry out the duties of the state council. Any
325 person appointed to an executive position shall serve at the
326 pleasure of the chair, and his or her term shall expire on the
327 same day as the term of the chair.

328 4. A chair may be immediately removed from office prior to
329 the expiration of his or her term by a vote of two-thirds of all
330 state council members present at any meeting at which a quorum
331 is present. If a chair is removed from office prior to the
332 expiration of his or her term, a replacement chair shall be
333 chosen during the same meeting in the same manner as described
334 in this paragraph, and the term of the replacement chair shall
335 begin immediately. The replacement chair shall serve for the
336 remainder of the term and is eligible to serve two subsequent
337 consecutive terms.

338 ~~(f)~~~~(e)~~1. The state council shall meet upon the call of the
339 chair or upon the call of the state ombudsman. The council shall
340 meet at least quarterly but may meet more frequently as needed.

341 2. A quorum shall be considered present if more than 50
342 percent of all active state council members are in attendance at
343 the same meeting.

344 3. The state council may not vote on or otherwise make any
345 decisions resulting in a recommendation that will directly
346 impact the state council or any district ~~local council~~, outside
347 of a publicly noticed meeting at which a quorum is present.

348 ~~(g)~~~~(f)~~ Members shall receive no compensation but shall,
349 with approval from the state ombudsman, be reimbursed for per
350 diem and travel expenses as provided in s. 112.061.

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351 Section 6. Section 400.0069, Florida Statutes, is amended
352 to read:

353 400.0069 ~~Local~~ Long-term care ombudsman districts
354 ~~councils~~; duties; appointment ~~membership~~.-

355 (1) (a) The state ombudsman shall designate districts ~~local~~
356 ~~long-term care ombudsman councils~~ to carry out the duties of the
357 state ~~Long-Term Care~~ ombudsman program ~~within local communities~~.
358 Each district ~~local council~~ shall function under the direction
359 of the state ombudsman.

360 (b) The state ombudsman shall ensure that there are
361 representatives of the office ~~is at least one local council~~
362 operating in each district ~~of the department's planning and~~
363 ~~service areas. The ombudsman may create additional local~~
364 ~~councils~~ as necessary to ensure that residents throughout the
365 state have adequate access to state ~~Long-Term Care~~ ombudsman
366 program services. ~~The ombudsman, after approval from the~~
367 ~~secretary, shall designate the jurisdictional boundaries of each~~
368 ~~local council.~~

369 (2) The duties of the representatives of the office in the
370 districts ~~local councils~~ are to:

371 (a) Provide services to assist in ~~Serve as a third-party~~
372 ~~mechanism for~~ protecting the health, safety, welfare, and ~~civil~~
373 ~~and human~~ rights of residents.

374 (b) Discover, investigate, and determine the existence of
375 abuse, ~~or~~ neglect, or exploitation using ~~in any long-term care~~
376 ~~facility and to use~~ the procedures provided for in ss. 415.101-
377 415.113 when applicable.

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378 (c) Identify ~~Elicit, receive,~~ investigate, ~~respond to,~~ and
379 resolve complaints made by or on behalf of residents relating to
380 actions or omissions by providers or representatives of
381 providers of long-term care services, other public or private
382 agencies, guardians, or representative payees that may adversely
383 affect the health, safety, welfare, or rights of residents.

384 (d) Review and, if necessary, comment on all existing or
385 proposed rules, regulations, and other governmental policies and
386 actions relating to long-term care facilities that may
387 potentially have an effect on the rights, health, safety, and
388 welfare of residents.

389 (e) Review personal property and money accounts of
390 residents who are receiving assistance under the Medicaid
391 program pursuant to an investigation to obtain information
392 regarding a specific complaint ~~or problem.~~

393 (f) Recommend that the state ombudsman and the legal
394 advocate seek administrative, legal, and other remedies to
395 protect the health, safety, welfare, and rights of ~~the~~
396 residents.

397 (g) Provide technical assistance for the development of
398 resident and family councils within long-term care facilities.

399 (h) ~~(g)~~ Carry out other activities that the state ombudsman
400 determines to be appropriate.

401 (3) In order to carry out the duties specified in
402 subsection (2), a representative of the office may ~~member of a~~
403 ~~local council is authorized to~~ enter any long-term care facility
404 without notice or without first obtaining a warrant; however,

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405 ~~subject to the provisions of s. 400.0074(2) may apply regarding~~
406 ~~notice of a followup administrative assessment.~~

407 (4) Each district local council shall be composed of
408 ombudsmen members whose primary residences are ~~residence is~~
409 located within the boundaries of the district local council's
410 jurisdiction.

411 (a) Upon good cause shown, the state ombudsman, in his or
412 her sole discretion, may appoint an ombudsman to another
413 district. ~~The ombudsman shall strive to ensure that each local~~
414 ~~council include the following persons as members:~~

415 1. ~~At least one medical or osteopathic physician whose~~
416 ~~practice includes or has included a substantial number of~~
417 ~~geriatric patients and who may practice in a long term care~~
418 ~~facility;~~

419 2. ~~At least one registered nurse who has geriatric~~
420 ~~experience;~~

421 3. ~~At least one licensed pharmacist;~~

422 4. ~~At least one registered dietitian;~~

423 5. ~~At least six nursing home residents or representative~~
424 ~~consumer advocates for nursing home residents;~~

425 6. ~~At least three residents of assisted living facilities~~
426 ~~or adult family care homes or three representative consumer~~
427 ~~advocates for alternative long term care facility residents;~~

428 7. ~~At least one attorney; and~~

429 8. ~~At least one professional social worker.~~

430 (b) The following individuals may not be appointed as
431 ombudsmen:

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- 432 1. The owner or representative of a long-term care
433 facility.
- 434 2. A provider or representative of a provider of long-term
435 care services.
- 436 3. An employee of the agency.
- 437 4. An employee of the department, except for
438 representatives of the office.
- 439 5. An employee of the Department of Children and Families.
- 440 6. An employee of the Agency for Persons with
441 Disabilities. In no case shall the medical director of a long-
442 term care facility or an employee of the agency, the department,
443 the Department of Children and Family Services, or the Agency
444 for Persons with Disabilities serve as a member or as an ex
445 officio member of a council.
- 446 (5) (a) To be appointed as an ombudsman, an individual
447 must:
- 448 1. Individuals wishing to join a local council shall
449 submit an application to the state ombudsman or designee.
- 450 2. Successfully complete level 2 background screening
451 pursuant to s. 430.0402 and chapter 435. The ombudsman shall
452 review the individual's application and advise the secretary of
453 his or her recommendation for approval or disapproval of the
454 candidate's membership on the local council. If the secretary
455 approves of the individual's membership, the individual shall be
456 appointed as a member of the local council.
- 457 (b) The state ombudsman shall approve or deny the
458 appointment of the individual as an ombudsman. The secretary may
459 rescind the ombudsman's approval of a member on a local council

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460 ~~at any time. If the secretary rescinds the approval of a member~~
461 ~~on a local council, the ombudsman shall ensure that the~~
462 ~~individual is immediately removed from the local council on~~
463 ~~which he or she serves and the individual may no longer~~
464 ~~represent the State Long-Term Care Ombudsman Program until the~~
465 ~~secretary provides his or her approval.~~

466 (c) Upon appointment as an ombudsman, the individual may
467 participate in district activities but may not represent the
468 office or conduct any authorized program duties until the
469 individual has completed the initial training specified in s.
470 400.0091(1) and has been certified by the state ombudsman.

471 (d) The state ombudsman, for good cause shown such as
472 development of a conflict of interest, failure to adhere to the
473 policies and procedures established by the office, or
474 demonstrated inability to carry out the responsibilities of the
475 office, may rescind the appointment of an individual as an
476 ombudsman. After rescinding the appointment, the individual may
477 not conduct any duties as an ombudsman and may not represent the
478 office or the state ombudsman program. A local council may
479 recommend the removal of one or more of its members by
480 submitting to the ombudsman a resolution adopted by a two-thirds
481 vote of the members of the council stating the name of the
482 member or members recommended for removal and the reasons for
483 the recommendation. If such a recommendation is adopted by a
484 local council, the local council chair or district coordinator
485 shall immediately report the council's recommendation to the
486 ombudsman. The ombudsman shall review the recommendation of the
487 local council and advise the secretary of his or her

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488 ~~recommendation regarding removal of the council member or~~
489 ~~members.~~

490 ~~(6) (a) Each local council shall elect a chair for a term~~
491 ~~of 1 year. There shall be no limitation on the number of terms~~
492 ~~that an approved member of a local council may serve as chair.~~

493 ~~(b) The chair shall select a vice chair from among the~~
494 ~~members of the council. The vice chair shall preside over the~~
495 ~~council in the absence of the chair.~~

496 ~~(c) The chair may create additional executive positions as~~
497 ~~necessary to carry out the duties of the local council. Any~~
498 ~~person appointed to an executive position shall serve at the~~
499 ~~pleasure of the chair, and his or her term shall expire on the~~
500 ~~same day as the term of the chair.~~

501 ~~(d) A chair may be immediately removed from office prior~~
502 ~~to the expiration of his or her term by a vote of two thirds of~~
503 ~~the members of the local council. If any chair is removed from~~
504 ~~office prior to the expiration of his or her term, a replacement~~
505 ~~chair shall be elected during the same meeting, and the term of~~
506 ~~the replacement chair shall begin immediately. The replacement~~
507 ~~chair shall serve for the remainder of the term of the person he~~
508 ~~or she replaced.~~

509 ~~(7) Each local council shall meet upon the call of its~~
510 ~~chair or upon the call of the ombudsman. Each local council~~
511 ~~shall meet at least once a month but may meet more frequently if~~
512 ~~necessary.~~

513 ~~(6) (8) An ombudsman A member of a local council shall~~
514 ~~receive no compensation but shall, with approval from the state~~
515 ~~ombudsman, be reimbursed for travel expenses ~~both within and~~~~

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516 ~~outside the jurisdiction of the local council~~ in accordance with
517 ~~the provisions of s. 112.061.~~

518 ~~(7)-(9)~~ The representatives of the office ~~local councils~~
519 are authorized to call upon appropriate state agencies ~~of state~~
520 ~~government~~ for such professional assistance as ~~may be~~ needed in
521 the discharge of their duties, and such. ~~All~~ state agencies
522 shall cooperate ~~with the local councils~~ in providing requested
523 information and agency representation ~~at council meetings~~.

524 Section 7. Section 400.0070, Florida Statutes, is amended
525 to read:

526 400.0070 Conflicts of interest.-

527 (1) A representative of the office ~~The ombudsman~~ shall
528 not:

529 (a) Have a direct involvement in the licensing or
530 certification of, or an ownership or investment interest in, a
531 long-term care facility or a provider of a long-term care
532 service.

533 (b) Be employed by, or participate in the management of, a
534 long-term care facility.

535 (c) Receive, or have a right to receive, directly or
536 indirectly, remuneration, in cash or in kind, under a
537 compensation agreement with the owner or operator of a long-term
538 care facility.

539 (2) Each representative ~~employee~~ of the office, ~~each state~~
540 ~~council member, and each local council member~~ shall certify that
541 he or she has no conflict of interest.

542 (3) The department, in consultation with the state
543 ombudsman, shall define by rule:

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544 (a) Situations that constitute an individual's ~~a person~~
545 having a conflict of interest that could materially affect the
546 objectivity or capacity of the individual ~~a person~~ to serve as a
547 representative ~~on an ombudsman council, or as an employee of the~~
548 ~~office, while carrying out the purposes of the State Long-Term~~
549 ~~Care Ombudsman Program as specified in this part.~~

550 (b) The procedure by which an individual ~~a person~~ listed
551 in subsection (2) shall certify that he or she has no conflict
552 of interest.

553 Section 8. Section 400.0071, Florida Statutes, is amended
554 to read:

555 400.0071 State ~~Long-Term-Care~~ ombudsman program complaint
556 procedures.—The department, in consultation with the state
557 ombudsman, shall adopt rules implementing state and local
558 complaint procedures. The rules must include procedures for
559 receiving, investigating, identifying, and resolving complaints
560 concerning the health, safety, welfare, and rights of residents+

561 ~~(1) Receiving complaints against a long-term care facility~~
562 ~~or an employee of a long-term care facility.~~

563 ~~(2) Conducting investigations of a long-term care facility~~
564 ~~or an employee of a long-term care facility subsequent to~~
565 ~~receiving a complaint.~~

566 ~~(3) Conducting onsite administrative assessments of long-~~
567 ~~term care facilities.~~

568 Section 9. Section 400.0073, Florida Statutes, is amended
569 to read:

570 400.0073 Complaint ~~State and local ombudsman council~~
571 investigations.—

Amendment No.

572 (1) A representative of the office local council shall
573 identify and investigate, ~~within a reasonable time after a~~
574 ~~complaint is made,~~ any complaint made by or on behalf of a
575 resident that, ~~a representative of a resident, or any other~~
576 ~~credible source based on an action or omission by an~~
577 ~~administrator, an employee, or a representative of a long-term~~
578 ~~care facility which~~ might be:

- 579 (a) Contrary to law;
- 580 (b) Unreasonable, unfair, oppressive, or unnecessarily
581 discriminatory, even though in accordance with law;
- 582 (c) Based on a mistake of fact;
- 583 (d) Based on improper or irrelevant grounds;
- 584 (e) Unaccompanied by an adequate statement of reasons;
- 585 (f) Performed in an inefficient manner; or
- 586 (g) Otherwise adversely affecting the health, safety,
587 welfare, or rights of a resident.

588 ~~(2) In an investigation, both the state and local councils~~
589 ~~have the authority to hold public hearings.~~

590 ~~(3) Subsequent to an appeal from a local council, the~~
591 ~~state council may investigate any complaint received by the~~
592 ~~local council involving a long-term care facility or a resident.~~

593 (2)(4) If a representative of the office ~~the ombudsman or~~
594 ~~any state or local council member~~ is not allowed to enter a
595 long-term care facility, the administrator of the facility shall
596 be considered to have interfered with a representative of the
597 office, ~~the state council, or the local council~~ in the
598 performance of official duties as described in s. 400.0083(1)
599 and to have committed a violation of this part. The

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600 representative of the office ~~ombudsman~~ shall report a facility's
601 refusal to allow entry to the facility to the state ombudsman or
602 designee, who shall then report the incident to the agency, and
603 the agency shall record the report and take it into
604 consideration when determining actions allowable under s.
605 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
606 429.71.

607 Section 10. Section 400.0074, Florida Statutes, is amended
608 to read:

609 400.0074 ~~Local ombudsman council~~ Onsite administrative
610 assessments.-

611 (1) Representatives of the office must ~~In addition to any~~
612 ~~specific investigation conducted pursuant to a complaint, the~~
613 ~~local council shall~~ conduct, at least annually, an onsite
614 administrative assessment of each nursing home, assisted living
615 facility, and adult family-care home ~~within its jurisdiction.~~
616 This administrative assessment must be resident-centered and
617 must ~~shall~~ focus on factors affecting the rights, health,
618 safety, and welfare of the residents. ~~Each local council is~~
619 ~~encouraged to conduct a similar onsite administrative assessment~~
620 ~~of each additional long-term care facility within its~~
621 ~~jurisdiction.~~

622 (2) An onsite administrative assessment is ~~conducted by a~~
623 ~~local council shall be~~ subject to the following conditions:

624 (a) To the extent possible and reasonable, the
625 administrative assessment ~~assessments~~ shall not duplicate the
626 efforts of ~~the agency~~ surveys and inspections conducted by state

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627 agencies in long-term care facilities ~~under part II of this~~
628 ~~chapter and parts I and II of chapter 429.~~

629 (b) An administrative assessment shall be conducted at a
630 time and for a duration necessary to produce the information
631 required to complete the assessment ~~carry out the duties of the~~
632 ~~local council.~~

633 (c) Advance notice of an administrative assessment may not
634 be provided to a long-term care facility, except that notice of
635 followup assessments on specific problems may be provided.

636 (d) A representative of the office ~~local council member~~
637 ~~physically~~ present for the administrative assessment must ~~shall~~
638 identify himself or herself to the administrator or designee ~~and~~
639 ~~cite the specific statutory authority for his or her assessment~~
640 of the facility.

641 (e) An administrative assessment may not unreasonably
642 interfere with the programs and activities of residents.

643 (f) A representative of the office ~~local council member~~
644 may not enter a single-family residential unit within a long-
645 term care facility during an administrative assessment without
646 the permission of the resident or the representative of the
647 resident.

648 (g) An administrative assessment must be conducted in a
649 manner that will impose no unreasonable burden on a long-term
650 care facility.

651 ~~(3) Regardless of jurisdiction, the ombudsman may~~
652 ~~authorize a state or local council member to assist another~~
653 ~~local council to perform the administrative assessments~~
654 ~~described in this section.~~

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655 ~~(3)-(4)~~ An onsite administrative assessment may not be
656 accomplished by forcible entry. However, if a representative of
657 the office ombudsman or a state or local council member is not
658 allowed to enter a long-term care facility, the administrator of
659 the facility shall be considered to have interfered with a
660 representative of the office, ~~the state council, or the local~~
661 ~~council~~ in the performance of official duties as described in s.
662 400.0083(1) and to have committed a violation of this part. The
663 representative of the office ombudsman shall report the refusal
664 by a facility to allow entry to the state ombudsman or designee,
665 who shall then report the incident to the agency, and the agency
666 shall record the report and take it into consideration when
667 determining actions allowable under s. 400.102, s. 400.121, s.
668 429.14, s. 429.19, s. 429.69, or s. 429.71.

669 (4) The department, in consultation with the state
670 ombudsman, may adopt rules implementing procedures for
671 conducting onsite administrative assessments of long-term care
672 facilities.

673 Section 11. Section 400.0075, Florida Statutes, is amended
674 to read:

675 400.0075 Complaint notification and resolution
676 procedures.—

677 (1) (a) Any complaint ~~or problem~~ verified by a
678 representative of the office an ombudsman council as a result of
679 an investigation may ~~or onsite administrative assessment, which~~
680 ~~complaint or problem is determined to require remedial action by~~
681 ~~the local council,~~ shall be identified and brought to the
682 attention of the long-term care facility administrator subject

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683 to the confidentiality provisions of s. 400.0077 in writing.
684 Upon receipt of the information ~~such document~~, the
685 administrator, with the concurrence of the representative of the
686 office local council chair, shall establish target dates for
687 taking appropriate remedial action. If, by the target date, the
688 remedial action is not completed or forthcoming, the
689 representative may extend the target date if there is reason to
690 believe such action would facilitate the resolution of the
691 complaint or the representative may refer the complaint to the
692 district manager local council chair may, after obtaining
693 approval from the ombudsman and a majority of the members of the
694 local council:

695 ~~1. Extend the target date if the chair has reason to~~
696 ~~believe such action would facilitate the resolution of the~~
697 ~~complaint.~~

698 ~~2. In accordance with s. 400.0077, publicize the~~
699 ~~complaint, the recommendations of the council, and the response~~
700 ~~of the long-term care facility.~~

701 ~~3. Refer the complaint to the state council.~~

702 (b) If an ombudsman determines ~~the local council chair~~
703 ~~believes~~ that the health, safety, welfare, or rights of a the
704 resident are in imminent danger, the ombudsman must immediately
705 notify the district manager. The district manager chair shall
706 notify the ombudsman or legal advocate, who, after verifying
707 that such imminent danger exists, must notify the appropriate
708 state agencies, including law enforcement, the state ombudsman,
709 and legal advocate to ensure the protection of shall seek

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710 ~~immediate legal or administrative remedies to protect the~~
711 resident.

712 (c) If the state ombudsman or legal advocate has reason to
713 believe that the long-term care facility or an employee of the
714 facility has committed a criminal act, the state ombudsman or
715 legal advocate shall provide the local law enforcement agency
716 with the relevant information to initiate an investigation of
717 the case.

718 (2)~~(a)~~ Upon referral from a district ~~local council~~, the
719 state ombudsman or designee ~~council~~ shall assume the
720 responsibility for the disposition of the complaint. If a long-
721 term care facility fails to take action to resolve or remedy the
722 ~~on a~~ complaint ~~by the state council~~, the state ombudsman ~~council~~
723 may, ~~after obtaining approval from the ombudsman and a majority~~
724 ~~of the state council members~~:

725 (a)1. In accordance with s. 400.0077, publicize the
726 complaint, the recommendations of the representatives of the
727 office ~~local or state council~~, and the response of the long-term
728 care facility.

729 (b)2. Recommend to the department and the agency a series
730 of facility reviews pursuant to s. 400.19, s. 429.34, or s.
731 429.67 to ensure correction and nonrecurrence of the conditions
732 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a
733 long-term care facility.

734 (c)3. Recommend to the department and the agency that the
735 long-term care facility no longer receive payments under any
736 state assistance program, including Medicaid.

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737 ~~(d)4.~~ Recommend to the department and the agency that
738 procedures be initiated for action against ~~revocation of~~ the
739 long-term care facility's license in accordance with chapter
740 120.

741 ~~(b) If the state council chair believes that the health,~~
742 ~~safety, welfare, or rights of the resident are in imminent~~
743 ~~danger, the chair shall notify the ombudsman or legal advocate,~~
744 ~~who, after verifying that such imminent danger exists, shall~~
745 ~~seek immediate legal or administrative remedies to protect the~~
746 ~~resident.~~

747 (c) If the state ombudsman, after consultation with the
748 legal advocate, has reason to believe that the long-term care
749 facility or an employee of the facility has committed a criminal
750 act, the office ombudsman shall provide local law enforcement
751 with the relevant information to initiate an investigation of
752 the case.

753 Section 12. Section 400.0078, Florida Statutes, is amended
754 to read:

755 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman
756 program services.-

757 (1) The office shall establish a statewide toll-free
758 telephone number and e-mail address for receiving complaints
759 concerning matters adversely affecting the health, safety,
760 welfare, or rights of residents.

761 (2) ~~Every resident or representative of a resident shall~~
762 ~~receive,~~ Upon admission to a long-term care facility, each
763 resident or representative of a resident must receive
764 information regarding:

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765 (a) The purpose of the state ~~Long-Term Care~~ ombudsman
766 program.~~7~~

767 (b) The statewide toll-free telephone number and e-mail
768 address for receiving complaints.~~7~~ and

769 (c) Information that retaliatory action cannot be taken
770 against a resident for presenting grievances or for exercising
771 any other resident rights.

772 (d) Other relevant information regarding how to contact
773 representatives of the office program.

774

775 Residents or their representatives must be furnished additional
776 copies of this information upon request.

777 Section 13. Section 400.0079, Florida Statutes, is amended
778 to read:

779 400.0079 Immunity.—

780 (1) Any person making a complaint pursuant to this part
781 who does so in good faith shall be immune from any liability,
782 civil or criminal, that otherwise might be incurred or imposed
783 as a direct or indirect result of making the complaint.

784 (2) Representatives of the office and ~~The ombudsman or any~~
785 ~~person authorized by the ombudsman to act on behalf of the~~
786 ~~office, as well as all members of the state council and local~~
787 ~~councils,~~ shall be immune from any liability, civil or criminal,
788 that otherwise might be incurred or imposed during the good
789 faith performance of official duties.

790 Section 14. Section 400.0081, Florida Statutes, is amended
791 to read:

792 400.0081 Access to facilities, residents, and records.—

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793 (1) A long-term care facility shall provide
794 representatives of the office with, ~~the state council and its~~
795 ~~members, and the local councils and their members access to:~~

796 (a) Access to ~~Any portion of~~ the long-term care facility
797 and ~~any residents~~ as necessary to investigate or resolve a
798 ~~complaint.~~

799 (b) Appropriate access to ~~m~~Medical and social records of a
800 resident for review ~~as necessary to investigate or resolve a~~
801 ~~complaint, if:~~

802 1. The representative of the office has the permission of
803 the resident or the legal representative of the resident; or

804 2. The resident is unable to consent to the review and has
805 no legal representative.

806 (c) Medical and social records of the resident ~~as~~
807 ~~necessary to investigate or resolve a complaint, if:~~

808 1. A legal representative or guardian of the resident
809 refuses to give permission;

810 2. A representative of the office has reasonable cause to
811 believe that the legal representative or guardian is not acting
812 in the best interests of the resident; and

813 3. The representative of the office ~~state or local council~~
814 ~~member~~ obtains the approval of the state ombudsman.

815 (d) The administrative records, policies, and documents to
816 which residents or the general public have access.

817 (e) Upon request, copies of all licensing and
818 certification records maintained by the state with respect to a
819 long-term care facility.

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820 (2) The department, in consultation with the state
821 ombudsman ~~and the state council~~, may adopt rules to establish
822 procedures to ensure access to facilities, residents, and
823 records as described in this section.

824 Section 15. Section 400.0083, Florida Statutes, is amended
825 to read:

826 400.0083 Interference; retaliation; penalties.—

827 (1) It shall be unlawful for any person, long-term care
828 facility, or other entity to willfully interfere with a
829 representative of the office or, the state council, ~~or a local~~
830 ~~council~~ in the performance of official duties.

831 (2) It shall be unlawful for any person, long-term care
832 facility, or other entity to knowingly or willfully take action
833 or retaliate against any resident, employee, or other person for
834 filing a complaint with, providing information to, or otherwise
835 cooperating with any representative of the office or, the state
836 council, ~~or a local council~~.

837 (3) Any person, long-term care facility, or other entity
838 that violates this section:

839 (a) Shall be liable for damages and equitable relief as
840 determined by law.

841 (b) Commits a misdemeanor of the second degree, punishable
842 as provided in s. 775.083.

843 Section 16. Section 400.0087, Florida Statutes, is amended
844 to read:

845 400.0087 Department oversight; funding.—

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846 (1) The department shall meet the costs associated with
847 the state ~~Long-Term-Care~~ ombudsman program from funds
848 appropriated to it.

849 (a) The department shall include the costs associated with
850 support of the state ~~Long-Term-Care~~ ombudsman program when
851 developing its budget requests for consideration by the Governor
852 and submittal to the Legislature.

853 (b) The department may divert from the federal ombudsman
854 appropriation an amount equal to the department's administrative
855 cost ratio to cover the costs associated with administering the
856 state ombudsman program. The remaining allotment from the Older
857 Americans Act program shall be expended on direct ombudsman
858 activities.

859 (2) The department shall monitor the office and, the state
860 council, ~~and the local councils~~ to ensure that each is carrying
861 out the duties delegated to it by state and federal law.

862 (3) The department is responsible for ensuring that the
863 office:

864 (a) Has the objectivity and independence required to
865 qualify it for funding under the federal Older Americans Act.

866 (b) Provides information to public and private agencies,
867 legislators, and others.

868 (c) Provides appropriate training to representatives of
869 the office ~~or of the state or local councils~~.

870 (d) Coordinates ombudsman services with Disability Rights
871 Florida ~~the Advocacy Center for Persons with Disabilities~~ and
872 with providers of legal services to residents ~~of long-term care~~
873 ~~facilities~~ in compliance with state and federal laws.

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874 (4) The department shall also:

875 (a) Receive and disburse state and federal funds for
876 purposes that the state ombudsman has formulated in accordance
877 with the Older Americans Act.

878 (b) Whenever necessary, act as liaison between agencies
879 and branches of the federal and state governments and the office
880 ~~State Long Term Care Ombudsman Program.~~

881 Section 17. Section 400.0089, Florida Statutes, is amended
882 to read:

883 400.0089 Complaint data reports.—The office shall maintain
884 a statewide uniform reporting system to collect and analyze data
885 relating to complaints and conditions in long-term care
886 facilities and to residents for the purpose of identifying and
887 resolving significant complaints ~~problems~~. The office shall
888 publish quarterly and make readily available information
889 pertaining to the number and types of complaints received by the
890 state ~~Long Term Care~~ ombudsman program and shall include such
891 information in the annual report required under s. 400.0065.

892 Section 18. Section 400.0091, Florida Statutes, is amended
893 to read:

894 400.0091 Training.—The state ombudsman shall ensure that
895 appropriate training is provided to all representatives
896 ~~employees~~ of the office ~~and to the members of the state and~~
897 ~~local councils.~~

898 (1) All representatives ~~state and local council members~~
899 ~~and employees~~ of the office shall be given a minimum of 20 hours
900 of training upon employment with the office or appointment as an
901 ombudsman. ~~Ten approval as a state or local council member and~~

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902 ~~10~~ hours of continuing education is required annually
903 thereafter.

904 (2) The state ombudsman shall approve the curriculum for
905 the initial and continuing education training, which must, at a
906 minimum, address:

907 (a) Resident confidentiality.

908 (b) Guardianships and powers of attorney.

909 (c) Medication administration.

910 (d) Care and medication of residents with dementia and
911 Alzheimer's disease.

912 (e) Accounting for residents' funds.

913 (f) Discharge rights and responsibilities.

914 (g) Cultural sensitivity.

915 (h) Any other topic related to residency within a long-
916 term care facility recommended by the secretary.

917 (3) An individual ~~No employee, officer, or representative~~
918 ~~of the office or of the state or local councils,~~ other than the
919 state ombudsman, may not hold himself or herself out as a
920 representative of the office ~~State Long-Term Care Ombudsman~~
921 ~~Program~~ or conduct any authorized program duty described in this
922 part unless the individual ~~person~~ has received the training
923 required by this section and has been certified by the state
924 ombudsman as qualified to carry out ombudsman activities on
925 behalf of the office ~~or the state or local councils.~~

926 Section 19. Subsection (4) of section 20.41, Florida
927 Statutes, is amended to read:

928 20.41 Department of Elderly Affairs.—There is created a
929 Department of Elderly Affairs.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1015 (2013)

Amendment No.

930 (4) The department shall administer the Office of State
931 Long-Term Care Ombudsman Council, created by s. 400.0063
932 ~~400.0067, and the local long-term care ombudsman councils,~~
933 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the
934 federal Older Americans Act of 1965, ensure that ~~both~~ the state
935 office operates ~~and local long-term care ombudsman councils~~
936 ~~operate~~ in compliance with the Older Americans Act.

937 Section 20. Subsections (11) through (19) of section
938 400.021, Florida Statutes, are renumbered as subsections (10)
939 through (18), respectively, and present subsections (10) and
940 (18) are amended to read:

941 400.021 Definitions.—When used in this part, unless the
942 context otherwise requires, the term:

943 ~~(10) "Local ombudsman council" means a local long-term~~
944 ~~care ombudsman council established pursuant to s. 400.0069,~~
945 ~~located within the Older Americans Act planning and service~~
946 ~~areas.~~

947 ~~(17)(18)~~ (17) "State ombudsman program council" means the
948 Office of State Long-Term Care Ombudsman Council established
949 pursuant to s. 400.0063 ~~400.0067~~.

950 Section 21. Paragraph (c) of subsection (1) and
951 subsections (2) and (3) of section 400.022, Florida Statutes,
952 are amended to read:

953 400.022 Residents' rights.—

954 (1) All licensees of nursing home facilities shall adopt
955 and make public a statement of the rights and responsibilities
956 of the residents of such facilities and shall treat such

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957 residents in accordance with the provisions of that statement.

958 The statement shall assure each resident the following:

959 (c) Any entity or individual that provides health, social,
960 legal, or other services to a resident has the right to have
961 reasonable access to the resident. The resident has the right to
962 deny or withdraw consent to access at any time by any entity or
963 individual. Notwithstanding the visiting policy of the facility,
964 the following individuals must be permitted immediate access to
965 the resident:

966 1. Any representative of the federal or state government,
967 including, but not limited to, representatives of the Department
968 of Children and Family Services, the Department of Health, the
969 Agency for Health Care Administration, the Office of the
970 Attorney General, and the Department of Elderly Affairs; any law
971 enforcement officer; representatives ~~members~~ of the state ~~or~~
972 ~~local~~ ombudsman program ~~council~~; and the resident's individual
973 physician.

974 2. Subject to the resident's right to deny or withdraw
975 consent, immediate family or other relatives of the resident.

976

977 The facility must allow representatives of the state ~~Long-Term~~
978 ~~Care~~ ombudsman program ~~Council~~ to examine a resident's clinical
979 records with the permission of the resident or the resident's
980 legal representative and consistent with state law.

981 (2) The licensee for each nursing home shall orally inform
982 the resident of the resident's rights and provide a copy of the
983 statement required by subsection (1) to each resident or the
984 resident's legal representative at or before the resident's

COMMITTEE/SUBCOMMITTEE AMENDMENT

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985 admission to a facility. The licensee shall provide a copy of
986 the resident's rights to each staff member of the facility. Each
987 such licensee shall prepare a written plan and provide
988 appropriate staff training to implement ~~the provisions of this~~
989 section. The written statement of rights must include a
990 statement that a resident may file a complaint with the agency
991 or state local ombudsman program council. The statement must be
992 in boldfaced type and shall include the ~~name, address, and~~
993 telephone number and e-mail address of the state ~~numbers of the~~
994 ~~local~~ ombudsman program council and the telephone number of the
995 central abuse hotline where complaints may be lodged.

996 (3) Any violation of the resident's rights set forth in
997 this section shall constitute grounds for action by the agency
998 under ~~the provisions of~~ s. 400.102, s. 400.121, or part II of
999 chapter 408. In order to determine whether the licensee is
1000 adequately protecting residents' rights, the licensure
1001 inspection of the facility shall include private informal
1002 conversations with a sample of residents to discuss residents'
1003 experiences within the facility with respect to rights specified
1004 in this section and general compliance with standards, and
1005 consultation with the state ombudsman program council ~~in the~~
1006 ~~local planning and service area of the Department of Elderly~~
1007 ~~Affairs in which the nursing home is located.~~

1008 Section 22. Subsections (8) and (9) and (11) through (14)
1009 of section 400.0255, Florida Statutes, are amended to read:

1010 400.0255 Resident transfer or discharge; requirements and
1011 procedures; hearings.—

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1012 (8) The notice required by subsection (7) must be in
1013 writing and must contain all information required by state and
1014 federal law, rules, or regulations applicable to Medicaid or
1015 Medicare cases. The agency shall develop a standard document to
1016 be used by all facilities licensed under this part for purposes
1017 of notifying residents of a discharge or transfer. Such document
1018 must include a means for a resident to request the state local
1019 ~~long-term care~~ ombudsman program council to review the notice
1020 and request information about or assistance with initiating a
1021 fair hearing with the department's Office of Appeals Hearings.
1022 In addition to any other pertinent information included, the
1023 form shall specify the reason allowed under federal or state law
1024 that the resident is being discharged or transferred, with an
1025 explanation to support this action. Further, the form shall
1026 state the effective date of the discharge or transfer and the
1027 location to which the resident is being discharged or
1028 transferred. The form shall clearly describe the resident's
1029 appeal rights and the procedures for filing an appeal, including
1030 the right to request the state local ombudsman program council
1031 to review the notice of discharge or transfer. A copy of the
1032 notice must be placed in the resident's clinical record, and a
1033 copy must be transmitted to the resident's legal guardian or
1034 representative and to the state local ombudsman program council
1035 within 5 business days after signature by the resident or
1036 resident designee.

1037 (9) A resident may request that the state local ombudsman
1038 program council review any notice of discharge or transfer given
1039 to the resident. When requested by a resident to review a notice

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1040 of discharge or transfer, the state local ombudsman program
1041 ~~council~~ shall do so within 7 days after receipt of the request.
1042 The nursing home administrator, or the administrator's designee,
1043 must forward the request for review contained in the notice to
1044 the state local ombudsman program ~~council~~ within 24 hours after
1045 such request is submitted. Failure to forward the request within
1046 24 hours after the request is submitted shall toll the running
1047 of the 30-day advance notice period until the request has been
1048 forwarded.

1049 (11) Notwithstanding paragraph (10) (b), an emergency
1050 discharge or transfer may be implemented as necessary pursuant
1051 to state or federal law during the period of time after the
1052 notice is given and before the time a hearing decision is
1053 rendered. Notice of an emergency discharge or transfer to the
1054 resident, the resident's legal guardian or representative, and
1055 the state local ombudsman program ~~council~~ if requested pursuant
1056 to subsection (9) must be by telephone or in person. This notice
1057 shall be given before the transfer, if possible, or as soon
1058 thereafter as practicable. A representative of the state local
1059 ombudsman program ~~council~~ conducting a review under this
1060 subsection shall do so within 24 hours after receipt of the
1061 request. The resident's file must be documented to show who was
1062 contacted, whether the contact was by telephone or in person,
1063 and the date and time of the contact. If the notice is not given
1064 in writing, written notice meeting the requirements of
1065 subsection (8) must be given the next working day.

1066 (12) After receipt of any notice required under this
1067 section, the state local ombudsman program ~~council~~ may request a

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1068 private informal conversation with a resident to whom the notice
1069 is directed, and, if known, a family member or the resident's
1070 legal guardian or designee, to ensure that the facility is
1071 proceeding with the discharge or transfer in accordance with ~~the~~
1072 ~~requirements of~~ this section. If requested, the state local
1073 ombudsman program council shall assist the resident with filing
1074 an appeal of the proposed discharge or transfer.

1075 (13) The following persons must be present at all hearings
1076 authorized under this section:

1077 (a) The resident, or the resident's legal representative
1078 or designee.

1079 (b) The facility administrator, or the facility's legal
1080 representative or designee.

1081
1082 A representative of the state local long-term care ~~ombudsman~~
1083 program council may be present at all hearings authorized by
1084 this section.

1085 (14) In any hearing under this section, the following
1086 information concerning the parties shall be confidential and
1087 exempt from ~~the provisions of~~ s. 119.07(1):

1088 (a) Names and addresses.

1089 (b) Medical services provided.

1090 (c) Social and economic conditions or circumstances.

1091 (d) Evaluation of personal information.

1092 (e) Medical data, including diagnosis and past history of
1093 disease or disability.

1094 (f) Any information received verifying income eligibility
1095 and amount of medical assistance payments. Income information

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1096 received from the Social Security Administration or the Internal
1097 Revenue Service must be safeguarded according to the
1098 requirements of the agency that furnished the data.

1099
1100 The exemption created by this subsection does not prohibit
1101 access to such information by the state ombudsman program ~~a~~
1102 ~~local long term care ombudsman council~~ upon request, by a
1103 reviewing court if such information is required to be part of
1104 the record upon subsequent review, or as specified in s. 24(a),
1105 Art. I of the State Constitution.

1106 Section 23. Subsection (2) of section 400.1413, Florida
1107 Statutes, is amended to read:

1108 400.1413 Volunteers in nursing homes.—

1109 (2) This section does not affect the activities of the
1110 ~~state or local long term care ombudsman program councils~~
1111 authorized under part I.

1112 Section 24. Paragraph (d) of subsection (5) of section
1113 400.162, Florida Statutes, is amended to read:

1114 400.162 Property and personal affairs of residents.—

1115 (5)

1116 (d) If, at any time during the period for which a license
1117 is issued, a licensee that has not purchased a surety bond or
1118 entered into a self-insurance agreement, as provided in
1119 paragraphs (b) and (c), is requested to provide safekeeping for
1120 the personal funds of a resident, the licensee shall notify the
1121 agency of the request and make application for a surety bond or
1122 for participation in a self-insurance agreement within 7 days
1123 after ~~of~~ the request, exclusive of weekends and holidays. Copies

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1124 of the application, along with written documentation of related
1125 correspondence with an insurance agency or group, shall be
1126 maintained by the licensee for review by the agency and the
1127 state ~~Nursing Home and Long-Term Care Facility~~ ombudsman program
1128 ~~Council~~.

1129 Section 25. Subsections (1) and (4) of section 400.19,
1130 Florida Statutes, are amended to read:

1131 400.19 Right of entry and inspection.—

1132 (1) In accordance with part II of chapter 408, the agency
1133 and any duly designated officer or employee thereof or a
1134 representative member of the state ~~Long-Term Care~~ ombudsman
1135 program Council ~~or the local long-term care ombudsman council~~
1136 shall have the right to enter upon and into the premises of any
1137 facility licensed pursuant to this part, or any distinct nursing
1138 home unit of a hospital licensed under chapter 395 or any
1139 freestanding facility licensed under chapter 395 that provides
1140 extended care or other long-term care services, at any
1141 reasonable time in order to determine the state of compliance
1142 with ~~the provisions of~~ this part, part II of chapter 408, and
1143 applicable rules in force pursuant thereto. The agency shall,
1144 within 60 days after receipt of a complaint made by a resident
1145 or resident's representative, complete its investigation and
1146 provide to the complainant its findings and resolution.

1147 (4) The agency shall conduct unannounced onsite facility
1148 reviews following written verification of licensee noncompliance
1149 in instances in which the state ombudsman program ~~a long-term~~
1150 ~~care ombudsman council~~, pursuant to ss. 400.0071 and 400.0075,
1151 has received a complaint and has documented deficiencies in

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1152 resident care or in the physical plant of the facility that
1153 threaten the health, safety, or security of residents, or when
1154 the agency documents through inspection that conditions in a
1155 facility present a direct or indirect threat to the health,
1156 safety, or security of residents. However, the agency shall
1157 conduct unannounced onsite reviews every 3 months of each
1158 facility while the facility has a conditional license.
1159 Deficiencies related to physical plant do not require followup
1160 reviews after the agency has determined that correction of the
1161 deficiency has been accomplished and that the correction is of
1162 the nature that continued compliance can be reasonably expected.

1163 Section 26. Subsection (1) of section 400.191, Florida
1164 Statutes, is amended to read:

1165 400.191 Availability, distribution, and posting of reports
1166 and records.—

1167 (1) The agency shall provide information to the public
1168 about all of the licensed nursing home facilities operating in
1169 the state. The agency shall, within 60 days after a licensure
1170 inspection visit or within 30 days after any interim visit to a
1171 facility, send copies of the inspection reports to the state
1172 ~~local long-term care ombudsman program council~~, the agency's
1173 local office, and a public library or the county seat for the
1174 county in which the facility is located. The agency may provide
1175 electronic access to inspection reports as a substitute for
1176 sending copies.

1177 Section 27. Subsection (6) and paragraph (c) of subsection
1178 (7) of section 400.23, Florida Statutes, is amended to read:

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1179 400.23 Rules; evaluation and deficiencies; licensure
1180 status.—

1181 (6) Before ~~Prior to~~ conducting a survey of the facility,
1182 the survey team shall obtain a copy of the state ~~local long term~~
1183 ~~care~~ ombudsman program ~~council~~ report on the facility. Problems
1184 noted in the report shall be incorporated into and followed up
1185 through the agency's inspection process. This procedure does not
1186 preclude the state ~~local long term care~~ ombudsman program
1187 ~~council~~ from requesting the agency to conduct a followup visit
1188 to the facility.

1189 (7) The agency shall, at least every 15 months, evaluate
1190 all nursing home facilities and make a determination as to the
1191 degree of compliance by each licensee with the established rules
1192 adopted under this part as a basis for assigning a licensure
1193 status to that facility. The agency shall base its evaluation on
1194 the most recent inspection report, taking into consideration
1195 findings from other official reports, surveys, interviews,
1196 investigations, and inspections. In addition to license
1197 categories authorized under part II of chapter 408, the agency
1198 shall assign a licensure status of standard or conditional to
1199 each nursing home.

1200 (c) In evaluating the overall quality of care and services
1201 and determining whether the facility will receive a conditional
1202 or standard license, the agency shall consider the needs and
1203 limitations of residents in the facility and the results of
1204 interviews and surveys of a representative sampling of
1205 residents, families of residents, representatives of the state
1206 ombudsman program ~~council members in the planning and service~~

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1207 ~~area in which the facility is located~~, guardians of residents,
1208 and staff of the nursing home facility.

1209 Section 28. Paragraph (a) of subsection (3), paragraph (f)
1210 of subsection (5), and subsection (6) of section 400.235,
1211 Florida Statutes, are amended to read:

1212 400.235 Nursing home quality and licensure status; Gold
1213 Seal Program.—

1214 (3) (a) The Gold Seal Program shall be developed and
1215 implemented by the Governor's Panel on Excellence in Long-Term
1216 Care which shall operate under the authority of the Executive
1217 Office of the Governor. The panel shall be composed of three
1218 persons appointed by the Governor, to include a consumer
1219 advocate for senior citizens and two persons with expertise in
1220 the fields of quality management, service delivery excellence,
1221 or public sector accountability; three persons appointed by the
1222 Secretary of Elderly Affairs, to include an active member of a
1223 nursing facility family and resident care council and a member
1224 of the University Consortium on Aging; a representative of the
1225 Office of State Long-Term Care Ombudsman; one person appointed
1226 by the Florida Life Care Residents Association; one person
1227 appointed by the State Surgeon General; two persons appointed by
1228 the Secretary of Health Care Administration; one person
1229 appointed by the Florida Association of Homes for the Aging; and
1230 one person appointed by the Florida Health Care Association.
1231 Vacancies on the panel shall be filled in the same manner as the
1232 original appointments.

1233 (5) Facilities must meet the following additional criteria
1234 for recognition as a Gold Seal Program facility:

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1235 (f) Evidence an outstanding record regarding the number
1236 and types of substantiated complaints reported to the Office of
1237 State Long-Term Care Ombudsman ~~Council~~ within the 30 months
1238 preceding application for the program.

1239
1240 A facility assigned a conditional licensure status may not
1241 qualify for consideration for the Gold Seal Program until after
1242 it has operated for 30 months with no class I or class II
1243 deficiencies and has completed a regularly scheduled relicensure
1244 survey.

1245 (6) The agency, nursing facility industry organizations,
1246 consumers, Office of State Long-Term Care Ombudsman ~~Council~~, and
1247 members of the community may recommend to the Governor
1248 facilities that meet the established criteria for consideration
1249 for and award of the Gold Seal. The panel shall review nominees
1250 and make a recommendation to the Governor for final approval and
1251 award. The decision of the Governor is final and is not subject
1252 to appeal.

1253 Section 29. Paragraph (a) of subsection (1) of section
1254 415.1034, Florida Statutes, is amended to read:

1255 415.1034 Mandatory reporting of abuse, neglect, or
1256 exploitation of vulnerable adults; mandatory reports of death.-

1257 (1) MANDATORY REPORTING.-

1258 (a) Any person, including, but not limited to, any:

1259 1. Physician, osteopathic physician, medical examiner,
1260 chiropractic physician, nurse, paramedic, emergency medical
1261 technician, or hospital personnel engaged in the admission,
1262 examination, care, or treatment of vulnerable adults;

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1263 2. Health professional or mental health professional other
1264 than one listed in subparagraph 1.;

1265 3. Practitioner who relies solely on spiritual means for
1266 healing;

1267 4. Nursing home staff; assisted living facility staff;
1268 adult day care center staff; adult family-care home staff;
1269 social worker; or other professional adult care, residential, or
1270 institutional staff;

1271 5. State, county, or municipal criminal justice employee
1272 or law enforcement officer;

1273 6. ~~An~~ Employee of the Department of Business and
1274 Professional Regulation conducting inspections of public lodging
1275 establishments under s. 509.032;

1276 7. Florida advocacy council member or representative of
1277 the Office of State Long-Term Care Ombudsman ~~council member~~; or

1278 8. Bank, savings and loan, or credit union officer,
1279 trustee, or employee,

1280
1281 who knows, or has reasonable cause to suspect, that a vulnerable
1282 adult has been or is being abused, neglected, or exploited shall
1283 immediately report such knowledge or suspicion to the central
1284 abuse hotline.

1285 Section 30. Subsection (1) of section 415.104, Florida
1286 Statutes, is amended to read:

1287 415.104 Protective investigations of cases of abuse,
1288 neglect, or exploitation of vulnerable adults; transmittal of
1289 records to state attorney.—

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1290 (1) The department shall, upon receipt of a report
1291 alleging abuse, neglect, or exploitation of a vulnerable adult,
1292 begin within 24 hours a protective investigation of the facts
1293 alleged therein. If a caregiver refuses to allow the department
1294 to begin a protective investigation or interferes with the
1295 conduct of such an investigation, the appropriate law
1296 enforcement agency shall be contacted for assistance. If, during
1297 the course of the investigation, the department has reason to
1298 believe that the abuse, neglect, or exploitation is perpetrated
1299 by a second party, the appropriate law enforcement agency and
1300 state attorney shall be orally notified. The department and the
1301 law enforcement agency shall cooperate to allow the criminal
1302 investigation to proceed concurrently with, and not be hindered
1303 by, the protective investigation. The department shall make a
1304 preliminary written report to the law enforcement agencies
1305 within 5 working days after the oral report. The department
1306 shall, within 24 hours after receipt of the report, notify the
1307 appropriate Florida local advocacy council, or state long-term
1308 ~~care~~ ombudsman program council, when appropriate, that an
1309 alleged abuse, neglect, or exploitation perpetrated by a second
1310 party has occurred. Notice to the Florida local advocacy council
1311 or state long-term care ~~ombudsman program council~~ may be
1312 accomplished orally or in writing and shall include the name and
1313 location of the vulnerable adult alleged to have been abused,
1314 neglected, or exploited and the nature of the report.

1315 Section 31. Subsection (8) of section 415.1055, Florida
1316 Statutes, is amended to read:

1317 415.1055 Notification to administrative entities.—

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1318 (8) At the conclusion of a protective investigation at a
1319 facility, the department shall notify either the Florida local
1320 advocacy council or state long-term care ombudsman program
1321 ~~council~~ of the results of the investigation. This notification
1322 must be in writing.

1323 Section 32. Subsection (2) of section 415.106, Florida
1324 Statutes, is amended to read:

1325 415.106 Cooperation by the department and criminal justice
1326 and other agencies.—

1327 (2) To ensure coordination, communication, and cooperation
1328 with the investigation of abuse, neglect, or exploitation of
1329 vulnerable adults, the department shall develop and maintain
1330 interprogram agreements or operational procedures among
1331 appropriate departmental programs and the Office of State Long-
1332 Term Care Ombudsman Council, the Florida Statewide Advocacy
1333 Council, and other agencies that provide services to vulnerable
1334 adults. These agreements or procedures must cover such subjects
1335 as the appropriate roles and responsibilities of the department
1336 in identifying and responding to reports of abuse, neglect, or
1337 exploitation of vulnerable adults; the provision of services;
1338 and related coordinated activities.

1339 Section 33. Paragraph (g) of subsection (3) of section
1340 415.107, Florida Statutes, is amended to read:

1341 415.107 Confidentiality of reports and records.—

1342 (3) Access to all records, excluding the name of the
1343 reporter which shall be released only as provided in subsection
1344 (6), shall be granted only to the following persons, officials,
1345 and agencies:

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1346 (g) Any appropriate official of the Florida advocacy
1347 council or state long-term-care ombudsman program council
1348 investigating a report of known or suspected abuse, neglect, or
1349 exploitation of a vulnerable adult.

1350 Section 34. Subsection (20) of section 429.02, Florida
1351 Statutes, is amended to read:

1352 429.02 Definitions.—When used in this part, the term:

1353 (20) "Resident's representative or designee" means a
1354 person other than the owner, or an agent or employee of the
1355 facility, designated in writing by the resident, if legally
1356 competent, to receive notice of changes in the contract executed
1357 pursuant to s. 429.24; to receive notice of and to participate
1358 in meetings between the resident and the facility owner,
1359 administrator, or staff concerning the rights of the resident;
1360 to assist the resident in contacting the state ombudsman program
1361 ~~council~~ if the resident has a complaint against the facility; or
1362 to bring legal action on behalf of the resident pursuant to s.
1363 429.29.

1364 Section 35. Paragraph (b) of subsection (3) of section
1365 429.07, Florida Statutes, is amended to read:

1366 429.07 License required; fee.—

1367 (3) In addition to the requirements of s. 408.806, each
1368 license granted by the agency must state the type of care for
1369 which the license is granted. Licenses shall be issued for one
1370 or more of the following categories of care: standard, extended
1371 congregate care, limited nursing services, or limited mental
1372 health.

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1373 (b) An extended congregate care license shall be issued to
1374 facilities providing, directly or through contract, services
1375 beyond those authorized in paragraph (a), including services
1376 performed by persons licensed under part I of chapter 464 and
1377 supportive services, as defined by rule, to persons who would
1378 otherwise be disqualified from continued residence in a facility
1379 licensed under this part.

1380 1. In order for extended congregate care services to be
1381 provided, the agency must first determine that all requirements
1382 established in law and rule are met and must specifically
1383 designate, on the facility's license, that such services may be
1384 provided and whether the designation applies to all or part of
1385 the facility. Such designation may be made at the time of
1386 initial licensure or relicensure, or upon request in writing by
1387 a licensee under this part and part II of chapter 408. The
1388 notification of approval or the denial of the request shall be
1389 made in accordance with part II of chapter 408. Existing
1390 facilities qualifying to provide extended congregate care
1391 services must have maintained a standard license and may not
1392 have been subject to administrative sanctions during the
1393 previous 2 years, or since initial licensure if the facility has
1394 been licensed for less than 2 years, for any of the following
1395 reasons:

1396 a. A class I or class II violation;

1397 b. Three or more repeat or recurring class III violations
1398 of identical or similar resident care standards from which a
1399 pattern of noncompliance is found by the agency;

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1400 c. Three or more class III violations that were not
1401 corrected in accordance with the corrective action plan approved
1402 by the agency;

1403 d. Violation of resident care standards which results in
1404 requiring the facility to employ the services of a consultant
1405 pharmacist or consultant dietitian;

1406 e. Denial, suspension, or revocation of a license for
1407 another facility licensed under this part in which the applicant
1408 for an extended congregate care license has at least 25 percent
1409 ownership interest; or

1410 f. Imposition of a moratorium pursuant to this part or
1411 part II of chapter 408 or initiation of injunctive proceedings.

1412 2. A facility that is licensed to provide extended
1413 congregate care services shall maintain a written progress
1414 report on each person who receives services which describes the
1415 type, amount, duration, scope, and outcome of services that are
1416 rendered and the general status of the resident's health. A
1417 registered nurse, or appropriate designee, representing the
1418 agency shall visit the facility at least quarterly to monitor
1419 residents who are receiving extended congregate care services
1420 and to determine whether ~~if~~ the facility is in compliance with
1421 this part, part II of chapter 408, and relevant rules. One of
1422 the visits may be in conjunction with the regular survey. The
1423 monitoring visits may be provided through contractual
1424 arrangements with appropriate community agencies. A registered
1425 nurse shall serve as part of the team that inspects the
1426 facility. The agency may waive one of the required yearly
1427 monitoring visits for a facility that has been licensed for at

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1428 least 24 months to provide extended congregate care services,
1429 if, during the inspection, the registered nurse determines that
1430 extended congregate care services are being provided
1431 appropriately, and if the facility has no class I or class II
1432 violations and no uncorrected class III violations. The agency
1433 must first consult with the state long-term care ombudsman
1434 program council for the area in which the facility is located to
1435 determine whether ~~if~~ any complaints have been made and
1436 substantiated about the quality of services or care. The agency
1437 may not waive one of the required yearly monitoring visits if
1438 complaints have been made and substantiated.

1439 3. A facility that is licensed to provide extended
1440 congregate care services must:

1441 a. Demonstrate the capability to meet unanticipated
1442 resident service needs.

1443 b. Offer a physical environment that promotes a homelike
1444 setting, provides for resident privacy, promotes resident
1445 independence, and allows sufficient congregate space as defined
1446 by rule.

1447 c. Have sufficient staff available, taking into account
1448 the physical plant and firesafety features of the building, to
1449 assist with the evacuation of residents in an emergency.

1450 d. Adopt and follow policies and procedures that maximize
1451 resident independence, dignity, choice, and decisionmaking to
1452 permit residents to age in place, so that moves due to changes
1453 in functional status are minimized or avoided.

1454 e. Allow residents or, if applicable, a resident's
1455 representative, designee, surrogate, guardian, or attorney in

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1456 fact to make a variety of personal choices, participate in
1457 developing service plans, and share responsibility in
1458 decisionmaking.

1459 f. Implement the concept of managed risk.

1460 g. Provide, directly or through contract, the services of
1461 a person licensed under part I of chapter 464.

1462 h. In addition to the training mandated in s. 429.52,
1463 provide specialized training as defined by rule for facility
1464 staff.

1465 4. A facility that is licensed to provide extended
1466 congregate care services is exempt from the criteria for
1467 continued residency set forth in rules adopted under s. 429.41.
1468 A licensed facility must adopt its own requirements within
1469 guidelines for continued residency set forth by rule. However,
1470 the facility may not serve residents who require 24-hour nursing
1471 supervision. A licensed facility that provides extended
1472 congregate care services must also provide each resident with a
1473 written copy of facility policies governing admission and
1474 retention.

1475 5. The primary purpose of extended congregate care
1476 services is to allow residents, as they become more impaired,
1477 the option of remaining in a familiar setting from which they
1478 would otherwise be disqualified for continued residency. A
1479 facility licensed to provide extended congregate care services
1480 may also admit an individual who exceeds the admission criteria
1481 for a facility with a standard license, if the individual is
1482 determined appropriate for admission to the extended congregate
1483 care facility.

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1484 6. Before the admission of an individual to a facility
1485 licensed to provide extended congregate care services, the
1486 individual must undergo a medical examination as provided in s.
1487 429.26(4) and the facility must develop a preliminary service
1488 plan for the individual.

1489 7. When a facility can no longer provide or arrange for
1490 services in accordance with the resident's service plan and
1491 needs and the facility's policy, the facility shall make
1492 arrangements for relocating the person in accordance with s.
1493 429.28(1)(k).

1494 8. Failure to provide extended congregate care services
1495 may result in denial of extended congregate care license
1496 renewal.

1497 Section 36. Subsection (9) of section 429.19, Florida
1498 Statutes, is amended to read:

1499 429.19 Violations; imposition of administrative fines;
1500 grounds.—

1501 (9) The agency shall develop and disseminate an annual
1502 list of all facilities sanctioned or fined for violations of
1503 state standards, the number and class of violations involved,
1504 the penalties imposed, and the current status of cases. The list
1505 shall be disseminated, at no charge, to the Department of
1506 Elderly Affairs, the Department of Health, the Department of
1507 Children and Family Services, the Agency for Persons with
1508 Disabilities, the area agencies on aging, the Florida Statewide
1509 Advocacy Council, and the state ~~and local~~ ombudsman program
1510 ~~councils~~. The Department of Children and Family Services shall
1511 disseminate the list to service providers under contract to the

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1512 department who are responsible for referring persons to a
1513 facility for residency. The agency may charge a fee commensurate
1514 with the cost of printing and postage to other interested
1515 parties requesting a copy of this list. This information may be
1516 provided electronically or through the agency's Internet site.

1517 Section 37. Subsection (8) of section 429.26, Florida
1518 Statutes, is amended to read:

1519 429.26 Appropriateness of placements; examinations of
1520 residents.—

1521 (8) The Department of Children and Family Services may
1522 require an examination for supplemental security income and
1523 optional state supplementation recipients residing in facilities
1524 at any time and shall provide the examination whenever a
1525 resident's condition requires it. Any facility administrator;
1526 personnel of the agency, the department, or the Department of
1527 Children and Family Services; or representative of the state
1528 ~~long-term care ombudsman program council member~~ who believes a
1529 resident needs to be evaluated shall notify the resident's case
1530 manager, who shall take appropriate action. A report of the
1531 examination findings shall be provided to the resident's case
1532 manager and the facility administrator to help the administrator
1533 meet his or her responsibilities under subsection (1).

1534 Section 38. Subsection (2) and paragraph (b) of subsection
1535 (3) of section 429.28, Florida Statutes, are amended to read:

1536 429.28 Resident bill of rights.—

1537 (2) The administrator of a facility shall ensure that a
1538 written notice of the rights, obligations, and prohibitions set
1539 forth in this part is posted in a prominent place in each

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1540 facility and read or explained to residents who cannot read.
1541 This notice shall include the statewide toll-free telephone
1542 number and e-mail address ~~name, address, and telephone numbers~~
1543 of the state ~~local~~ ombudsman program ~~council~~ and central abuse
1544 hotline and, when applicable, the Advocacy Center for Persons
1545 with Disabilities, Inc., and the Florida local advocacy council,
1546 where complaints may be lodged. The facility must ensure a
1547 resident's access to a telephone to call the state ~~local~~
1548 ombudsman program ~~council~~, central abuse hotline, Advocacy
1549 Center for Persons with Disabilities, Inc., and the Florida
1550 local advocacy council.

1551 (3)

1552 (b) In order to determine whether the facility is
1553 adequately protecting residents' rights, the biennial survey
1554 shall include private informal conversations with a sample of
1555 residents and consultation with the state ombudsman program
1556 ~~council~~ in the planning and service area in which the facility
1557 is located to discuss residents' experiences within the
1558 facility.

1559 Section 39. Section 429.34, Florida Statutes, is amended
1560 to read:

1561 429.34 Right of entry and inspection.—In addition to the
1562 requirements of s. 408.811, any duly designated officer or
1563 employee of the department, the Department of Children and
1564 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the
1565 Office of the Attorney General, the state or local fire marshal,
1566 or a representative ~~member~~ of the state ~~or local long-term care~~
1567 ombudsman program ~~council~~ shall have the right to enter

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1568 unannounced upon and into the premises of any facility licensed
1569 pursuant to this part in order to determine the state of
1570 compliance with ~~the provisions of~~ this part, part II of chapter
1571 408, and applicable rules. Data collected by the state ~~or local~~
1572 ~~long-term care~~ ombudsman program ~~councils~~ or the state or local
1573 advocacy councils may be used by the agency in investigations
1574 involving violations of regulatory standards.

1575 Section 40. Subsection (2) of section 429.35, Florida
1576 Statutes, is amended to read:

1577 429.35 Maintenance of records; reports.—

1578 (2) Within 60 days after the date of the biennial
1579 inspection visit required under s. 408.811 or within 30 days
1580 after the date of any interim visit, the agency shall forward
1581 the results of the inspection to the state ~~local~~ ombudsman
1582 program ~~council in whose planning and service area, as defined~~
1583 ~~in part II of chapter 400, the facility is located;~~ to at least
1584 one public library or, in the absence of a public library, the
1585 county seat in the county in which the inspected assisted living
1586 facility is located; and, when appropriate, to the district
1587 Adult Services and Mental Health Program Offices.

1588 Section 41. Subsection (2) of section 429.85, Florida
1589 Statutes, is amended to read:

1590 429.85 Residents' bill of rights.—

1591 (2) The provider shall ensure that residents and their
1592 legal representatives are made aware of the rights, obligations,
1593 and prohibitions set forth in this part. Residents must also be
1594 given the statewide toll-free telephone number and e-mail
1595 address of the state ombudsman program and the telephone number

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1596 ~~of names, addresses, and telephone numbers of the local~~
1597 ~~ombudsman council~~ and the central abuse hotline where they may
1598 lodge complaints.

1599 Section 42. Subsection (17) of section 744.444, Florida
1600 Statutes, is amended to read:

1601 744.444 Power of guardian without court approval.—Without
1602 obtaining court approval, a plenary guardian of the property, or
1603 a limited guardian of the property within the powers granted by
1604 the order appointing the guardian or an approved annual or
1605 amended guardianship report, may:

1606 (17) Provide confidential information about a ward that is
1607 related to an investigation arising under part I of chapter 400
1608 to a representative of the local ~~or~~ state ombudsman program
1609 ~~council member~~ conducting such an investigation. Any such
1610 ombudsman shall have a duty to maintain the confidentiality of
1611 such information.

1612 Section 43. This act shall take effect July 1, 2013.

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1616 **T I T L E A M E N D M E N T**

1617 Remove line 15 and insert:
1618 of the State Long-Term Care Ombudsman

1619