

1                   A bill to be entitled  
2           An act relating to the state ombudsman program;  
3           amending s. 400.0060, F.S.; revising and providing  
4           definitions; amending s. 400.0061, F.S.; revising  
5           legislative intent with respect to citizen ombudsmen;  
6           deleting references to ombudsman councils and  
7           transferring their responsibilities to representatives  
8           of the Office of State Long-Term Care Ombudsman;  
9           amending s. 400.0063, F.S.; revising duties of the  
10          office; amending s. 400.0065, F.S.; reorganizing local  
11          ombudsman councils; establishing districts; requiring  
12          the state ombudsman to submit an annual report to the  
13          Governor, the Legislature, and specified agencies and  
14          entities; amending s. 400.0067, F.S.; providing duties  
15          of the State Long-Term Care Ombudsman Advisory  
16          Council; providing for membership, terms, and  
17          meetings; amending s. 400.0069, F.S.; requiring the  
18          state ombudsman to designate and direct program  
19          districts; providing duties of representatives of the  
20          office in the districts; providing for appointment and  
21          qualifications of district ombudsmen; prohibiting  
22          certain individuals from serving as ombudsmen;  
23          amending s. 400.0070, F.S.; providing conditions under  
24          which a representative of the office could be found to  
25          have a conflict of interest; amending s. 400.0071,  
26          F.S.; requiring the Department of Elderly Affairs to  
27          consult with the state ombudsman before adopting rules  
28          pertaining to complaint resolution; amending s.

29 | 400.0073, F.S.; providing procedures for investigation  
 30 | of complaints; amending s. 400.0074, F.S.; revising  
 31 | procedures for conducting onsite administrative  
 32 | assessments; authorizing the department to adopt  
 33 | rules; amending s. 400.0075, F.S.; revising complaint  
 34 | notification and resolution procedures; amending s.  
 35 | 400.0078, F.S.; providing for a resident or  
 36 | representative of a resident to receive additional  
 37 | information regarding resident rights; amending s.  
 38 | 400.0079, F.S.; providing immunity from liability for  
 39 | a representative of the office under certain  
 40 | circumstances; amending s. 400.0081, F.S.; requiring  
 41 | long-term care facilities to provide representatives  
 42 | of the office with access to facilities, residents,  
 43 | and records for certain purposes; amending s.  
 44 | 400.0083, F.S.; conforming provisions to changes made  
 45 | by the act; amending s. 400.0087, F.S.; providing for  
 46 | the office to coordinate ombudsman services with  
 47 | Disability Rights Florida; amending s. 400.0089, F.S.;  
 48 | conforming provisions to changes made by the act;  
 49 | amending s. 400.0091, F.S.; revising training  
 50 | requirements for representatives of the office and  
 51 | ombudsmen; amending ss. 20.41, 400.021, 400.022,  
 52 | 400.0255, 400.1413, 400.162, 400.19, 400.191, 400.23,  
 53 | 400.235, 415.1034, 415.104, 415.1055, 415.106,  
 54 | 415.107, 429.02, 429.07, 429.19, 429.26, 429.28,  
 55 | 429.34, 429.35, 429.85, and 744.444, F.S.; conforming  
 56 | provisions to changes made by the act; providing an

57 | effective date.

58 |

59 | Be It Enacted by the Legislature of the State of Florida:

60 |

61 | Section 1. Section 400.0060, Florida Statutes, is amended  
62 | to read:

63 | 400.0060 Definitions.—When used in this part, unless the  
64 | context clearly dictates otherwise, the term:

65 | (1) "Administrative assessment" means a review of  
66 | conditions in a long-term care facility which impact the rights,  
67 | health, safety, and welfare of residents with the purpose of  
68 | noting needed improvement and making recommendations to enhance  
69 | the quality of life for residents.

70 | (2) "Agency" means the Agency for Health Care  
71 | Administration.

72 | (3) "Department" means the Department of Elderly Affairs.

73 | (4) "District" means a geographical area designated by the  
74 | state ombudsman in which individuals certified as ombudsmen  
75 | carry out the duties of the state ombudsman program. ~~"Local~~  
76 | ~~council" means a local long-term care ombudsman council~~  
77 | ~~designated by the ombudsman pursuant to s. 400.0069. Local~~  
78 | ~~councils are also known as district long-term care ombudsman~~  
79 | ~~councils or district councils.~~

80 | (5) "Long-term care facility" means a nursing home  
81 | facility, assisted living facility, adult family-care home,  
82 | board and care facility, facility where continuing long-term  
83 | care is provided, or any other similar residential adult care  
84 | facility.

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

87 (7) "Ombudsman" means an individual who has been certified  
 88 by the state ombudsman as meeting the requirements of ss.  
 89 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~  
 90 ~~Secretary of Elderly Affairs to head the Office of State Long-~~  
 91 ~~Term Care Ombudsman.~~

92 (8) "Representative of the office" means the state  
 93 ombudsman, employees of the office, and individuals certified as  
 94 ombudsmen.

95 (9)~~(8)~~ "Resident" means an individual 60 years of age or  
 96 older who resides in a long-term care facility.

97 (10)~~(9)~~ "Secretary" means the Secretary of Elderly  
 98 Affairs.

99 (11)~~(10)~~ "State council" means the State Long-Term Care  
 100 Ombudsman Advisory Council created by s. 400.0067.

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

104 (13) "State ombudsman program" means the program operating  
 105 under the direction of the office.

106 Section 2. Section 400.0061, Florida Statutes, is amended  
 107 to read:

108 400.0061 Legislative findings and intent; long-term care  
 109 facilities.—

110 (1) The Legislature finds that conditions in long-term  
 111 care facilities in this state are such that the rights, health,  
 112 safety, and welfare of residents are not fully ensured by rules

113 of the Department of Elderly Affairs or the Agency for Health  
114 Care Administration or by the good faith of owners or operators  
115 of long-term care facilities. Furthermore, there is a need for a  
116 formal mechanism whereby a long-term care facility resident, a  
117 representative of a long-term care facility resident, or any  
118 other concerned citizen may make a complaint against the  
119 facility or its employees, or against other persons who are in a  
120 position to restrict, interfere with, or threaten the rights,  
121 health, safety, or welfare of a long-term care facility  
122 resident. The Legislature finds that concerned citizens are  
123 often more effective advocates for the rights of others than  
124 governmental agencies. The Legislature further finds that in  
125 order to be eligible to receive an allotment of funds authorized  
126 and appropriated under the federal Older Americans Act, the  
127 state must establish and operate an Office of State Long-Term  
128 Care Ombudsman, to be headed by the state ~~Long-Term Care~~  
129 ombudsman, and carry out a state ~~long-term care~~ ombudsman  
130 program.

131 (2) It is the intent of the Legislature, therefore, to  
132 utilize voluntary citizen ombudsmen ~~ombudsman councils~~ under the  
133 leadership of the state ombudsman, and, through them, to operate  
134 a state ~~an~~ ombudsman program, which shall, without interference  
135 by any executive agency, undertake to discover, investigate, and  
136 determine the presence of conditions or individuals that ~~which~~  
137 constitute a threat to the rights, health, safety, or welfare of  
138 the residents of long-term care facilities. To ensure that the  
139 effectiveness and efficiency of such investigations are not  
140 impeded by advance notice or delay, the Legislature intends that

141 representatives of the office ~~the ombudsman and ombudsman~~  
 142 ~~councils and their designated representatives~~ not be required to  
 143 obtain warrants in order to enter into or conduct investigations  
 144 or onsite administrative assessments of long-term care  
 145 facilities. It is the further intent of the Legislature that the  
 146 environment in long-term care facilities be conducive to the  
 147 dignity and independence of residents and that investigations by  
 148 representatives of the office ~~ombudsman councils shall~~ further  
 149 the enforcement of laws, rules, and regulations that safeguard  
 150 the health, safety, and welfare of residents.

151 Section 3. Section 400.0063, Florida Statutes, is amended  
 152 to read:

153 400.0063 Establishment of Office of State Long-Term Care  
 154 Ombudsman; designation of ombudsman and legal advocate.—

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

157 (2) (a) The Office of State Long-Term Care Ombudsman shall  
 158 be headed by the state ~~Long-Term-Care~~ ombudsman, who shall serve  
 159 on a full-time basis and shall personally, or through  
 160 representatives of the office, carry out the purposes and  
 161 functions of the state ombudsman program ~~office~~ in accordance  
 162 with state and federal law.

163 (b) The state ombudsman shall be appointed by and shall  
 164 serve at the pleasure of the Secretary of Elderly Affairs. The  
 165 secretary shall appoint a person who has expertise and  
 166 experience in the fields of long-term care and advocacy to serve  
 167 as state ombudsman.

168 (3) (a) There is created in the office the position of

169 legal advocate, who shall be selected by and serve at the  
 170 pleasure of the state ombudsman and shall be a member in good  
 171 standing of The Florida Bar.

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

174 1. Assisting the state ombudsman in carrying out the  
 175 duties of the office with respect to the abuse, neglect,  
 176 exploitation, or violation of rights of residents of long-term  
 177 care facilities.

178 2. Assisting the state council and representatives of the  
 179 office ~~local councils~~ in carrying out their responsibilities  
 180 under this part.

181 3. Pursuing administrative, legal, and other appropriate  
 182 remedies on behalf of residents.

183 4. Serving as legal counsel to the state council and  
 184 representatives of the office ~~local councils, or individual~~  
 185 ~~members thereof~~, against whom any suit or other legal action is  
 186 initiated in connection with the performance of the official  
 187 duties of the state ombudsman program ~~councils or an individual~~  
 188 ~~member~~.

189 Section 4. Section 400.0065, Florida Statutes, is amended  
 190 to read:

191 400.0065 Office of State Long-Term Care Ombudsman; duties  
 192 and responsibilities.—

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

195 (a) Identify, investigate, and resolve complaints made by  
 196 or on behalf of residents of long-term care facilities relating

197 to actions or omissions by providers or representatives of  
198 providers of long-term care services, other public or private  
199 agencies, guardians, or representative payees that may adversely  
200 affect the health, safety, welfare, or rights of the residents.

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

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

206 (d) Ensure that residents have regular and timely access  
207 to the services provided through the office and that residents  
208 and complainants receive timely responses from representatives  
209 of the office to their complaints.

210 (e) Represent the interests of residents before  
211 governmental agencies and seek administrative, legal, and other  
212 remedies to protect the health, safety, welfare, and rights of  
213 the residents.

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

215 (g) Analyze, comment on, and monitor the development and  
216 implementation of federal, state, and local laws, rules, and  
217 regulations, and other governmental policies and actions, that  
218 pertain to the health, safety, welfare, and rights of the  
219 residents, with respect to the adequacy of long-term care  
220 facilities and services in the state, and recommend any changes  
221 in such laws, rules, regulations, policies, and actions as the  
222 office determines to be appropriate and necessary.

223 (h) Provide technical support for the development of  
224 resident and family councils to protect the well-being and



225 rights of residents.

226 (2) The state ~~Long-Term Care~~ ombudsman shall have the duty  
227 and authority to:

228 (a) Establish and coordinate districts ~~local councils~~  
229 throughout the state.

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

232 (c) Within the limits of appropriated federal and state  
233 funding, employ such personnel as are necessary to perform  
234 adequately the functions of the office and provide or contract  
235 for legal services to assist the state council and  
236 representatives of the office ~~local councils~~ in the performance  
237 of their duties. ~~Staff positions established for the purpose of~~  
238 ~~coordinating the activities of each local council and assisting~~  
239 ~~its members may be filled by the ombudsman after approval by the~~  
240 ~~secretary. Notwithstanding any other provision of this part,~~  
241 ~~upon certification by the ombudsman that the staff member hired~~  
242 ~~to fill any such position has completed the initial training~~  
243 ~~required under s. 400.0091, such person shall be considered a~~  
244 ~~representative of the State Long-Term Care Ombudsman Program for~~  
245 ~~purposes of this part.~~

246 (d) Contract for services necessary to carry out the  
247 activities of the office.

248 (e) Apply for, receive, and accept grants, gifts, or other  
249 payments, including, but not limited to, real property, personal  
250 property, and services from a governmental entity or other  
251 public or private entity or person, and make arrangements for  
252 the use of such grants, gifts, or payments.

253 (f) Coordinate, to the greatest extent possible, state and  
254 local ombudsman services with the protection and advocacy  
255 systems for individuals with developmental disabilities and  
256 mental illnesses and with legal assistance programs for the poor  
257 through adoption of memoranda of understanding and other means.

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

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

264 (h) ~~(i)~~ Prepare an annual report describing the activities  
265 carried out by the office, the state council, and the districts  
266 ~~local councils~~ in the year for which the report is prepared. The  
267 state ombudsman shall submit the report to the secretary, the  
268 United States Assistant Secretary for Aging, the Governor, the  
269 President of the Senate, the Speaker of the House of  
270 Representatives, the Secretary of Children and Families, and the  
271 Secretary of Health Care Administration at least 30 days before  
272 the convening of the regular session of the Legislature. ~~The~~  
273 ~~secretary shall in turn submit the report to the United States~~  
274 ~~Assistant Secretary for Aging, the Governor, the President of~~  
275 ~~the Senate, the Speaker of the House of Representatives, the~~  
276 ~~Secretary of Children and Family Services, and the Secretary of~~  
277 ~~Health Care Administration.~~ The report shall, at a minimum:

278 1. Contain and analyze data collected concerning  
279 complaints about and conditions in long-term care facilities and  
280 the disposition of such complaints.

- 281           2. Evaluate the problems experienced by residents.
- 282           3. Analyze the successes of the state ombudsman program
- 283 during the preceding year, including an assessment of how
- 284 successfully the office ~~program~~ has carried out its
- 285 responsibilities under the Older Americans Act.
- 286           4. Provide recommendations for policy, regulatory, and
- 287 statutory changes designed to solve identified problems; resolve
- 288 residents' complaints; improve residents' lives and quality of
- 289 care; protect residents' rights, health, safety, and welfare;
- 290 and remove any barriers to the optimal operation of the state
- 291 ~~Long-Term Care~~ ombudsman program.
- 292           5. Contain recommendations from the state ~~Long-Term Care~~
- 293 ~~Ombudsman~~ council regarding program functions and activities and
- 294 recommendations for policy, regulatory, and statutory changes
- 295 designed to protect residents' rights, health, safety, and
- 296 welfare.
- 297           6. Contain any relevant recommendations from
- 298 representatives of the office ~~the local councils~~ regarding
- 299 program functions and activities.
- 300           Section 5. Section 400.0067, Florida Statutes, is amended
- 301 to read:
- 302           400.0067 State Long-Term Care Ombudsman Advisory Council;
- 303 duties; membership.—
- 304           (1) There is created, within the Office of State Long-Term
- 305 Care Ombudsman, the State Long-Term Care Ombudsman Advisory
- 306 Council.
- 307           (2) The state ~~Long-Term Care Ombudsman~~ council shall:
- 308           (a) Serve as an advisory body to assist the state

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309 | ombudsman in developing strategies for recruitment, recognition,  
310 | and retention of ombudsmen ~~reaching a consensus among local~~  
311 | ~~councils on issues affecting residents and impacting the optimal~~  
312 | ~~operation of the program.~~

313 |       (b) Assist the state ombudsman in developing long-range  
314 | strategies and goals for the state ombudsman program. ~~Serve as~~  
315 | ~~an appellate body in receiving from the local councils~~  
316 | ~~complaints not resolved at the local level. Any individual~~  
317 | ~~member or members of the state council may enter any long-term~~  
318 | ~~care facility involved in an appeal, pursuant to the conditions~~  
319 | ~~specified in s. 400.0074(2).~~

320 |       (c) Assist the state ombudsman by analyzing and commenting  
321 | on the development and implementation of laws, rules, and  
322 | regulations impacting the health, safety, welfare, and rights of  
323 | residents ~~to discover, investigate, and determine the existence~~  
324 | ~~of abuse or neglect in any long-term care facility, and work~~  
325 | ~~with the adult protective services program as required in ss.~~  
326 | ~~415.101-415.113.~~

327 |       ~~(d) Assist the ombudsman in eliciting, receiving,~~  
328 | ~~responding to, and resolving complaints made by or on behalf of~~  
329 | ~~residents.~~

330 |       ~~(d)(e)~~ Solicit ~~Elicit~~ and coordinate state, local, and  
331 | ~~voluntary organizational~~ assistance for the purpose of improving  
332 | the care received by residents as requested by the state  
333 | ombudsman.

334 |       ~~(f) Assist the ombudsman in preparing the annual report~~  
335 | ~~described in s. 400.0065.~~

336 |       (3) (a) The state ~~Long-Term Care Ombudsman~~ council shall be

337 | composed of:

338 |       1. Five certified ombudsmen from different districts of  
339 | the state ~~one active local council member elected by each local~~  
340 | ~~council plus three at-large members appointed by the Governor.~~

341 |       2. Three long-term care facility administrators or  
342 | providers of long-term care services, each representing a  
343 | nursing home, an assisted living facility, and an adult family  
344 | care home.

345 |       3. One resident of a long-term care facility or a family  
346 | member of a resident of a long-term care facility.

347 |       4. One attorney in good standing with The Florida Bar who  
348 | has experience in elder law, guardianship, long-term care  
349 | facility regulation, or another relevant area.

350 |       5. One physician, physician's assistant, advanced  
351 | registered nurse practitioner, or registered nurse who has  
352 | experience with geriatric patients.

353 |       6. One licensed pharmacist.

354 |       7. One registered dietician or nutritionist.

355 |       8. One clinical social worker licensed under chapter 491  
356 | with experience in providing mental health counseling or one  
357 | mental health counselor as defined in s. 394.455.

358 |       9. One executive director of an area agency on aging.

359 |       10. One at-large member.

360 |       ~~(a) Each local council shall elect by majority vote a~~  
361 | ~~representative from among the council members to represent the~~  
362 | ~~interests of the local council on the state council. A local~~  
363 | ~~council chair may not serve as the representative of the local~~  
364 | ~~council on the state council.~~

365           (b)1. The state ombudsman ~~secretary, after consulting with~~  
366 ~~the ombudsman,~~ shall submit to the secretary ~~Governor~~ a list of  
367 individuals ~~persons~~ recommended for appointment to the ~~at-large~~  
368 ~~positions on the state council. The list shall not include the~~  
369 ~~name of any person who is currently serving on a local council.~~

370           2. The secretary ~~Governor~~ shall appoint ~~three at-large~~  
371 members chosen from the list.

372           3. If the secretary ~~Governor~~ does not appoint a ~~an at-~~  
373 ~~large~~ member to fill a vacant position within 60 days after the  
374 list is submitted, the state ombudsman ~~secretary, after~~  
375 ~~consulting with the ombudsman,~~ shall appoint a ~~an at-large~~  
376 member to fill that vacant position.

377           4. The state council may perform its duties even if one or  
378 more positions are vacant.

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

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

383           ~~3. A local council may recommend removal of its elected~~  
384 ~~representative from the state council by a majority vote. If the~~  
385 ~~council votes to remove its representative, the local council~~  
386 ~~chair shall immediately notify the ombudsman. The secretary~~  
387 ~~shall advise the Governor of the local council's vote upon~~  
388 ~~receiving notice from the ombudsman.~~

389           (b)4. The position of any member missing 50 percent or  
390 more of the ~~three~~ state council meetings within a 1-year period  
391 without cause may be declared vacant by the state ombudsman. The  
392 findings of the state ombudsman regarding cause shall be final

393 and binding.

394 (c)5. Any vacancy on the state council shall be filled in  
395 the same manner as the original appointment.

396 ~~(d)1. The state council shall elect a chair to serve for a~~  
397 ~~term of 1 year. A chair may not serve more than two consecutive~~  
398 ~~terms.~~

399 ~~2. The chair shall select a vice chair from among the~~  
400 ~~members. The vice chair shall preside over the state council in~~  
401 ~~the absence of the chair.~~

402 ~~3. The chair may create additional executive positions as~~  
403 ~~necessary to carry out the duties of the state council. Any~~  
404 ~~person appointed to an executive position shall serve at the~~  
405 ~~pleasure of the chair, and his or her term shall expire on the~~  
406 ~~same day as the term of the chair.~~

407 ~~4. A chair may be immediately removed from office prior to~~  
408 ~~the expiration of his or her term by a vote of two thirds of all~~  
409 ~~state council members present at any meeting at which a quorum~~  
410 ~~is present. If a chair is removed from office prior to the~~  
411 ~~expiration of his or her term, a replacement chair shall be~~  
412 ~~chosen during the same meeting in the same manner as described~~  
413 ~~in this paragraph, and the term of the replacement chair shall~~  
414 ~~begin immediately. The replacement chair shall serve for the~~  
415 ~~remainder of the term and is eligible to serve two subsequent~~  
416 ~~consecutive terms.~~

417 (d)(e)1. The state council shall meet upon the call of the  
418 state chair or upon the call of the ombudsman. The council shall  
419 meet at least twice yearly ~~quarterly~~ but may meet more  
420 frequently as needed.

421 ~~2. A quorum shall be considered present if more than 50~~  
 422 ~~percent of all active state council members are in attendance at~~  
 423 ~~the same meeting.~~

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

428 ~~(e)-(f)~~ Members shall receive no compensation but shall,  
 429 with approval from the state ombudsman, be reimbursed for per  
 430 diem and travel expenses as provided in s. 112.061.

431 Section 6. Section 400.0069, Florida Statutes, is amended  
 432 to read:

433 400.0069 ~~Local~~ Long-term care ombudsman districts  
 434 ~~councils~~; duties; appointment ~~membership~~.-

435 (1) (a) The state ombudsman shall designate districts ~~local~~  
 436 ~~long-term care ombudsman councils~~ to carry out the duties of the  
 437 state Long-Term Care ombudsman program ~~within local communities~~.  
 438 Each district ~~local council~~ shall function under the direction  
 439 of the state ombudsman.

440 (b) The state ombudsman shall ensure that there are  
 441 representatives of the office ~~is at least one local council~~  
 442 operating in each district ~~of the department's planning and~~  
 443 ~~service areas. The ombudsman may create additional local~~  
 444 ~~councils~~ as necessary to ensure that residents throughout the  
 445 state have adequate access to state Long-Term Care ombudsman  
 446 program services. ~~The ombudsman, after approval from the~~  
 447 ~~secretary, shall designate the jurisdictional boundaries of each~~  
 448 ~~local council.~~



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

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

454 (b) Discover, investigate, and determine the existence of  
 455 abuse, ~~or~~ neglect, or exploitation using in any long-term care  
 456 ~~facility and to use~~ the procedures provided for in ss. 415.101-  
 457 415.113 when applicable.

458 (c) Identify ~~Elicit, receive,~~ investigate, ~~respond to,~~ and  
 459 resolve complaints made by or on behalf of residents relating to  
 460 actions or omissions by providers or representatives of  
 461 providers of long-term care services, other public or private  
 462 agencies, guardians, representative payees, or other individuals  
 463 that may adversely affect the health, safety, welfare, or rights  
 464 of residents.

465 (d) When directed by the state ombudsman, review and, ~~if~~  
 466 ~~necessary,~~ comment on all existing or proposed rules,  
 467 regulations, and other governmental policies and actions  
 468 relating to long-term care facilities that may potentially have  
 469 an effect on the rights, health, safety, and welfare of  
 470 residents.

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

475 (f) Recommend that the state ombudsman and the legal  
 476 advocate seek administrative, legal, and other remedies to

477 protect the health, safety, welfare, and rights of ~~the~~  
 478 residents.

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

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

483 (3) In order to carry out the duties specified in  
 484 subsection (2), a representative of the office may ~~member of a~~  
 485 ~~local council is authorized to~~ enter any long-term care facility  
 486 without notice or without first obtaining a warrant; however,  
 487 ~~subject to the provisions of s. 400.0074(2) may apply regarding~~  
 488 notice of a followup administrative assessment.

489 (4) Each district ~~local council~~ shall be composed of  
 490 ombudsmen ~~members~~ whose primary residences are ~~residence is~~  
 491 located within the boundaries of the district ~~local council's~~  
 492 jurisdiction.

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

497 ~~1. At least one medical or osteopathic physician whose~~  
 498 ~~practice includes or has included a substantial number of~~  
 499 ~~geriatric patients and who may practice in a long-term care~~  
 500 ~~facility;~~

501 ~~2. At least one registered nurse who has geriatric~~  
 502 ~~experience;~~

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

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

505 ~~5. At least six nursing home residents or representative~~  
 506 ~~consumer advocates for nursing home residents;~~

507 ~~6. At least three residents of assisted living facilities~~  
 508 ~~or adult family care homes or three representative consumer~~  
 509 ~~advocates for alternative long-term care facility residents;~~

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

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

512 (b) The following individuals may not be appointed as  
 513 ombudsmen:

514 1. The owner or representative of a long-term care  
 515 facility.

516 2. A provider or representative of a provider of long-term  
 517 care services.

518 3. An employee of the agency.

519 4. An employee of the department, except for  
 520 representatives of the office.

521 5. An employee of the Department of Children and Families.

522 6. An employee of the Agency for Persons with  
 523 Disabilities. ~~In no case shall the medical director of a long-~~  
 524 ~~term care facility or an employee of the agency, the department,~~  
 525 ~~the Department of Children and Family Services, or the Agency~~  
 526 ~~for Persons with Disabilities serve as a member or as an ex~~  
 527 ~~officio member of a council.~~

528 (5) (a) To be appointed as an ombudsman, an individual  
 529 must:

530 1. Individuals wishing to join a local council shall  
 531 submit an application to the state ombudsman or designee.

532 2. Successfully complete level 2 background screening

533 ~~pursuant to s. 430.0402 and chapter 435. The ombudsman shall~~  
534 ~~review the individual's application and advise the secretary of~~  
535 ~~his or her recommendation for approval or disapproval of the~~  
536 ~~candidate's membership on the local council. If the secretary~~  
537 ~~approves of the individual's membership, the individual shall be~~  
538 ~~appointed as a member of the local council.~~

539 (b) The state ombudsman shall approve or deny the  
540 appointment of the individual as an ombudsman. The secretary may  
541 rescind the ombudsman's approval of a member on a local council  
542 at any time. If the secretary rescinds the approval of a member  
543 on a local council, the ombudsman shall ensure that the  
544 individual is immediately removed from the local council on  
545 which he or she serves and the individual may no longer  
546 represent the State Long-Term Care Ombudsman Program until the  
547 secretary provides his or her approval.

548 (c) Upon appointment as an ombudsman, the individual may  
549 participate in district activities but may not represent the  
550 office or conduct any authorized program duties until the  
551 individual has completed the initial training specified in s.  
552 400.0091(1) and has been certified by the state ombudsman.

553 (d) The state ombudsman, for good cause shown, may rescind  
554 the appointment of an individual as an ombudsman. After  
555 rescinding the appointment, the individual may not conduct any  
556 duties as an ombudsman and may not represent the office or the  
557 state ombudsman program. A local council may recommend the  
558 removal of one or more of its members by submitting to the  
559 ombudsman a resolution adopted by a two-thirds vote of the  
560 members of the council stating the name of the member or members

561 ~~recommended for removal and the reasons for the recommendation.~~  
562 ~~If such a recommendation is adopted by a local council, the~~  
563 ~~local council chair or district coordinator shall immediately~~  
564 ~~report the council's recommendation to the ombudsman. The~~  
565 ~~ombudsman shall review the recommendation of the local council~~  
566 ~~and advise the secretary of his or her recommendation regarding~~  
567 ~~removal of the council member or members.~~

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

571 ~~(b) The chair shall select a vice chair from among the~~  
572 ~~members of the council. The vice chair shall preside over the~~  
573 ~~council in the absence of the chair.~~

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

579 ~~(d) A chair may be immediately removed from office prior~~  
580 ~~to the expiration of his or her term by a vote of two-thirds of~~  
581 ~~the members of the local council. If any chair is removed from~~  
582 ~~office prior to the expiration of his or her term, a replacement~~  
583 ~~chair shall be elected during the same meeting, and the term of~~  
584 ~~the replacement chair shall begin immediately. The replacement~~  
585 ~~chair shall serve for the remainder of the term of the person he~~  
586 ~~or she replaced.~~

587 ~~(7) Each local council shall meet upon the call of its~~  
588 ~~chair or upon the call of the ombudsman. Each local council~~

589 | ~~shall meet at least once a month but may meet more frequently if~~  
 590 | ~~necessary.~~

591 |       ~~(6)-(8)~~ An ombudsman ~~A member of a local council~~ shall  
 592 | receive no compensation but shall, with approval from the state  
 593 | ombudsman, be reimbursed for travel expenses ~~both within and~~  
 594 | ~~outside the jurisdiction of the local council~~ in accordance with  
 595 | ~~the provisions of s. 112.061.~~

596 |       ~~(7)-(9)~~ The representatives of the office ~~local councils~~  
 597 | are authorized to call upon appropriate state agencies ~~of state~~  
 598 | ~~government~~ for such professional assistance as ~~may be~~ needed in  
 599 | the discharge of their duties, and such. ~~All~~ state agencies  
 600 | shall cooperate ~~with the local councils~~ in providing requested  
 601 | information and agency representation ~~at council meetings~~.

602 |       Section 7. Section 400.0070, Florida Statutes, is amended  
 603 | to read:

604 |       400.0070 Conflicts of interest.—

605 |       (1) A representative of the office ~~The ombudsman~~ shall  
 606 | not:

607 |       (a) Have a direct involvement in the licensing or  
 608 | certification of, or an ownership or investment interest in, a  
 609 | long-term care facility or a provider of a long-term care  
 610 | service.

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

613 |       (c) Receive, or have a right to receive, directly or  
 614 | indirectly, remuneration, in cash or in kind, under a  
 615 | compensation agreement with the owner or operator of a long-term  
 616 | care facility.

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

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

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

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

631           Section 8. Section 400.0071, Florida Statutes, is amended  
 632 to read:

633           400.0071 State ~~Long-Term Care~~ ombudsman program complaint  
 634 procedures.—The department, in consultation with the state  
 635 ombudsman, shall adopt rules implementing state and local  
 636 complaint procedures. The rules must include procedures for  
 637 receiving, investigating, and resolving complaints concerning  
 638 the health, safety, welfare, and rights of residents—

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

641           ~~(2) Conducting investigations of a long-term care facility~~  
 642 ~~or an employee of a long-term care facility subsequent to~~  
 643 ~~receiving a complaint.~~

644           ~~(3) Conducting onsite administrative assessments of long-~~

645 ~~term care facilities.~~

646 Section 9. Section 400.0073, Florida Statutes, is amended  
647 to read:

648 400.0073 Complaint ~~State and local ombudsman council~~  
649 investigations.—

650 (1) A representative of the office ~~local council~~ shall  
651 identify and investigate, ~~within a reasonable time after a~~  
652 ~~complaint is made,~~ any complaint made by or on behalf of a  
653 resident ~~that, a representative of a resident, or any other~~  
654 ~~credible source based on an action or omission by an~~  
655 ~~administrator, an employee, or a representative of a long-term~~  
656 ~~care facility which might be:~~

- 657 (a) Contrary to law;
- 658 (b) Unreasonable, unfair, oppressive, or unnecessarily  
659 discriminatory, even though in accordance with law;
- 660 (c) Based on a mistake of fact;
- 661 (d) Based on improper or irrelevant grounds;
- 662 (e) Unaccompanied by an adequate statement of reasons;
- 663 (f) Performed in an inefficient manner; or
- 664 (g) Otherwise adversely affecting the health, safety,  
665 welfare, or rights of a resident.

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

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

671 (2)-(4) If a representative of the office ~~the ombudsman or~~  
672 ~~any state or local council member~~ is not allowed to enter a



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673 long-term care facility, the administrator of the facility shall  
674 be considered to have interfered with a representative of the  
675 office, ~~the state council, or the local council~~ in the  
676 performance of official duties as described in s. 400.0083(1)  
677 and to have committed a violation of this part. The  
678 representative of the office ~~ombudsman~~ shall report a facility's  
679 refusal to allow entry to the facility to the state ombudsman or  
680 designee, who shall then report the incident to the agency, and  
681 the agency shall record the report and take it into  
682 consideration when determining actions allowable under s.  
683 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
684 429.71.

685 Section 10. Section 400.0074, Florida Statutes, is amended  
686 to read:

687 400.0074 ~~Local ombudsman council~~ Onsite administrative  
688 assessments.-

689 (1) Representatives of the office must ~~In addition to any~~  
690 ~~specific investigation conducted pursuant to a complaint, the~~  
691 ~~local council shall~~ conduct, at least annually, an onsite  
692 administrative assessment of each nursing home, assisted living  
693 facility, and adult family-care home ~~within its jurisdiction.~~  
694 This administrative assessment must be resident-centered and  
695 must ~~shall~~ focus on factors affecting the rights, health,  
696 safety, and welfare of the residents. ~~Each local council is~~  
697 ~~encouraged to conduct a similar onsite administrative assessment~~  
698 ~~of each additional long-term care facility within its~~  
699 ~~jurisdiction.~~

700 (2) An onsite administrative assessment is ~~conducted by a~~

701 ~~local council shall be~~ subject to the following conditions:

702 (a) To the extent possible and reasonable, the  
703 administrative assessment ~~assessments~~ shall not duplicate the  
704 efforts of ~~the agency~~ surveys and inspections conducted by state  
705 agencies in long-term care facilities ~~under part II of this~~  
706 ~~chapter and parts I and II of chapter 429.~~

707 (b) An administrative assessment shall be conducted at a  
708 time and for a duration necessary to produce the information  
709 required to complete the assessment ~~carry out the duties of the~~  
710 ~~local council.~~

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

714 (d) A representative of the office ~~local council member~~  
715 ~~physically~~ present for the administrative assessment must ~~shall~~  
716 identify himself or herself to the administrator or designee ~~and~~  
717 ~~cite the specific statutory authority for his or her assessment~~  
718 of the facility.

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

721 (f) A representative of the office ~~local council member~~  
722 may not enter a single-family residential unit within a long-  
723 term care facility during an administrative assessment without  
724 the permission of the resident or the representative of the  
725 resident.

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

729 ~~(3) Regardless of jurisdiction, the ombudsman may~~  
730 ~~authorize a state or local council member to assist another~~  
731 ~~local council to perform the administrative assessments~~  
732 ~~described in this section.~~

733 (3)(4) An onsite administrative assessment may not be  
734 accomplished by forcible entry. However, if a representative of  
735 the office ombudsman or a state or local council member is not  
736 allowed to enter a long-term care facility, the administrator of  
737 the facility shall be considered to have interfered with a  
738 representative of the office, ~~the state council, or the local~~  
739 ~~council~~ in the performance of official duties as described in s.  
740 400.0083(1) and to have committed a violation of this part. The  
741 representative of the office ombudsman shall report the refusal  
742 by a facility to allow entry to the state ombudsman or designee,  
743 who shall then report the incident to the agency, and the agency  
744 shall record the report and take it into consideration when  
745 determining actions allowable under s. 400.102, s. 400.121, s.  
746 429.14, s. 429.19, s. 429.69, or s. 429.71.

747 (4) The department, in consultation with the state  
748 ombudsman, may adopt rules implementing procedures for  
749 conducting onsite administrative assessments of long-term care  
750 facilities.

751 Section 11. Section 400.0075, Florida Statutes, is amended  
752 to read:

753 400.0075 Complaint notification and resolution  
754 procedures.—

755 (1) (a) Any complaint ~~or problem~~ verified by a  
756 representative of the office an ombudsman council as a result of

757 an investigation ~~may or onsite administrative assessment, which~~  
758 ~~complaint or problem is determined to require remedial action by~~  
759 ~~the local council,~~ shall be identified and brought to the  
760 attention of the long-term care facility administrator subject  
761 to the confidentiality provisions of s. 400.0077 in writing.

762 Upon receipt of the information ~~such document,~~ the  
763 administrator, with the concurrence of the representative of the  
764 office local council chair, shall establish target dates for  
765 taking appropriate remedial action. If, by the target date, the  
766 remedial action is not completed or forthcoming, the complaint  
767 shall be referred to the district manager local council chair  
768 ~~may, after obtaining approval from the ombudsman and a majority~~  
769 ~~of the members of the local council:~~

770 1. ~~Extend the target date if the chair has reason to~~  
771 ~~believe such action would facilitate the resolution of the~~  
772 ~~complaint.~~

773 2. ~~In accordance with s. 400.0077, publicize the~~  
774 ~~complaint, the recommendations of the council, and the response~~  
775 ~~of the long-term care facility.~~

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

777 (b) If an ombudsman determines ~~the local council chair~~  
778 ~~believes~~ that the health, safety, welfare, or rights of a ~~the~~  
779 resident are in imminent danger, the ombudsman must immediately  
780 notify the district manager. ~~The district manager chair shall~~  
781 ~~notify the ombudsman or legal advocate, who,~~ after verifying  
782 that such imminent danger exists, must notify the appropriate  
783 state agencies, including law enforcement, the state ombudsman,  
784 and legal advocate to ensure the protection of ~~shall seek~~

785 ~~immediate legal or administrative remedies to protect the~~  
 786 resident.

787 (c) If the state ombudsman or legal advocate has reason to  
 788 believe that the long-term care facility or an employee of the  
 789 facility has committed a criminal act, the state ombudsman or  
 790 legal advocate shall provide the local law enforcement agency  
 791 with the relevant information to initiate an investigation of  
 792 the case.

793 (2)~~(a)~~ Upon referral from a district local council, the  
 794 state ombudsman or designee council shall assume the  
 795 responsibility for the disposition of the complaint. If a long-  
 796 term care facility fails to take action to resolve or remedy the  
 797 ~~on a complaint by the state council~~, the state ombudsman council  
 798 may, ~~after obtaining approval from the ombudsman and a majority~~  
 799 ~~of the state council members~~:

800 (a)1. In accordance with s. 400.0077, publicize the  
 801 complaint, the recommendations of the representatives of the  
 802 office local or state council, and the response of the long-term  
 803 care facility.

804 (b)2. Recommend to the department and the agency a series  
 805 of facility reviews pursuant to s. 400.19, s. 429.34, or s.  
 806 429.67 to ensure correction and nonrecurrence of the conditions  
 807 that ~~gave~~ give rise to the complaint ~~complaints~~ against the a  
 808 long-term care facility.

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

812 (d)4. Recommend to the department and the agency that

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813 | procedures be initiated for action against ~~revocation of~~ the  
814 | long-term care facility's license in accordance with chapter  
815 | 120.

816 | ~~(b) If the state council chair believes that the health,~~  
817 | ~~safety, welfare, or rights of the resident are in imminent~~  
818 | ~~danger, the chair shall notify the ombudsman or legal advocate,~~  
819 | ~~who, after verifying that such imminent danger exists, shall~~  
820 | ~~seek immediate legal or administrative remedies to protect the~~  
821 | ~~resident.~~

822 | ~~(c) If the ombudsman has reason to believe that the long-~~  
823 | ~~term care facility or an employee of the facility has committed~~  
824 | ~~a criminal act, the ombudsman shall provide local law~~  
825 | ~~enforcement with the relevant information to initiate an~~  
826 | ~~investigation of the case.~~

827 | Section 12. Section 400.0078, Florida Statutes, is amended  
828 | to read:

829 | 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman  
830 | program services.-

831 | (1) The office shall establish a statewide toll-free  
832 | telephone number and e-mail address for receiving complaints  
833 | concerning matters adversely affecting the health, safety,  
834 | welfare, or rights of residents.

835 | (2) ~~Every resident or representative of a resident shall~~  
836 | ~~receive,~~ Upon admission to a long-term care facility, each  
837 | resident or representative of a resident must receive  
838 | information regarding:

839 | (a) The purpose of the state ~~Long-Term Care~~ ombudsman  
840 | program.7

841           **(b)** The statewide toll-free telephone number and e-mail  
 842 address for receiving complaints, ~~and~~

843           **(c)** Information that retaliatory action cannot be taken  
 844 against a resident for presenting grievances or for exercising  
 845 any other resident rights.

846           **(d)** Other relevant information regarding how to contact  
 847 representatives of the office ~~program.~~

848

849 Residents or their representatives must be furnished additional  
 850 copies of this information upon request.

851           Section 13. Section 400.0079, Florida Statutes, is amended  
 852 to read:

853           400.0079 Immunity.—

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

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

864           Section 14. Section 400.0081, Florida Statutes, is amended  
 865 to read:

866           400.0081 Access to facilities, residents, and records.—

867           (1) A long-term care facility shall provide  
 868 representatives of the office, ~~the state council and its~~

869 ~~members, and the local councils and their members~~ access to:

870 (a) Any portion of the long-term care facility and any  
871 resident ~~as necessary to investigate or resolve a complaint.~~

872 (b) Medical and social records of a resident for review ~~as~~  
873 ~~necessary to investigate or resolve a complaint,~~ if:

874 1. The representative of the office has the permission of  
875 the resident or the legal representative of the resident; or

876 2. The resident is unable to consent to the review and has  
877 no legal representative.

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

880 1. A legal representative or guardian of the resident  
881 refuses to give permission;

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

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

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

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

892 (2) The department, in consultation with the state  
893 ombudsman ~~and the state council,~~ may adopt rules to establish  
894 procedures to ensure access to facilities, residents, and  
895 records as described in this section.

896 Section 15. Section 400.0083, Florida Statutes, is amended



897 to read:

898 400.0083 Interference; retaliation; penalties.—

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

903 (2) It shall be unlawful for any person, long-term care  
 904 facility, or other entity to knowingly or willfully take action  
 905 or retaliate against any resident, employee, or other person for  
 906 filing a complaint with, providing information to, or otherwise  
 907 cooperating with any representative of the office or, the state  
 908 council, ~~or a local council~~.

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

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

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

915 Section 16. Section 400.0087, Florida Statutes, is amended  
 916 to read:

917 400.0087 Department oversight; funding.—

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

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

925 (b) The department may divert from the federal ombudsman  
926 appropriation an amount equal to the department's administrative  
927 cost ratio to cover the costs associated with administering the  
928 state ombudsman program. The remaining allotment from the Older  
929 Americans Act program shall be expended on direct ombudsman  
930 activities.

931 (2) The department shall monitor the office and~~7~~ the state  
932 council~~7~~~~and the local councils~~ to ensure that each is carrying  
933 out the duties delegated to it by state and federal law.

934 (3) The department is responsible for ensuring that the  
935 office:

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

938 (b) Provides information to public and private agencies,  
939 legislators, and others.

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

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

946 (4) The department shall also:

947 (a) Receive and disburse state and federal funds for  
948 purposes that the state ombudsman has formulated in accordance  
949 with the Older Americans Act.

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

953 Section 17. Section 400.0089, Florida Statutes, is amended  
 954 to read:

955 400.0089 Complaint data reports.—The office shall maintain  
 956 a statewide uniform reporting system to collect and analyze data  
 957 relating to complaints and conditions in long-term care  
 958 facilities and to residents for the purpose of identifying and  
 959 resolving significant complaints ~~problems~~. The office shall  
 960 publish quarterly and make readily available information  
 961 pertaining to the number and types of complaints received by the  
 962 state ~~Long-Term-Care~~ ombudsman program and shall include such  
 963 information in the annual report required under s. 400.0065.

964 Section 18. Section 400.0091, Florida Statutes, is amended  
 965 to read:

966 400.0091 Training.—The state ombudsman shall ensure that  
 967 appropriate training is provided to all representatives  
 968 ~~employees~~ of the office ~~and to the members of the state and~~  
 969 ~~local councils~~.

970 (1) All representatives ~~state and local council members~~  
 971 ~~and employees~~ of the office shall be given a minimum of 20 hours  
 972 of training upon employment with the office or appointment as an  
 973 ombudsman. ~~Ten approval as a state or local council member and~~  
 974 ~~10~~ hours of continuing education is required annually  
 975 thereafter.

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

- 979 (a) Resident confidentiality.
- 980 (b) Guardianships and powers of attorney.

981 (c) Medication administration.

982 (d) Care and medication of residents with dementia and  
 983 Alzheimer's disease.

984 (e) Accounting for residents' funds.

985 (f) Discharge rights and responsibilities.

986 (g) Cultural sensitivity.

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

989 (3) An individual ~~No employee, officer, or representative~~  
 990 ~~of the office or of the state or local councils,~~ other than the  
 991 state ombudsman, may not hold himself or herself out as a  
 992 representative of the office ~~State Long-Term Care Ombudsman~~  
 993 ~~Program~~ or conduct any authorized program duty described in this  
 994 part unless the individual ~~person~~ has received the training  
 995 required by this section and has been certified by the state  
 996 ombudsman as qualified to carry out ombudsman activities on  
 997 behalf of the office ~~or the state or local councils.~~

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

1000 20.41 Department of Elderly Affairs.—There is created a  
 1001 Department of Elderly Affairs.

1002 (4) The department shall administer the Office of State  
 1003 Long-Term Care Ombudsman Council, created by s. 400.0063  
 1004 ~~400.0067,~~ and the ~~local long-term care ombudsman councils,~~  
 1005 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the  
 1006 federal Older Americans Act of 1965, ensure that ~~both~~ the state  
 1007 office operates and ~~local long-term care ombudsman councils~~  
 1008 ~~operate~~ in compliance with the Older Americans Act.

1009 Section 20. Subsections (11) through (19) of section  
 1010 400.021, Florida Statutes, are renumbered as subsections (10)  
 1011 through (18), respectively, and present subsections (10) and  
 1012 (18) are amended to read:

1013 400.021 Definitions.—When used in this part, unless the  
 1014 context otherwise requires, the term:

1015 ~~(10) "Local ombudsman council" means a local long-term~~  
 1016 ~~care ombudsman council established pursuant to s. 400.0069,~~  
 1017 ~~located within the Older Americans Act planning and service~~  
 1018 ~~areas.~~

1019 (17) ~~(18)~~ "State ombudsman program council" means the  
 1020 Office of State Long-Term Care Ombudsman Council established  
 1021 pursuant to s. 400.0063 ~~400.0067~~.

1022 Section 21. Paragraph (c) of subsection (1) and  
 1023 subsections (2) and (3) of section 400.022, Florida Statutes,  
 1024 are amended to read:

1025 400.022 Residents' rights.—

1026 (1) All licensees of nursing home facilities shall adopt  
 1027 and make public a statement of the rights and responsibilities  
 1028 of the residents of such facilities and shall treat such  
 1029 residents in accordance with the provisions of that statement.  
 1030 The statement shall assure each resident the following:

1031 (c) Any entity or individual that provides health, social,  
 1032 legal, or other services to a resident has the right to have  
 1033 reasonable access to the resident. The resident has the right to  
 1034 deny or withdraw consent to access at any time by any entity or  
 1035 individual. Notwithstanding the visiting policy of the facility,  
 1036 the following individuals must be permitted immediate access to

1037 the resident:

1038 1. Any representative of the federal or state government,  
 1039 including, but not limited to, representatives of the Department  
 1040 of Children and Family Services, the Department of Health, the  
 1041 Agency for Health Care Administration, the Office of the  
 1042 Attorney General, and the Department of Elderly Affairs; any law  
 1043 enforcement officer; representatives ~~members~~ of the state ~~or~~  
 1044 ~~local~~ ombudsman program council; and the resident's individual  
 1045 physician.

1046 2. Subject to the resident's right to deny or withdraw  
 1047 consent, immediate family or other relatives of the resident.

1048  
 1049 The facility must allow representatives of the state ~~Long-Term~~  
 1050 ~~Care~~ ombudsman program Council to examine a resident's clinical  
 1051 records with the permission of the resident or the resident's  
 1052 legal representative and consistent with state law.

1053 (2) The licensee for each nursing home shall orally inform  
 1054 the resident of the resident's rights and provide a copy of the  
 1055 statement required by subsection (1) to each resident or the  
 1056 resident's legal representative at or before the resident's  
 1057 admission to a facility. The licensee shall provide a copy of  
 1058 the resident's rights to each staff member of the facility. Each  
 1059 such licensee shall prepare a written plan and provide  
 1060 appropriate staff training to implement ~~the provisions of this~~  
 1061 section. The written statement of rights must include a  
 1062 statement that a resident may file a complaint with the agency  
 1063 or state ~~local~~ ombudsman program council. The statement must be  
 1064 in boldfaced type and shall include the ~~name, address, and~~

1065 | telephone number and e-mail address of the state ~~numbers of the~~  
 1066 | ~~local~~ ombudsman program council and the telephone number of the  
 1067 | central abuse hotline where complaints may be lodged.

1068 | (3) Any violation of the resident's rights set forth in  
 1069 | this section shall constitute grounds for action by the agency  
 1070 | under ~~the provisions of~~ s. 400.102, s. 400.121, or part II of  
 1071 | chapter 408. In order to determine whether the licensee is  
 1072 | adequately protecting residents' rights, the licensure  
 1073 | inspection of the facility shall include private informal  
 1074 | conversations with a sample of residents to discuss residents'  
 1075 | experiences within the facility with respect to rights specified  
 1076 | in this section and general compliance with standards, and  
 1077 | consultation with the state ombudsman program council ~~in the~~  
 1078 | ~~local planning and service area of the Department of Elderly~~  
 1079 | ~~Affairs in which the nursing home is located.~~

1080 | Section 22. Subsections (8) and (9) and (11) through (14)  
 1081 | of section 400.0255, Florida Statutes, are amended to read:

1082 | 400.0255 Resident transfer or discharge; requirements and  
 1083 | procedures; hearings.—

1084 | (8) The notice required by subsection (7) must be in  
 1085 | writing and must contain all information required by state and  
 1086 | federal law, rules, or regulations applicable to Medicaid or  
 1087 | Medicare cases. The agency shall develop a standard document to  
 1088 | be used by all facilities licensed under this part for purposes  
 1089 | of notifying residents of a discharge or transfer. Such document  
 1090 | must include a means for a resident to request the state ~~local~~  
 1091 | ~~long-term care~~ ombudsman program council to review the notice  
 1092 | and request information about or assistance with initiating a

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1093 fair hearing with the department's Office of Appeals Hearings.  
1094 In addition to any other pertinent information included, the  
1095 form shall specify the reason allowed under federal or state law  
1096 that the resident is being discharged or transferred, with an  
1097 explanation to support this action. Further, the form shall  
1098 state the effective date of the discharge or transfer and the  
1099 location to which the resident is being discharged or  
1100 transferred. The form shall clearly describe the resident's  
1101 appeal rights and the procedures for filing an appeal, including  
1102 the right to request the state ~~local~~ ombudsman program ~~council~~  
1103 to review the notice of discharge or transfer. A copy of the  
1104 notice must be placed in the resident's clinical record, and a  
1105 copy must be transmitted to the resident's legal guardian or  
1106 representative and to the state ~~local~~ ombudsman program ~~council~~  
1107 within 5 business days after signature by the resident or  
1108 resident designee.

1109 (9) A resident may request that the state ~~local~~ ombudsman  
1110 program ~~council~~ review any notice of discharge or transfer given  
1111 to the resident. When requested by a resident to review a notice  
1112 of discharge or transfer, the state ~~local~~ ombudsman program  
1113 ~~council~~ shall do so within 7 days after receipt of the request.  
1114 The nursing home administrator, or the administrator's designee,  
1115 must forward the request for review contained in the notice to  
1116 the state ~~local~~ ombudsman program ~~council~~ within 24 hours after  
1117 such request is submitted. Failure to forward the request within  
1118 24 hours after the request is submitted shall toll the running  
1119 of the 30-day advance notice period until the request has been  
1120 forwarded.



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1121 (11) Notwithstanding paragraph (10) (b), an emergency  
1122 discharge or transfer may be implemented as necessary pursuant  
1123 to state or federal law during the period of time after the  
1124 notice is given and before the time a hearing decision is  
1125 rendered. Notice of an emergency discharge or transfer to the  
1126 resident, the resident's legal guardian or representative, and  
1127 the state ~~local~~ ombudsman program ~~council~~ if requested pursuant  
1128 to subsection (9) must be by telephone or in person. This notice  
1129 shall be given before the transfer, if possible, or as soon  
1130 thereafter as practicable. A representative of the state ~~local~~  
1131 ombudsman program ~~council~~ conducting a review under this  
1132 subsection shall do so within 24 hours after receipt of the  
1133 request. The resident's file must be documented to show who was  
1134 contacted, whether the contact was by telephone or in person,  
1135 and the date and time of the contact. If the notice is not given  
1136 in writing, written notice meeting the requirements of  
1137 subsection (8) must be given the next working day.

1138 (12) After receipt of any notice required under this  
1139 section, the state ~~local~~ ombudsman program ~~council~~ may request a  
1140 private informal conversation with a resident to whom the notice  
1141 is directed, and, if known, a family member or the resident's  
1142 legal guardian or designee, to ensure that the facility is  
1143 proceeding with the discharge or transfer in accordance with ~~the~~  
1144 ~~requirements of~~ this section. If requested, the state ~~local~~  
1145 ombudsman program ~~council~~ shall assist the resident with filing  
1146 an appeal of the proposed discharge or transfer.

1147 (13) The following persons must be present at all hearings  
1148 authorized under this section:

1149 (a) The resident, or the resident's legal representative  
 1150 or designee.

1151 (b) The facility administrator, or the facility's legal  
 1152 representative or designee.

1153

1154 A representative of the state ~~local long-term care~~ ombudsman  
 1155 program council may be present at all hearings authorized by  
 1156 this section.

1157 (14) In any hearing under this section, the following  
 1158 information concerning the parties shall be confidential and  
 1159 exempt from ~~the provisions of~~ s. 119.07(1):

1160 (a) Names and addresses.

1161 (b) Medical services provided.

1162 (c) Social and economic conditions or circumstances.

1163 (d) Evaluation of personal information.

1164 (e) Medical data, including diagnosis and past history of  
 1165 disease or disability.

1166 (f) Any information received verifying income eligibility  
 1167 and amount of medical assistance payments. Income information  
 1168 received from the Social Security Administration or the Internal  
 1169 Revenue Service must be safeguarded according to the  
 1170 requirements of the agency that furnished the data.

1171

1172 The exemption created by this subsection does not prohibit  
 1173 access to such information by the state ombudsman program ~~a~~  
 1174 ~~local long-term care ombudsman council~~ upon request, by a  
 1175 reviewing court if such information is required to be part of  
 1176 the record upon subsequent review, or as specified in s. 24(a),

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1177 Art. I of the State Constitution.

1178 Section 23. Subsection (2) of section 400.1413, Florida  
 1179 Statutes, is amended to read:

1180 400.1413 Volunteers in nursing homes.—

1181 (2) This section does not affect the activities of the  
 1182 ~~state or local long-term care ombudsman program councils~~  
 1183 authorized under part I.

1184 Section 24. Paragraph (d) of subsection (5) of section  
 1185 400.162, Florida Statutes, is amended to read:

1186 400.162 Property and personal affairs of residents.—

1187 (5)

1188 (d) If, at any time during the period for which a license  
 1189 is issued, a licensee that has not purchased a surety bond or  
 1190 entered into a self-insurance agreement, as provided in  
 1191 paragraphs (b) and (c), is requested to provide safekeeping for  
 1192 the personal funds of a resident, the licensee shall notify the  
 1193 agency of the request and make application for a surety bond or  
 1194 for participation in a self-insurance agreement within 7 days  
 1195 after ~~of~~ the request, exclusive of weekends and holidays. Copies  
 1196 of the application, along with written documentation of related  
 1197 correspondence with an insurance agency or group, shall be  
 1198 maintained by the licensee for review by the agency and the  
 1199 state ~~Nursing Home and Long-Term Care Facility~~ ombudsman program  
 1200 ~~Council~~.

1201 Section 25. Subsections (1) and (4) of section 400.19,  
 1202 Florida Statutes, are amended to read:

1203 400.19 Right of entry and inspection.—

1204 (1) In accordance with part II of chapter 408, the agency

1205 and any duly designated officer or employee thereof or a  
 1206 representative ~~member~~ of the state ~~Long-Term Care~~ ombudsman  
 1207 program ~~Council or the local long-term care ombudsman council~~  
 1208 shall have the right to enter upon and into the premises of any  
 1209 facility licensed pursuant to this part, or any distinct nursing  
 1210 home unit of a hospital licensed under chapter 395 or any  
 1211 freestanding facility licensed under chapter 395 that provides  
 1212 extended care or other long-term care services, at any  
 1213 reasonable time in order to determine the state of compliance  
 1214 with ~~the provisions of~~ this part, part II of chapter 408, and  
 1215 applicable rules in force pursuant thereto. The agency shall,  
 1216 within 60 days after receipt of a complaint made by a resident  
 1217 or resident's representative, complete its investigation and  
 1218 provide to the complainant its findings and resolution.

1219 (4) The agency shall conduct unannounced onsite facility  
 1220 reviews following written verification of licensee noncompliance  
 1221 in instances in which the state ombudsman program ~~a long-term~~  
 1222 ~~care ombudsman council~~, pursuant to ss. 400.0071 and 400.0075,  
 1223 has received a complaint and has documented deficiencies in  
 1224 resident care or in the physical plant of the facility that  
 1225 threaten the health, safety, or security of residents, or when  
 1226 the agency documents through inspection that conditions in a  
 1227 facility present a direct or indirect threat to the health,  
 1228 safety, or security of residents. However, the agency shall  
 1229 conduct unannounced onsite reviews every 3 months of each  
 1230 facility while the facility has a conditional license.  
 1231 Deficiencies related to physical plant do not require followup  
 1232 reviews after the agency has determined that correction of the

1233 deficiency has been accomplished and that the correction is of  
 1234 the nature that continued compliance can be reasonably expected.

1235 Section 26. Subsection (1) of section 400.191, Florida  
 1236 Statutes, is amended to read:

1237 400.191 Availability, distribution, and posting of reports  
 1238 and records.—

1239 (1) The agency shall provide information to the public  
 1240 about all of the licensed nursing home facilities operating in  
 1241 the state. The agency shall, within 60 days after a licensure  
 1242 inspection visit or within 30 days after any interim visit to a  
 1243 facility, send copies of the inspection reports to the state  
 1244 ~~local long-term care~~ ombudsman program ~~council~~, the agency's  
 1245 local office, and a public library or the county seat for the  
 1246 county in which the facility is located. The agency may provide  
 1247 electronic access to inspection reports as a substitute for  
 1248 sending copies.

1249 Section 27. Subsection (6) and paragraph (c) of subsection  
 1250 (7) of section 400.23, Florida Statutes, is amended to read:

1251 400.23 Rules; evaluation and deficiencies; licensure  
 1252 status.—

1253 (6) Before ~~Prior to~~ conducting a survey of the facility,  
 1254 the survey team shall obtain a copy of the state ~~local long-term~~  
 1255 ~~care~~ ombudsman program ~~council~~ report on the facility. Problems  
 1256 noted in the report shall be incorporated into and followed up  
 1257 through the agency's inspection process. This procedure does not  
 1258 preclude the state ~~local long-term care~~ ombudsman program  
 1259 ~~council~~ from requesting the agency to conduct a followup visit  
 1260 to the facility.

1261 (7) The agency shall, at least every 15 months, evaluate  
 1262 all nursing home facilities and make a determination as to the  
 1263 degree of compliance by each licensee with the established rules  
 1264 adopted under this part as a basis for assigning a licensure  
 1265 status to that facility. The agency shall base its evaluation on  
 1266 the most recent inspection report, taking into consideration  
 1267 findings from other official reports, surveys, interviews,  
 1268 investigations, and inspections. In addition to license  
 1269 categories authorized under part II of chapter 408, the agency  
 1270 shall assign a licensure status of standard or conditional to  
 1271 each nursing home.

1272 (c) In evaluating the overall quality of care and services  
 1273 and determining whether the facility will receive a conditional  
 1274 or standard license, the agency shall consider the needs and  
 1275 limitations of residents in the facility and the results of  
 1276 interviews and surveys of a representative sampling of  
 1277 residents, families of residents, representatives of the state  
 1278 ombudsman program ~~council members in the planning and service~~  
 1279 ~~area in which the facility is located~~, guardians of residents,  
 1280 and staff of the nursing home facility.

1281 Section 28. Paragraph (a) of subsection (3), paragraph (f)  
 1282 of subsection (5), and subsection (6) of section 400.235,  
 1283 Florida Statutes, are amended to read:

1284 400.235 Nursing home quality and licensure status; Gold  
 1285 Seal Program.—

1286 (3) (a) The Gold Seal Program shall be developed and  
 1287 implemented by the Governor's Panel on Excellence in Long-Term  
 1288 Care which shall operate under the authority of the Executive

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1289 Office of the Governor. The panel shall be composed of three  
1290 persons appointed by the Governor, to include a consumer  
1291 advocate for senior citizens and two persons with expertise in  
1292 the fields of quality management, service delivery excellence,  
1293 or public sector accountability; three persons appointed by the  
1294 Secretary of Elderly Affairs, to include an active member of a  
1295 nursing facility family and resident care council and a member  
1296 of the University Consortium on Aging; a representative of the  
1297 Office of State Long-Term Care Ombudsman; one person appointed  
1298 by the Florida Life Care Residents Association; one person  
1299 appointed by the State Surgeon General; two persons appointed by  
1300 the Secretary of Health Care Administration; one person  
1301 appointed by the Florida Association of Homes for the Aging; and  
1302 one person appointed by the Florida Health Care Association.  
1303 Vacancies on the panel shall be filled in the same manner as the  
1304 original appointments.

1305 (5) Facilities must meet the following additional criteria  
1306 for recognition as a Gold Seal Program facility:

1307 (f) Evidence an outstanding record regarding the number  
1308 and types of substantiated complaints reported to the Office of  
1309 State Long-Term Care Ombudsman ~~Council~~ within the 30 months  
1310 preceding application for the program.

1311  
1312 A facility assigned a conditional licensure status may not  
1313 qualify for consideration for the Gold Seal Program until after  
1314 it has operated for 30 months with no class I or class II  
1315 deficiencies and has completed a regularly scheduled relicensure  
1316 survey.

1317 (6) The agency, nursing facility industry organizations,  
 1318 consumers, Office of State Long-Term Care Ombudsman Council, and  
 1319 members of the community may recommend to the Governor  
 1320 facilities that meet the established criteria for consideration  
 1321 for and award of the Gold Seal. The panel shall review nominees  
 1322 and make a recommendation to the Governor for final approval and  
 1323 award. The decision of the Governor is final and is not subject  
 1324 to appeal.

1325 Section 29. Paragraph (a) of subsection (1) of section  
 1326 415.1034, Florida Statutes, is amended to read:

1327 415.1034 Mandatory reporting of abuse, neglect, or  
 1328 exploitation of vulnerable adults; mandatory reports of death.—

1329 (1) MANDATORY REPORTING.—

1330 (a) Any person, including, but not limited to, any:

1331 1. Physician, osteopathic physician, medical examiner,  
 1332 chiropractic physician, nurse, paramedic, emergency medical  
 1333 technician, or hospital personnel engaged in the admission,  
 1334 examination, care, or treatment of vulnerable adults;

1335 2. Health professional or mental health professional other  
 1336 than one listed in subparagraph 1.;

1337 3. Practitioner who relies solely on spiritual means for  
 1338 healing;

1339 4. Nursing home staff; assisted living facility staff;  
 1340 adult day care center staff; adult family-care home staff;  
 1341 social worker; or other professional adult care, residential, or  
 1342 institutional staff;

1343 5. State, county, or municipal criminal justice employee  
 1344 or law enforcement officer;



1345           6. ~~An~~ Employee of the Department of Business and  
 1346 Professional Regulation conducting inspections of public lodging  
 1347 establishments under s. 509.032;

1348           7. Florida advocacy council member or representative of  
 1349 the Office of State Long-Term Care Ombudsman ~~council member~~; or

1350           8. Bank, savings and loan, or credit union officer,  
 1351 trustee, or employee,

1352

1353 who knows, or has reasonable cause to suspect, that a vulnerable  
 1354 adult has been or is being abused, neglected, or exploited shall  
 1355 immediately report such knowledge or suspicion to the central  
 1356 abuse hotline.

1357           Section 30. Subsection (1) of section 415.104, Florida  
 1358 Statutes, is amended to read:

1359           415.104 Protective investigations of cases of abuse,  
 1360 neglect, or exploitation of vulnerable adults; transmittal of  
 1361 records to state attorney.—

1362           (1) The department shall, upon receipt of a report  
 1363 alleging abuse, neglect, or exploitation of a vulnerable adult,  
 1364 begin within 24 hours a protective investigation of the facts  
 1365 alleged therein. If a caregiver refuses to allow the department  
 1366 to begin a protective investigation or interferes with the  
 1367 conduct of such an investigation, the appropriate law  
 1368 enforcement agency shall be contacted for assistance. If, during  
 1369 the course of the investigation, the department has reason to  
 1370 believe that the abuse, neglect, or exploitation is perpetrated  
 1371 by a second party, the appropriate law enforcement agency and  
 1372 state attorney shall be orally notified. The department and the

1373 law enforcement agency shall cooperate to allow the criminal  
 1374 investigation to proceed concurrently with, and not be hindered  
 1375 by, the protective investigation. The department shall make a  
 1376 preliminary written report to the law enforcement agencies  
 1377 within 5 working days after the oral report. The department  
 1378 shall, within 24 hours after receipt of the report, notify the  
 1379 appropriate Florida local advocacy council, or state long-term  
 1380 ~~care~~ ombudsman program ~~council~~, when appropriate, that an  
 1381 alleged abuse, neglect, or exploitation perpetrated by a second  
 1382 party has occurred. Notice to the Florida local advocacy council  
 1383 or state long-term care ombudsman program ~~council~~ may be  
 1384 accomplished orally or in writing and shall include the name and  
 1385 location of the vulnerable adult alleged to have been abused,  
 1386 neglected, or exploited and the nature of the report.

1387 Section 31. Subsection (8) of section 415.1055, Florida  
 1388 Statutes, is amended to read:

1389 415.1055 Notification to administrative entities.—

1390 (8) At the conclusion of a protective investigation at a  
 1391 facility, the department shall notify either the Florida local  
 1392 advocacy council or state long-term care ombudsman program  
 1393 ~~council~~ of the results of the investigation. This notification  
 1394 must be in writing.

1395 Section 32. Subsection (2) of section 415.106, Florida  
 1396 Statutes, is amended to read:

1397 415.106 Cooperation by the department and criminal justice  
 1398 and other agencies.—

1399 (2) To ensure coordination, communication, and cooperation  
 1400 with the investigation of abuse, neglect, or exploitation of

1401 vulnerable adults, the department shall develop and maintain  
 1402 interprogram agreements or operational procedures among  
 1403 appropriate departmental programs and the Office of State Long-  
 1404 Term Care Ombudsman Council, the Florida Statewide Advocacy  
 1405 Council, and other agencies that provide services to vulnerable  
 1406 adults. These agreements or procedures must cover such subjects  
 1407 as the appropriate roles and responsibilities of the department  
 1408 in identifying and responding to reports of abuse, neglect, or  
 1409 exploitation of vulnerable adults; the provision of services;  
 1410 and related coordinated activities.

1411 Section 33. Paragraph (g) of subsection (3) of section  
 1412 415.107, Florida Statutes, is amended to read:

1413 415.107 Confidentiality of reports and records.—

1414 (3) Access to all records, excluding the name of the  
 1415 reporter which shall be released only as provided in subsection  
 1416 (6), shall be granted only to the following persons, officials,  
 1417 and agencies:

1418 (g) Any appropriate official of the Florida advocacy  
 1419 council or state long-term care ombudsman program council  
 1420 investigating a report of known or suspected abuse, neglect, or  
 1421 exploitation of a vulnerable adult.

1422 Section 34. Subsection (20) of section 429.02, Florida  
 1423 Statutes, is amended to read:

1424 429.02 Definitions.—When used in this part, the term:

1425 (20) "Resident's representative or designee" means a  
 1426 person other than the owner, or an agent or employee of the  
 1427 facility, designated in writing by the resident, if legally  
 1428 competent, to receive notice of changes in the contract executed

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1429 | pursuant to s. 429.24; to receive notice of and to participate  
1430 | in meetings between the resident and the facility owner,  
1431 | administrator, or staff concerning the rights of the resident;  
1432 | to assist the resident in contacting the state ombudsman program  
1433 | ~~council~~ if the resident has a complaint against the facility; or  
1434 | to bring legal action on behalf of the resident pursuant to s.  
1435 | 429.29.

1436 |       Section 35. Paragraph (b) of subsection (3) of section  
1437 | 429.07, Florida Statutes, is amended to read:

1438 |       429.07 License required; fee.—

1439 |       (3) In addition to the requirements of s. 408.806, each  
1440 | license granted by the agency must state the type of care for  
1441 | which the license is granted. Licenses shall be issued for one  
1442 | or more of the following categories of care: standard, extended  
1443 | congregate care, limited nursing services, or limited mental  
1444 | health.

1445 |       (b) An extended congregate care license shall be issued to  
1446 | facilities providing, directly or through contract, services  
1447 | beyond those authorized in paragraph (a), including services  
1448 | performed by persons licensed under part I of chapter 464 and  
1449 | supportive services, as defined by rule, to persons who would  
1450 | otherwise be disqualified from continued residence in a facility  
1451 | licensed under this part.

1452 |       1. In order for extended congregate care services to be  
1453 | provided, the agency must first determine that all requirements  
1454 | established in law and rule are met and must specifically  
1455 | designate, on the facility's license, that such services may be  
1456 | provided and whether the designation applies to all or part of

1457 the facility. Such designation may be made at the time of  
1458 initial licensure or relicensure, or upon request in writing by  
1459 a licensee under this part and part II of chapter 408. The  
1460 notification of approval or the denial of the request shall be  
1461 made in accordance with part II of chapter 408. Existing  
1462 facilities qualifying to provide extended congregate care  
1463 services must have maintained a standard license and may not  
1464 have been subject to administrative sanctions during the  
1465 previous 2 years, or since initial licensure if the facility has  
1466 been licensed for less than 2 years, for any of the following  
1467 reasons:

- 1468       a. A class I or class II violation;
- 1469       b. Three or more repeat or recurring class III violations  
1470 of identical or similar resident care standards from which a  
1471 pattern of noncompliance is found by the agency;
- 1472       c. Three or more class III violations that were not  
1473 corrected in accordance with the corrective action plan approved  
1474 by the agency;
- 1475       d. Violation of resident care standards which results in  
1476 requiring the facility to employ the services of a consultant  
1477 pharmacist or consultant dietitian;
- 1478       e. Denial, suspension, or revocation of a license for  
1479 another facility licensed under this part in which the applicant  
1480 for an extended congregate care license has at least 25 percent  
1481 ownership interest; or
- 1482       f. Imposition of a moratorium pursuant to this part or  
1483 part II of chapter 408 or initiation of injunctive proceedings.
- 1484       2. A facility that is licensed to provide extended

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1485 | congregate care services shall maintain a written progress  
1486 | report on each person who receives services which describes the  
1487 | type, amount, duration, scope, and outcome of services that are  
1488 | rendered and the general status of the resident's health. A  
1489 | registered nurse, or appropriate designee, representing the  
1490 | agency shall visit the facility at least quarterly to monitor  
1491 | residents who are receiving extended congregate care services  
1492 | and to determine whether ~~if~~ the facility is in compliance with  
1493 | this part, part II of chapter 408, and relevant rules. One of  
1494 | the visits may be in conjunction with the regular survey. The  
1495 | monitoring visits may be provided through contractual  
1496 | arrangements with appropriate community agencies. A registered  
1497 | nurse shall serve as part of the team that inspects the  
1498 | facility. The agency may waive one of the required yearly  
1499 | monitoring visits for a facility that has been licensed for at  
1500 | least 24 months to provide extended congregate care services,  
1501 | if, during the inspection, the registered nurse determines that  
1502 | extended congregate care services are being provided  
1503 | appropriately, and if the facility has no class I or class II  
1504 | violations and no uncorrected class III violations. The agency  
1505 | must first consult with the state long-term care ombudsman  
1506 | program council for the area in which the facility is located to  
1507 | determine whether ~~if~~ any complaints have been made and  
1508 | substantiated about the quality of services or care. The agency  
1509 | may not waive one of the required yearly monitoring visits if  
1510 | complaints have been made and substantiated.

1511 |       3. A facility that is licensed to provide extended  
1512 | congregate care services must:

- 1513           a. Demonstrate the capability to meet unanticipated  
1514 resident service needs.
- 1515           b. Offer a physical environment that promotes a homelike  
1516 setting, provides for resident privacy, promotes resident  
1517 independence, and allows sufficient congregate space as defined  
1518 by rule.
- 1519           c. Have sufficient staff available, taking into account  
1520 the physical plant and firesafety features of the building, to  
1521 assist with the evacuation of residents in an emergency.
- 1522           d. Adopt and follow policies and procedures that maximize  
1523 resident independence, dignity, choice, and decisionmaking to  
1524 permit residents to age in place, so that moves due to changes  
1525 in functional status are minimized or avoided.
- 1526           e. Allow residents or, if applicable, a resident's  
1527 representative, designee, surrogate, guardian, or attorney in  
1528 fact to make a variety of personal choices, participate in  
1529 developing service plans, and share responsibility in  
1530 decisionmaking.
- 1531           f. Implement the concept of managed risk.
- 1532           g. Provide, directly or through contract, the services of  
1533 a person licensed under part I of chapter 464.
- 1534           h. In addition to the training mandated in s. 429.52,  
1535 provide specialized training as defined by rule for facility  
1536 staff.
- 1537           4. A facility that is licensed to provide extended  
1538 congregate care services is exempt from the criteria for  
1539 continued residency set forth in rules adopted under s. 429.41.  
1540 A licensed facility must adopt its own requirements within

1541 guidelines for continued residency set forth by rule. However,  
 1542 the facility may not serve residents who require 24-hour nursing  
 1543 supervision. A licensed facility that provides extended  
 1544 congregate care services must also provide each resident with a  
 1545 written copy of facility policies governing admission and  
 1546 retention.

1547 5. The primary purpose of extended congregate care  
 1548 services is to allow residents, as they become more impaired,  
 1549 the option of remaining in a familiar setting from which they  
 1550 would otherwise be disqualified for continued residency. A  
 1551 facility licensed to provide extended congregate care services  
 1552 may also admit an individual who exceeds the admission criteria  
 1553 for a facility with a standard license, if the individual is  
 1554 determined appropriate for admission to the extended congregate  
 1555 care facility.

1556 6. Before the admission of an individual to a facility  
 1557 licensed to provide extended congregate care services, the  
 1558 individual must undergo a medical examination as provided in s.  
 1559 429.26(4) and the facility must develop a preliminary service  
 1560 plan for the individual.

1561 7. When a facility can no longer provide or arrange for  
 1562 services in accordance with the resident's service plan and  
 1563 needs and the facility's policy, the facility shall make  
 1564 arrangements for relocating the person in accordance with s.  
 1565 429.28(1)(k).

1566 8. Failure to provide extended congregate care services  
 1567 may result in denial of extended congregate care license  
 1568 renewal.



1569 Section 36. Subsection (9) of section 429.19, Florida  
 1570 Statutes, is amended to read:

1571 429.19 Violations; imposition of administrative fines;  
 1572 grounds.—

1573 (9) The agency shall develop and disseminate an annual  
 1574 list of all facilities sanctioned or fined for violations of  
 1575 state standards, the number and class of violations involved,  
 1576 the penalties imposed, and the current status of cases. The list  
 1577 shall be disseminated, at no charge, to the Department of  
 1578 Elderly Affairs, the Department of Health, the Department of  
 1579 Children and Family Services, the Agency for Persons with  
 1580 Disabilities, the area agencies on aging, the Florida Statewide  
 1581 Advocacy Council, and the state ~~and local~~ ombudsman program  
 1582 ~~councils~~. The Department of Children and Family Services shall  
 1583 disseminate the list to service providers under contract to the  
 1584 department who are responsible for referring persons to a  
 1585 facility for residency. The agency may charge a fee commensurate  
 1586 with the cost of printing and postage to other interested  
 1587 parties requesting a copy of this list. This information may be  
 1588 provided electronically or through the agency's Internet site.

1589 Section 37. Subsection (8) of section 429.26, Florida  
 1590 Statutes, is amended to read:

1591 429.26 Appropriateness of placements; examinations of  
 1592 residents.—

1593 (8) The Department of Children and Family Services may  
 1594 require an examination for supplemental security income and  
 1595 optional state supplementation recipients residing in facilities  
 1596 at any time and shall provide the examination whenever a

1597 resident's condition requires it. Any facility administrator;  
 1598 personnel of the agency, the department, or the Department of  
 1599 Children and Family Services; or representative of the state  
 1600 ~~long-term care ombudsman~~ program ~~council member~~ who believes a  
 1601 resident needs to be evaluated shall notify the resident's case  
 1602 manager, who shall take appropriate action. A report of the  
 1603 examination findings shall be provided to the resident's case  
 1604 manager and the facility administrator to help the administrator  
 1605 meet his or her responsibilities under subsection (1).

1606 Section 38. Subsection (2) and paragraph (b) of subsection  
 1607 (3) of section 429.28, Florida Statutes, are amended to read:

1608 429.28 Resident bill of rights.—

1609 (2) The administrator of a facility shall ensure that a  
 1610 written notice of the rights, obligations, and prohibitions set  
 1611 forth in this part is posted in a prominent place in each  
 1612 facility and read or explained to residents who cannot read.  
 1613 This notice shall include the statewide toll-free telephone  
 1614 number and e-mail address ~~name, address, and telephone numbers~~  
 1615 of the state ~~local~~ ombudsman program ~~council~~ and central abuse  
 1616 hotline and, when applicable, the Advocacy Center for Persons  
 1617 with Disabilities, Inc., and the Florida local advocacy council,  
 1618 where complaints may be lodged. The facility must ensure a  
 1619 resident's access to a telephone to call the state ~~local~~  
 1620 ombudsman program ~~council~~, central abuse hotline, Advocacy  
 1621 Center for Persons with Disabilities, Inc., and the Florida  
 1622 local advocacy council.

1623 (3)

1624 (b) In order to determine whether the facility is

1625 adequately protecting residents' rights, the biennial survey  
 1626 shall include private informal conversations with a sample of  
 1627 residents and consultation with the state ombudsman program  
 1628 ~~council~~ in the planning and service area in which the facility  
 1629 is located to discuss residents' experiences within the  
 1630 facility.

1631 Section 39. Section 429.34, Florida Statutes, is amended  
 1632 to read:

1633 429.34 Right of entry and inspection.—In addition to the  
 1634 requirements of s. 408.811, any duly designated officer or  
 1635 employee of the department, the Department of Children and  
 1636 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the  
 1637 Office of the Attorney General, the state or local fire marshal,  
 1638 or a representative ~~member~~ of the state ~~or local long-term care~~  
 1639 ombudsman program ~~council~~ shall have the right to enter  
 1640 unannounced upon and into the premises of any facility licensed  
 1641 pursuant to this part in order to determine the state of  
 1642 compliance with ~~the provisions of~~ this part, part II of chapter  
 1643 408, and applicable rules. Data collected by the state ~~or local~~  
 1644 ~~long-term care~~ ombudsman program ~~councils~~ or the state or local  
 1645 advocacy councils may be used by the agency in investigations  
 1646 involving violations of regulatory standards.

1647 Section 40. Subsection (2) of section 429.35, Florida  
 1648 Statutes, is amended to read:

1649 429.35 Maintenance of records; reports.—

1650 (2) Within 60 days after the date of the biennial  
 1651 inspection visit required under s. 408.811 or within 30 days  
 1652 after the date of any interim visit, the agency shall forward

1653 the results of the inspection to the state ~~local~~ ombudsman  
 1654 program council ~~in whose planning and service area, as defined~~  
 1655 ~~in part II of chapter 400, the facility is located;~~ to at least  
 1656 one public library or, in the absence of a public library, the  
 1657 county seat in the county in which the inspected assisted living  
 1658 facility is located; and, when appropriate, to the district  
 1659 Adult Services and Mental Health Program Offices.

1660 Section 41. Subsection (2) of section 429.85, Florida  
 1661 Statutes, is amended to read:

1662 429.85 Residents' bill of rights.—

1663 (2) The provider shall ensure that residents and their  
 1664 legal representatives are made aware of the rights, obligations,  
 1665 and prohibitions set forth in this part. Residents must also be  
 1666 given the statewide toll-free telephone number and e-mail  
 1667 address of the state ombudsman program and the telephone number  
 1668 ~~of names, addresses, and telephone numbers of the local~~  
 1669 ~~ombudsman council~~ and the central abuse hotline where they may  
 1670 lodge complaints.

1671 Section 42. Subsection (17) of section 744.444, Florida  
 1672 Statutes, is amended to read:

1673 744.444 Power of guardian without court approval.—Without  
 1674 obtaining court approval, a plenary guardian of the property, or  
 1675 a limited guardian of the property within the powers granted by  
 1676 the order appointing the guardian or an approved annual or  
 1677 amended guardianship report, may:

1678 (17) Provide confidential information about a ward that is  
 1679 related to an investigation arising under part I of chapter 400  
 1680 to a representative of the ~~local~~ ~~or~~ state ombudsman program

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1681 | ~~council member~~ conducting such an investigation. Any such  
1682 | ombudsman shall have a duty to maintain the confidentiality of  
1683 | such information.

1684 |       Section 43. This act shall take effect July 1, 2013.