

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.; revising the
11 purpose of the office; revising the duties and
12 authority of the state ombudsman; requiring the state
13 ombudsman to submit an annual report to the Governor,
14 the Legislature, and specified agencies and entities;
15 amending s. 400.0067, F.S.; revising duties and
16 membership of the State Long-Term Care Ombudsman
17 Council; 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; revising the appointments of
21 and qualifications for district ombudsmen; prohibiting
22 certain individuals from serving as ombudsmen;
23 deleting provisions that provide for an election of a
24 chair of a local council and the meeting times for the
25 local council; amending s. 400.0070, F.S.; providing
26 conditions under which a representative of the office

27 | could be found to have a conflict of interest;
28 | requiring the Department of Elderly Affairs, in
29 | consultation with the state ombudsman, to define by
30 | rule what constitutes a conflict of interest; amending
31 | s. 400.0071, F.S.; requiring the department to consult
32 | with the state ombudsman to adopt rules pertaining to
33 | complaint procedures; amending s. 400.0073, F.S.;
34 | providing procedures for investigation of complaints;
35 | amending s. 400.0074, F.S.; revising procedures for
36 | conducting onsite administrative assessments;
37 | authorizing the department to adopt rules; amending s.
38 | 400.0075, F.S.; revising complaint notification and
39 | resolution procedures; amending s. 400.0078, F.S.;
40 | providing for a resident or representative of a
41 | resident to receive additional information regarding
42 | resident rights; amending s. 400.0079, F.S.; providing
43 | immunity from liability for a representative of the
44 | office under certain circumstances; amending s.
45 | 400.0081, F.S.; requiring long-term care facilities to
46 | provide representatives of the office with access to
47 | facilities, residents, and records for certain
48 | purposes; amending s. 400.0083, F.S.; conforming
49 | provisions to changes made by the act; amending s.
50 | 400.0087, F.S.; providing for the office to coordinate
51 | ombudsman services with Disability Rights Florida;
52 | amending s. 400.0089, F.S.; conforming provisions to

53 changes made by the act; amending s. 400.0091, F.S.;

54 revising training requirements for representatives of

55 the office and ombudsmen; amending ss. 20.41, 400.021,

56 400.022, 400.0255, 400.1413, 400.162, 400.19, 400.191,

57 400.23, 400.235, 415.102, 415.1034, 415.104, 415.1055,

58 415.106, 415.107, 429.02, 429.07, 429.19, 429.26,

59 429.28, 429.34, 429.35, 429.67, and 429.85, F.S.;

60 conforming provisions to changes made by the act;

61 providing an effective date.

62

63 Be It Enacted by the Legislature of the State of Florida:

64

65 Section 1. Section 400.0060, Florida Statutes, is amended

66 to read:

67 400.0060 Definitions.—When used in this part, unless the

68 context clearly dictates otherwise, the term:

69 (1) "Administrative assessment" means a review of

70 conditions in a long-term care facility which impact the rights,

71 health, safety, and welfare of residents with the purpose of

72 noting needed improvement and making recommendations to enhance

73 the quality of life for residents.

74 (2) "Agency" means the Agency for Health Care

75 Administration.

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

77 (4) "District" means a geographical area designated by the

78 state ombudsman in which individuals certified as ombudsmen

79 carry out the duties of the state ombudsman program. A district
 80 may have more than one local unit of ombudsmen. "Local council"
 81 ~~means a local long-term care ombudsman council designated by the~~
 82 ~~ombudsman pursuant to s. 400.0069. Local councils are also known~~
 83 ~~as district long-term care ombudsman councils or district~~
 84 ~~councils.~~

85 (5) "Long-term care facility" means a licensed nursing
 86 home facility, assisted living facility, adult family-care home,
 87 board and care facility, facility in which continuing long-term
 88 care is provided, or any other similar licensed residential
 89 adult care facility.

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

92 (7) "Ombudsman" means an individual who has been certified
 93 by the state ombudsman as meeting the requirements of ss.
 94 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~
 95 ~~Secretary of Elderly Affairs to head the Office of State Long-~~
 96 ~~Term Care Ombudsman.~~

97 (8) "Representative of the office" or "representative of
 98 the state ombudsman program" means the state ombudsman, an
 99 employee of the office, or an individual certified as an
 100 ombudsman.

101 (9)-(8) "Resident" means an individual 18 ~~60~~ years of age
 102 or older who resides in a long-term care facility.

103 (10)-(9) "Secretary" means the Secretary of Elderly
 104 Affairs.

105 (11)~~(10)~~ "State council" means the State Long-Term Care
 106 Ombudsman Council created by s. 400.0067.

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

110 (13) "State ombudsman program" means the program operating
 111 under the direction of the office.

112 Section 2. Section 400.0061, Florida Statutes, is amended
 113 to read:

114 400.0061 Legislative findings and intent; long-term care
 115 facilities.—

116 (1) The Legislature finds that conditions in long-term
 117 care facilities in this state are such that the rights, health,
 118 safety, and welfare of residents are not fully ensured by rules
 119 of the Department of Elderly Affairs or the Agency for Health
 120 Care Administration or by the good faith of owners or operators
 121 of long-term care facilities. Furthermore, there is a need for a
 122 formal mechanism whereby a long-term care facility resident, a
 123 representative of a long-term care facility resident, or any
 124 other concerned citizen may make a complaint against the
 125 facility or its employees, or against other persons who are in a
 126 position to restrict, interfere with, or threaten the rights,
 127 health, safety, or welfare of a long-term care facility
 128 resident. The Legislature finds that concerned citizens are
 129 often more effective advocates for the rights of others than
 130 governmental agencies. The Legislature further finds that in

131 order to be eligible to receive an allotment of funds authorized
 132 and appropriated under the federal Older Americans Act, the
 133 state must establish and operate an Office of State Long-Term
 134 Care Ombudsman, to be headed by the state ~~Long-Term-Care~~
 135 ombudsman, and carry out a state ~~long-term-care~~ ombudsman
 136 program.

137 (2) It is the intent of the Legislature, therefore, to use
 138 ~~utilize~~ voluntary citizen ombudsmen ~~ombudsman councils~~ under the
 139 leadership of the state ombudsman, and, through them, to operate
 140 a state ~~an~~ ombudsman program, which shall, without interference
 141 by any executive agency, undertake to discover, investigate, and
 142 determine the presence of conditions or individuals who ~~which~~
 143 constitute a threat to the rights, health, safety, or welfare of
 144 the residents of long-term care facilities. To ensure that the
 145 effectiveness and efficiency of such investigations are not
 146 impeded by advance notice or delay, the Legislature intends that
 147 representatives of the office ~~ombudsman and ombudsman councils~~
 148 ~~and their designated representatives~~ not be required to obtain
 149 warrants in order to enter into or conduct investigations or
 150 onsite administrative assessments of long-term care facilities.
 151 It is the further intent of the Legislature that the environment
 152 in long-term care facilities be conducive to the dignity and
 153 independence of residents and that investigations by
 154 representatives of the office ~~ombudsman councils~~ shall further
 155 the enforcement of laws, rules, and regulations that safeguard
 156 the health, safety, and welfare of residents.

157 Section 3. Section 400.0063, Florida Statutes, is amended
 158 to read:

159 400.0063 Establishment of Office of State Long-Term Care
 160 Ombudsman; designation of ombudsman and legal advocate.—

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

163 (2) (a) The Office of State Long-Term Care Ombudsman shall
 164 be headed by the state ~~Long-Term-Care~~ ombudsman, who shall serve
 165 on a full-time basis and shall personally, or through
 166 representatives of the office, carry out the purposes and
 167 functions of the state ombudsman program ~~office~~ in accordance
 168 with state and federal law.

169 (b) The state ombudsman shall be appointed by and shall
 170 serve at the pleasure of the Secretary of Elderly Affairs. The
 171 secretary shall appoint a person who has expertise and
 172 experience in the fields of long-term care and advocacy to serve
 173 as state ombudsman.

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

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

180 1. Assisting the state ombudsman in carrying out the
 181 duties of the office with respect to the abuse, neglect,

182 exploitation, or violation of rights of residents of long-term
 183 care facilities.

184 2. Assisting the state council and representatives of the
 185 office ~~local councils~~ in carrying out their responsibilities
 186 under this part.

187 3. Pursuing administrative, legal, and other appropriate
 188 remedies on behalf of residents.

189 4. Serving as legal counsel to the state council and
 190 representatives of the office ~~local councils, or individual~~
 191 ~~members thereof,~~ against ~~whom~~ any suit or other legal action
 192 that is initiated in connection with the performance of the
 193 official duties of the state ombudsman program ~~councils or an~~
 194 ~~individual member.~~

195 Section 4. Section 400.0065, Florida Statutes, is amended
 196 to read:

197 400.0065 Office of State Long-Term Care Ombudsman; duties
 198 and responsibilities.—

199 (1) The purpose of the Office of State Long-Term Care
 200 Ombudsman is ~~shall be~~ to:

201 (a) Identify, investigate, and resolve complaints made by
 202 or on behalf of residents of long-term care facilities relating
 203 to actions or omissions by providers or representatives of
 204 providers of long-term care services, other public or private
 205 agencies, guardians, or representative payees that may adversely
 206 affect the health, safety, welfare, or rights of the residents.

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

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

212 (d) Ensure that residents have regular and timely access
 213 to the services provided through the office and that residents
 214 and complainants receive timely responses from representatives
 215 of the office to their complaints.

216 (e) Represent the interests of residents before
 217 governmental agencies and seek administrative, legal, and other
 218 remedies to protect the health, safety, welfare, and rights of
 219 the residents.

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

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

229 (h) Provide technical support for the development of
 230 resident and family councils to protect the well-being and
 231 rights of residents.

232 (2) The state ~~Long-Term Care~~ ombudsman has ~~shall~~ have the
 233 duty and authority to:

234 (a) Establish and coordinate districts ~~local councils~~
 235 throughout the state.

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

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

252 (d) Contract for services necessary to carry out the
 253 activities of the office.

254 (e) Apply for, receive, and accept grants, gifts, or other
 255 payments, including, but not limited to, real property, personal
 256 property, and services from a governmental entity or other

257 public or private entity or person, and make arrangements for
 258 the use of such grants, gifts, or payments.

259 (f) Coordinate, to the greatest extent possible, state and
 260 local ombudsman services with the protection and advocacy
 261 systems for individuals with developmental disabilities and
 262 mental illnesses and with legal assistance programs for the poor
 263 through adoption of memoranda of understanding and other means.

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

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

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

282 ~~Secretary of Children and Families, and the Secretary of Health~~
283 ~~Care Administration.~~ The report must ~~shall~~, at a minimum:

- 284 1. Contain and analyze data collected concerning
285 complaints about and conditions in long-term care facilities and
286 the disposition of such complaints.
- 287 2. Evaluate the problems experienced by residents.
- 288 3. Analyze the successes of the state ombudsman program
289 during the preceding year, including an assessment of how
290 successfully the office ~~program~~ has carried out its
291 responsibilities under the Older Americans Act.
- 292 4. Provide recommendations for policy, regulatory, and
293 statutory changes designed to solve identified problems; resolve
294 residents' complaints; improve residents' lives and quality of
295 care; protect residents' rights, health, safety, and welfare;
296 and remove any barriers to the optimal operation of the state
297 ~~Long-Term Care~~ ombudsman program.
- 298 5. Contain recommendations from the state ~~Long-Term Care~~
299 ~~Ombudsman~~ council regarding program functions and activities and
300 recommendations for policy, regulatory, and statutory changes
301 designed to protect residents' rights, health, safety, and
302 welfare.
- 303 6. Contain any relevant recommendations from
304 representatives of the office ~~local councils~~ regarding program
305 functions and activities.

306 Section 5. Section 400.0067, Florida Statutes, is amended
307 to read:

308 400.0067 State Long-Term Care Ombudsman Council; duties;
 309 membership.-

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

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

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

317 ~~(b) Serve as an appellate body in receiving from the local~~
 318 ~~councils complaints not resolved at the local level. Any~~
 319 ~~individual member or members of the state council may enter any~~
 320 ~~long-term care facility involved in an appeal, pursuant to the~~
 321 ~~conditions specified in s. 400.0074(2).~~

322 ~~(b)-(e)~~ Assist the state ombudsman to discover,
 323 investigate, and determine the existence of abuse or neglect in
 324 any long-term care facility, and work with the adult protective
 325 services program as required in ss. 415.101-415.113.

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

329 ~~(d)-(e)~~ Elicit and coordinate state, district ~~local~~, and
 330 voluntary organizational assistance for the purpose of improving
 331 the care received by residents.

332 ~~(e)-(f)~~ Assist the state ombudsman in preparing the annual
 333 report described in s. 400.0065.

334 (3) The state ~~Long-Term Care Ombudsman~~ council shall be
 335 composed of one active certified ombudsman from each local unit
 336 within a district ~~local council member elected by each local~~
 337 ~~council~~ plus three at-large members appointed by the secretary
 338 ~~Governor~~.

339 (a) Each local unit in a district must select ~~council~~
 340 ~~shall elect by majority vote~~ a representative of its choice to
 341 serve from among the council members to represent the interests
 342 ~~of the local council~~ on the state council. ~~A local council chair~~
 343 ~~may not serve as the representative of the local council on the~~
 344 ~~state council.~~

345 (b)1. The state ombudsman secretary, ~~after consulting with~~
 346 ~~the ombudsman,~~ shall submit to the secretary ~~Governor~~ a list of
 347 individuals ~~persons~~ recommended for appointment to the at-large
 348 positions on the state council. The list may ~~shall~~ not include
 349 the name of any individual ~~person~~ who is currently serving in a
 350 district ~~on a local council.~~

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

353 3. If the secretary ~~Governor~~ does not appoint an at-large
 354 member to fill a vacant position within 60 days after the list
 355 is submitted, the state secretary, ~~after consulting with the~~
 356 ~~ombudsman,~~ shall appoint an at-large member to fill that vacant
 357 position.

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

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

362 ~~3.~~ ~~A local council may recommend removal of its elected~~
363 ~~representative from the state council by a majority vote. If the~~
364 ~~council votes to remove its representative, the local council~~
365 ~~chair shall immediately notify the ombudsman. The secretary~~
366 ~~shall advise the Governor of the local council's vote upon~~
367 ~~receiving notice from the ombudsman.~~

368 (b)4. The position of any member missing three state
369 council meetings within a 1-year period without cause may be
370 declared vacant by the state ombudsman. The findings of the
371 state ombudsman regarding cause shall be final and binding.

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

374 (d)1. The state council shall elect a chair to serve for a
375 term of 1 year. A chair may not serve more than two consecutive
376 terms.

377 2. The chair shall select a vice chair from among the
378 members. The vice chair shall preside over the state council in
379 the absence of the chair.

380 3. The chair may create additional executive positions as
381 necessary to carry out the duties of the state council. Any
382 person appointed to an executive position shall serve at the
383 pleasure of the chair, and his or her term shall expire on the
384 same day as the term of the chair.

385 4. A chair may be immediately removed from office before
386 ~~prior to~~ the expiration of his or her term by a vote of two-
387 thirds of all state council members present at any meeting at
388 which a quorum is present. If a chair is removed from office
389 before ~~prior to~~ the expiration of his or her term, a replacement
390 chair shall be chosen during the same meeting in the same manner
391 as described in this paragraph, and the term of the replacement
392 chair shall begin immediately. The replacement chair shall serve
393 for the remainder of the term and is eligible to serve two
394 subsequent consecutive terms.

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

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

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

406 (g) ~~(f)~~ Members may not ~~shall~~ receive ~~no~~ compensation but
407 shall, with approval from the state ombudsman, be reimbursed for
408 per diem and travel expenses as provided in s. 112.061.

409 Section 6. Section 400.0069, Florida Statutes, is amended
410 to read:

411 400.0069 ~~Local~~ Long-term care ombudsman districts
 412 ~~councils~~; duties; appointment ~~membership~~.-

413 (1) (a) The state ombudsman shall designate districts ~~local~~
 414 ~~long-term care ombudsman councils~~ to carry out the duties of the
 415 state ~~Long-Term Care~~ ombudsman program ~~within local communities~~.
 416 Each district ~~local council~~ shall function under the direction
 417 of the state ombudsman.

418 (b) The state ombudsman shall ensure that there are
 419 representatives of the office ~~is at least one local council~~
 420 operating in each district ~~of the department's planning and~~
 421 ~~service areas. The ombudsman may create additional local~~
 422 ~~councils~~ as necessary to ensure that residents throughout the
 423 state have adequate access to state ~~Long-Term Care~~ ombudsman
 424 program services. ~~The ombudsman, after approval from the~~
 425 ~~secretary, shall designate the jurisdictional boundaries of each~~
 426 ~~local council.~~

427 (c) Each district must convene a public meeting every
 428 quarter.

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

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

434 (b) Discover, investigate, and determine the existence of
 435 abuse, ~~or~~ neglect, or exploitation using ~~in any long-term care~~

436 ~~facility and to use~~ the procedures provided for in ss. 415.101-
 437 415.113 when applicable.

438 (c) Identify ~~Elicit, receive,~~ investigate, ~~respond to,~~ and
 439 resolve complaints made by or on behalf of residents relating to
 440 actions or omissions by providers or representatives of
 441 providers of long-term care services, other public agencies,
 442 guardians, or representative payees which may adversely affect
 443 the health, safety, welfare, or rights of residents.

444 (d) Review and, if necessary, comment on all existing or
 445 proposed rules, regulations, and other governmental policies and
 446 actions relating to long-term care facilities that may
 447 potentially have an effect on the ~~rights,~~ health, safety,
 448 welfare, and rights ~~welfare~~ of residents.

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

453 (f) Recommend that the state ombudsman and the legal
 454 advocate seek administrative, legal, and other remedies to
 455 protect the health, safety, welfare, and rights of ~~the~~
 456 residents.

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

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

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

467 (4) Each district local council shall be composed of
 468 ombudsmen ~~members~~ whose primary residences are ~~residence is~~
 469 located within the boundaries of the district local council's
 470 jurisdiction.

471 (a) Upon good cause shown, the state ombudsman may appoint
 472 an ombudsman to another district. ~~The ombudsman shall strive to~~
 473 ~~ensure that each local council include the following persons as~~
 474 ~~members:~~

475 1. ~~At least one medical or osteopathic physician whose~~
 476 ~~practice includes or has included a substantial number of~~
 477 ~~geriatric patients and who may practice in a long-term care~~
 478 ~~facility;~~

479 2. ~~At least one registered nurse who has geriatric~~
 480 ~~experience;~~

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

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

483 5. ~~At least six nursing home residents or representative~~
 484 ~~consumer advocates for nursing home residents;~~

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

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

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

490 (b) The following individuals may not be appointed as
491 ombudsmen:

492 1. The owner or representative of a long-term care
493 facility.

494 2. A provider or representative of a provider of long-term
495 care service.

496 3. An employee of the agency.

497 4. An employee of the department, except for a
498 representative of the office.

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

500 6. An employee of the Agency for Persons with Disabilities

501 ~~In no case shall the medical director of a long-term care~~
502 ~~facility or an employee of the agency, the department, the~~
503 ~~Department of Children and Families, or the Agency for Persons~~
504 ~~with Disabilities serve as a member or as an ex officio member~~
505 ~~of a council.~~

506 (5) (a) To be appointed as an ombudsman, an individual
507 must:

508 1. Individuals wishing to join a local council shall
509 submit an application to the state ombudsman or his or her
510 designee.

511 2. Successfully complete level 2 background screening
512 pursuant to s. 430.0402 and chapter 435 ~~The ombudsman shall~~
513 ~~review the individual's application and advise the secretary of~~
514 ~~his or her recommendation for approval or disapproval of the~~
515 ~~candidate's membership on the local council. If the secretary~~
516 ~~approves of the individual's membership, the individual shall be~~
517 ~~appointed as a member of the local council.~~

518 (b) The state ombudsman shall approve or deny the
519 appointment of the individual as an ombudsman ~~The secretary may~~
520 ~~rescind the ombudsman's approval of a member on a local council~~
521 ~~at any time. If the secretary rescinds the approval of a member~~
522 ~~on a local council, the ombudsman shall ensure that the~~
523 ~~individual is immediately removed from the local council on~~
524 ~~which he or she serves and the individual may no longer~~
525 ~~represent the State Long Term Care Ombudsman Program until the~~
526 ~~secretary provides his or her approval.~~

527 (c) Upon appointment as an ombudsman, the individual may
528 participate in district activities but may not represent the
529 office or conduct any authorized program duties until the
530 individual has completed the initial training specified in s.
531 400.0091(1) and has been certified by the state ombudsman.

532 (d) The state ombudsman, for good cause shown, such as
533 development of a conflict of interest, failure to adhere to the
534 policies and procedures established by the office, or
535 demonstrated inability to carry out the responsibilities of the
536 office, may rescind the appointment of an individual as an

537 ombudsman. After the appointment is rescinded, the individual
538 may not conduct any duties as an ombudsman and may not represent
539 the office or the state ombudsman program ~~A local council may~~
540 ~~recommend the removal of one or more of its members by~~
541 ~~submitting to the ombudsman a resolution adopted by a two-thirds~~
542 ~~vote of the members of the council stating the name of the~~
543 ~~member or members recommended for removal and the reasons for~~
544 ~~the recommendation. If such a recommendation is adopted by a~~
545 ~~local council, the local council chair or district coordinator~~
546 ~~shall immediately report the council's recommendation to the~~
547 ~~ombudsman. The ombudsman shall review the recommendation of the~~
548 ~~local council and advise the secretary of his or her~~
549 ~~recommendation regarding removal of the council member or~~
550 ~~members.~~

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

554 ~~(b) The chair shall select a vice chair from among the~~
555 ~~members of the council. The vice chair shall preside over the~~
556 ~~council in the absence of the chair.~~

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

562 ~~(d) A chair may be immediately removed from office prior~~
 563 ~~to the expiration of his or her term by a vote of two thirds of~~
 564 ~~the members of the local council. If any chair is removed from~~
 565 ~~office prior to the expiration of his or her term, a replacement~~
 566 ~~chair shall be elected during the same meeting, and the term of~~
 567 ~~the replacement chair shall begin immediately. The replacement~~
 568 ~~chair shall serve for the remainder of the term of the person he~~
 569 ~~or she replaced.~~

570 ~~(7) Each local council shall meet upon the call of its~~
 571 ~~chair or upon the call of the ombudsman. Each local council~~
 572 ~~shall meet at least once a month but may meet more frequently if~~
 573 ~~necessary.~~

574 ~~(6)-(8) An ombudsman may not~~ A member of a local council
 575 ~~shall receive no compensation but shall, with approval from the~~
 576 ~~state ombudsman, be reimbursed for travel expenses both within~~
 577 ~~and outside the jurisdiction of the local council in accordance~~
 578 ~~with the provisions of s. 112.061.~~

579 ~~(7)-(9) A representative of the office may~~ The local
 580 ~~councils are authorized to call upon appropriate state agencies~~
 581 ~~of state government for such professional assistance as may be~~
 582 ~~needed in the discharge of his or her their duties, and such.~~
 583 ~~All state agencies shall cooperate with the local councils in~~
 584 ~~providing requested information and agency representation at~~
 585 ~~council meetings.~~

586 Section 7. Section 400.0070, Florida Statutes, is amended
 587 to read:

588 400.0070 Conflicts of interest.—

589 (1) A representative of the office may ~~The ombudsman shall~~
 590 not:

591 (a) Have a direct involvement in the licensing or
 592 certification of, or an ownership or investment interest in, a
 593 long-term care facility or a provider of a long-term care
 594 service.

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

597 (c) Receive, or have a right to receive, directly or
 598 indirectly, remuneration, in cash or in kind, under a
 599 compensation agreement with the owner or operator of a long-term
 600 care facility.

601 (2) Each representative ~~employee~~ of the office, ~~each state~~
 602 ~~council member, and each local council member~~ shall certify that
 603 he or she does not have any ~~has no~~ conflict of interest.

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

606 (a) Situations that constitute an individual ~~a person~~
 607 having a conflict of interest which ~~that~~ could materially affect
 608 the objectivity or capacity of the individual ~~a person~~ to serve
 609 as a representative ~~on an ombudsman council, or as an employee~~
 610 ~~of the office, while carrying out the purposes of the State~~
 611 ~~Long-Term Care Ombudsman Program as specified in this part.~~

612 (b) The procedure by which an individual ~~a person~~ listed
613 in subsection (2) shall certify that he or she does not have a
614 ~~has no~~ conflict of interest.

615 Section 8. Section 400.0071, Florida Statutes, is amended
616 to read:

617 400.0071 State ~~Long-Term Care~~ ombudsman program complaint
618 procedures.—The department, in consultation with the state
619 ombudsman, shall adopt rules implementing state and local
620 complaint procedures. The rules must include procedures for
621 receiving, investigating, identifying, and resolving complaints
622 concerning the health, safety, welfare, and rights of residents;

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

625 ~~(2) Conducting investigations of a long-term care facility~~
626 ~~or an employee of a long-term care facility subsequent to~~
627 ~~receiving a complaint.~~

628 ~~(3) Conducting onsite administrative assessments of long-~~
629 ~~term care facilities.~~

630 Section 9. Section 400.0073, Florida Statutes, is amended
631 to read:

632 400.0073 Complaint State and local ombudsman council
633 investigations.—

634 (1) A representative of the office ~~local council~~ shall
635 identify and investigate, ~~within a reasonable time after a~~
636 ~~complaint is made~~, any complaint made by or on behalf of a
637 resident, ~~a representative of a resident, or any other credible~~

638 ~~source based on an action or omission by an administrator, an~~
 639 ~~employee, or a representative of a long-term care facility~~ which
 640 might be:

- 641 (a) Contrary to law;
- 642 (b) Unreasonable, unfair, oppressive, or unnecessarily
 643 discriminatory, even though in accordance with law;
- 644 (c) Based on a mistake of fact;
- 645 (d) Based on improper or irrelevant grounds;
- 646 (e) Unaccompanied by an adequate statement of reasons;
- 647 (f) Performed in an inefficient manner; or
- 648 (g) Otherwise adversely affecting the health, safety,
 649 welfare, or rights of a resident.

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

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

655 (2)~~(4)~~ If a representative of the office ~~the ombudsman or~~
 656 ~~any state or local council member~~ is not allowed to enter a
 657 long-term care facility, the administrator of the facility shall
 658 be considered to have interfered with a representative of the
 659 office, ~~the state council, or the local council~~ in the
 660 performance of official duties as described in s. 400.0083(1)
 661 and to have violated ~~committed a violation of~~ this part. The
 662 representative of the office ~~ombudsman~~ shall report a facility's
 663 refusal to allow entry to the facility to the state ombudsman or

664 his or her designee, who shall report the incident to the
665 agency, and the agency shall record the report and take it into
666 consideration when determining actions allowable under s.
667 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
668 429.71.

669 Section 10. Section 400.0074, Florida Statutes, is amended
670 to read:

671 400.0074 ~~Local ombudsman council~~ Onsite administrative
672 assessments.-

673 (1) A representative of the office ~~In addition to any~~
674 ~~specific investigation conducted pursuant to a complaint, the~~
675 ~~local council~~ shall conduct, at least annually, an onsite
676 administrative assessment of each nursing home, assisted living
677 facility, and adult family-care home ~~within its jurisdiction.~~
678 This administrative assessment must be resident-centered and
679 must ~~shall~~ focus on factors affecting the rights, health,
680 safety, and welfare of the residents. ~~Each local council is~~
681 ~~encouraged to conduct a similar onsite administrative assessment~~
682 ~~of each additional long-term care facility within its~~
683 ~~jurisdiction.~~

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

686 (a) To the extent possible and reasonable, the
687 administrative assessment may ~~assessments shall~~ not duplicate
688 the efforts of ~~the agency~~ surveys and inspections conducted by

689 state agencies of long-term care facilities ~~under part II of~~
 690 ~~this chapter and parts I and II of chapter 429.~~

691 (b) An administrative assessment shall be conducted at a
 692 time and for a duration necessary to produce the information
 693 required to complete the assessment ~~carry out the duties of the~~
 694 ~~local council.~~

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

698 (d) A representative of the office ~~local council member~~
 699 ~~physically~~ present for the administrative assessment must ~~shall~~
 700 identify himself or herself to the administrator ~~and cite the~~
 701 ~~specific statutory authority for his or her assessment of the~~
 702 facility or his or her designee.

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

705 (f) A representative of the office ~~local council member~~
 706 may not enter a single-family residential unit within a long-
 707 term care facility during an administrative assessment without
 708 the permission of the resident or the representative of the
 709 resident.

710 (g) An administrative assessment shall ~~must~~ be conducted
 711 in a manner that does not impose an ~~will impose no~~ unreasonable
 712 burden on a long-term care facility.

713 (3) ~~Regardless of jurisdiction, the ombudsman may~~
 714 ~~authorize a state or local council member to assist another~~

715 ~~local council to perform the administrative assessments~~
716 ~~described in this section.~~

717 ~~(4)~~ An onsite administrative assessment may not be
718 accomplished by forcible entry. However, if a representative of
719 ~~the office ombudsman or a state or local council member~~ is not
720 allowed to enter a long-term care facility, the administrator of
721 the facility shall be considered to have interfered with a
722 representative of the office, ~~the state council, or the local~~
723 ~~council~~ in the performance of official duties as described in s.
724 400.0083(1) and to have committed a violation of this part. The
725 representative of the office ombudsman shall report the refusal
726 by a facility to allow entry to the state ombudsman or his or
727 her designee, who shall then report the incident to the agency,
728 and the agency shall record the report and take it into
729 consideration when determining actions allowable under s.
730 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
731 429.71.

732 (4) The department, in consultation with the state
733 ombudsman, may adopt rules implementing procedures for
734 conducting onsite administrative assessments of long-term care
735 facilities.

736 Section 11. Section 400.0075, Florida Statutes, is amended
737 to read:

738 400.0075 Complaint notification and resolution
739 procedures.—

740 (1) (a) Any complaint ~~or problem~~ verified by a
741 representative of the office ~~an ombudsman council~~ as a result of
742 an investigation may ~~or onsite administrative assessment, which~~
743 ~~complaint or problem is determined to require remedial action by~~
744 ~~the local council,~~ shall be identified and brought to the
745 attention of the long-term care facility administrator, subject
746 to the confidentiality provisions of s. 400.0077 in writing.
747 Upon receipt of the information ~~such document,~~ the
748 administrator, with the concurrence of the representative of the
749 office ~~local council chair,~~ shall establish target dates for
750 taking appropriate remedial action. If, by the target date, the
751 remedial action is not completed or forthcoming, the
752 representative may extend the target date if there is reason to
753 believe such action would facilitate the resolution of the
754 complaint, or the representative may refer the complaint to the
755 district office ~~local council chair may, after obtaining~~
756 ~~approval from the ombudsman and a majority of the members of the~~
757 ~~local council:~~

758 1. ~~Extend the target date if the chair has reason to~~
759 ~~believe such action would facilitate the resolution of the~~
760 ~~complaint.~~

761 2. ~~In accordance with s. 400.0077, publicize the~~
762 ~~complaint, the recommendations of the council, and the response~~
763 ~~of the long-term care facility.~~

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

765 (b) If an ombudsman determines ~~the local council chair~~
766 ~~believes~~ that the health, safety, welfare, or rights of a ~~the~~
767 resident are in imminent danger, the ombudsman must immediately
768 notify the district office. ~~The district office chair shall~~
769 ~~notify the ombudsman or legal advocate, who,~~ after verifying
770 that such imminent danger exists, must notify the appropriate
771 state agencies, including law enforcement agencies, the state
772 ombudsman, and the legal advocate, to ensure the protection of
773 ~~shall seek immediate legal or administrative remedies to protect~~
774 the resident.

775 (c) If the state ombudsman or legal advocate has reason to
776 believe that the long-term care facility or an employee of the
777 facility has committed a criminal act, the state ombudsman or
778 legal advocate shall provide the local law enforcement agency
779 with the relevant information to initiate an investigation of
780 the case.

781 (2) ~~(a)~~ Upon referral from a district ~~local council,~~ the
782 state ombudsman or his or her designee ~~council~~ shall assume the
783 responsibility for the disposition of the complaint. If a long-
784 term care facility fails to take action to resolve or remedy the
785 ~~on a~~ complaint ~~by the state council,~~ the state ombudsman ~~council~~
786 ~~may, after obtaining approval from the ombudsman and a majority~~
787 ~~of the state council members:~~

788 (a)1. In accordance with s. 400.0077, publicize the
789 complaint, the recommendations of the representatives of the

790 office local or state council, and the response of the long-term
791 care facility.

792 (b)2. Recommend to the department and the agency a series
793 of facility reviews pursuant to s. 400.19, s. 429.34, or s.
794 429.67 to ensure correction and nonrecurrence of the conditions
795 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a
796 long-term care facility.

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

800 (d)4. Recommend to the department and the agency that
801 procedures be initiated for action against ~~revocation of~~ the
802 long-term care facility's license in accordance with chapter
803 120.

804 ~~(b) If the state council chair believes that the health,~~
805 ~~safety, welfare, or rights of the resident are in imminent~~
806 ~~danger, the chair shall notify the ombudsman or legal advocate,~~
807 ~~who, after verifying that such imminent danger exists, shall~~
808 ~~seek immediate legal or administrative remedies to protect the~~
809 ~~resident.~~

810 (3)(e) If the state ombudsman, after consultation with the
811 legal advocate, has reason to believe that the long-term care
812 facility or an employee of the facility has committed a criminal
813 act, the office ombudsman shall provide the local law
814 enforcement agency with the relevant information to initiate an
815 investigation of the case.

816 Section 12. Section 400.0078, Florida Statutes, is amended
 817 to read:

818 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman
 819 program services.—

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

824 (2) ~~Every resident or representative of a resident shall~~
 825 ~~receive,~~ Upon admission to a long-term care facility, each
 826 resident or representative of a resident must receive
 827 information regarding:

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

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

832 (c) Information that retaliatory action cannot be taken
 833 against a resident for presenting grievances or for exercising
 834 any other resident rights.

835 (d) Other relevant information regarding how to contact
 836 representatives of the office ~~program.~~

837
 838 Residents or their representatives must be furnished additional
 839 copies of this information upon request.

840 Section 13. Section 400.0079, Florida Statutes, is amended
 841 to read:

842 400.0079 Immunity.—

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

847 (2) Representatives of the office and ~~The ombudsman or any~~
 848 ~~person authorized by the ombudsman to act on behalf of the~~
 849 ~~office, as well as all members of the state council are and~~
 850 ~~local councils, shall be~~ immune from any liability, civil or
 851 criminal, that otherwise might be incurred or imposed during the
 852 good faith performance of official duties.

853 Section 14. Section 400.0081, Florida Statutes, is amended
 854 to read:

855 400.0081 Access to facilities, residents, and records.—

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

859 (a) Access to ~~Any portion of~~ the long-term care facility
 860 and residents ~~any resident as necessary to investigate or~~
 861 ~~resolve a complaint.~~

862 (b) Appropriate access to medical and social records of a
 863 resident for review ~~as necessary to investigate or resolve a~~
 864 ~~complaint,~~ if:

865 1. The representative of the office has the permission of
 866 the resident or the legal representative of the resident; or

867 2. The resident is unable to consent to the review and
868 does not have a ~~has no~~ legal representative.

869 (c) Access to medical and social records of a ~~the~~ resident
870 as necessary to investigate ~~or resolve~~ a complaint, if:

871 1. A legal representative or guardian of the resident
872 refuses to give permission;

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

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

878 (d) Access to the administrative records, policies, and
879 documents to which residents or the general public has ~~have~~
880 access.

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

884 (2) The department, in consultation with the state
885 ombudsman ~~and the state council~~, may adopt rules to establish
886 procedures to ensure access to facilities, residents, and
887 records as described in this section.

888 Section 15. Section 400.0083, Florida Statutes, is amended
889 to read:

890 400.0083 Interference; retaliation; penalties.—

891 (1) A ~~It shall be unlawful for any person,~~ long-term care
892 facility, or other entity may not ~~to~~ willfully interfere with a

893 representative of the office or, the state council, ~~or a local~~
 894 ~~council~~ in the performance of official duties.

895 (2) A ~~It shall be unlawful for any~~ person, long-term care
 896 facility, or other entity may not ~~to~~ knowingly or willfully take
 897 action or retaliate against any resident, employee, or other
 898 person for filing a complaint with, providing information to, or
 899 otherwise cooperating with any representative of the office or,
 900 the state council, ~~or a local council~~.

901 (3) A ~~Any~~ person, long-term care facility, or other entity
 902 that violates this section:

903 (a) Is ~~shall be~~ liable for damages and equitable relief as
 904 determined by law.

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

907 Section 16. Section 400.0087, Florida Statutes, is amended
 908 to read:

909 400.0087 Department oversight; funding.—

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

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

917 (b) The department may divert from the federal ombudsman
 918 appropriation an amount equal to the department's administrative

919 cost ratio to cover the costs associated with administering the
 920 state ombudsman program. The remaining allotment from the Older
 921 Americans Act program shall be expended on direct ombudsman
 922 activities.

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

926 (3) The department is responsible for ensuring that the
 927 office:

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

930 (b) Provides information to public and private agencies,
 931 legislators, and others, subject to the confidentiality
 932 provisions of s. 400.0077.

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

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

939 (4) The department shall also:

940 (a) Receive and disburse state and federal funds for
 941 purposes that the state ombudsman has formulated in accordance
 942 with the Older Americans Act.

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

946 Section 17. Section 400.0089, Florida Statutes, is amended
947 to read:

948 400.0089 Complaint data reports.—The office shall maintain
949 a statewide uniform reporting system to collect and analyze data
950 relating to complaints and conditions in long-term care
951 facilities and to residents for the purpose of identifying and
952 resolving complaints ~~significant problems~~. The office shall
953 publish quarterly and make readily available information
954 pertaining to the number and types of complaints received by the
955 state ~~Long Term Care~~ ombudsman program and shall include such
956 information in the annual report required under s. 400.0065.

957 Section 18. Section 400.0091, Florida Statutes, is amended
958 to read:

959 400.0091 Training.—The state ombudsman shall ensure that
960 appropriate training is provided to all representatives
961 ~~employees~~ of the office ~~and to the members of the state and~~
962 ~~local councils~~.

963 (1) All representatives ~~state and local council members~~
964 ~~and employees~~ of the office shall be given a minimum of 20 hours
965 of training upon employment with the office or appointment as an
966 ombudsman. ~~Ten approval as a state or local council member and~~
967 ~~10~~ hours of continuing education is required annually
968 thereafter.

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

- 972 (a) Resident confidentiality.
- 973 (b) Guardianships and powers of attorney.
- 974 (c) Medication administration.
- 975 (d) Care and medication of residents with dementia and
 976 Alzheimer's disease.
- 977 (e) Accounting for residents' funds.
- 978 (f) Discharge rights and responsibilities.
- 979 (g) Cultural sensitivity.
- 980 (h) Any other topic related to residency within a long-
 981 term care facility ~~recommended by the secretary.~~

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

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

993 20.41 Department of Elderly Affairs.—There is created a
 994 Department of Elderly Affairs.

995 (4) The department shall administer the Office of State
 996 Long-Term Care Ombudsman ~~Council~~, created by s. 400.0063
 997 ~~400.0067~~, and the local long-term care ombudsman councils,
 998 created by s. ~~400.0069~~ and shall, as required by s. 712 of the
 999 federal Older Americans Act of 1965, ensure that ~~both~~ the state
 1000 office operates and local long-term care ombudsman councils
 1001 ~~operate~~ in compliance with the Older Americans Act.

1002 Section 20. Subsections (11) through (14) of section
 1003 400.021, Florida Statutes, are renumbered as subsections (10)
 1004 through (13), respectively, present subsections (10) and (18)
 1005 are amended, and a new subsection (14) is added to that section,
 1006 to read:

1007 400.021 Definitions.—When used in this part, unless the
 1008 context otherwise requires, the term:

1009 ~~(10) "Local ombudsman council" means a local long-term~~
 1010 ~~care ombudsman council established pursuant to s. 400.0069,~~
 1011 ~~located within the Older Americans Act planning and service~~
 1012 ~~areas.~~

1013 (14) "Representative of the state ombudsman program" has
 1014 the same meaning as provided in s. 400.0060.

1015 (18) "State ombudsman program council" has the same
 1016 meaning as provided in s. 400.0060 ~~means the State Long-Term~~
 1017 ~~Care Ombudsman Council established pursuant to s. 400.0067.~~

1018 Section 21. Paragraph (c) of subsection (1) and
 1019 subsections (2) and (3) of section 400.022, Florida Statutes,
 1020 are amended to read:

1021 400.022 Residents' rights.—

1022 (1) All licensees of nursing home facilities shall adopt
 1023 and make public a statement of the rights and responsibilities
 1024 of the residents of such facilities and shall treat such
 1025 residents in accordance with the provisions of that statement.
 1026 The statement shall assure each resident the following:

1027 (c) Any entity or individual that provides health, social,
 1028 legal, or other services to a resident has the right to have
 1029 reasonable access to the resident. The resident has the right to
 1030 deny or withdraw consent to access at any time by any entity or
 1031 individual. Notwithstanding the visiting policy of the facility,
 1032 the following individuals must be permitted immediate access to
 1033 the resident:

1034 1. Any representative of the federal or state government,
 1035 including, but not limited to, representatives of the Department
 1036 of Children and Families, the Department of Health, the Agency
 1037 for Health Care Administration, the Office of the Attorney
 1038 General, and the Department of Elderly Affairs; any law
 1039 enforcement officer; any representative ~~members~~ of the state ~~or~~
 1040 ~~local~~ ombudsman program council; and the resident's individual
 1041 physician.

1042 2. Subject to the resident's right to deny or withdraw
 1043 consent, immediate family or other relatives of the resident.

1044
 1045 The facility must allow representatives of the office state
 1046 ~~Long Term Care ombudsman Council~~ to examine a resident's

1047 clinical records with the permission of the resident or the
 1048 resident's legal representative and consistent with state law.

1049 (2) The licensee for each nursing home shall orally inform
 1050 the resident of the resident's rights and provide a copy of the
 1051 statement required by subsection (1) to each resident or the
 1052 resident's legal representative at or before the resident's
 1053 admission to a facility. The licensee shall provide a copy of
 1054 the resident's rights to each staff member of the facility. Each
 1055 such licensee shall prepare a written plan and provide
 1056 appropriate staff training to implement ~~the provisions of this~~
 1057 section. The written statement of rights must include a
 1058 statement that a resident may file a complaint with the agency
 1059 or state local ombudsman program council. The statement must be
 1060 in boldfaced type and ~~shall~~ include the ~~name, address, and~~
 1061 telephone number and e-mail address of the state numbers of the
 1062 ~~local~~ ombudsman program council and the telephone number of the
 1063 central abuse hotline where complaints may be lodged.

1064 (3) Any violation of the resident's rights set forth in
 1065 this section constitutes ~~shall constitute~~ grounds for action by
 1066 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or
 1067 part II of chapter 408. In order to determine whether the
 1068 licensee is adequately protecting residents' rights, the
 1069 licensure inspection of the facility must ~~shall~~ include private
 1070 informal conversations with a sample of residents to discuss
 1071 residents' experiences within the facility with respect to
 1072 rights specified in this section and general compliance with

1073 standards, and consultation with a representative of the state
 1074 ombudsman program council ~~in the local planning and service area~~
 1075 ~~of the Department of Elderly Affairs in which the nursing home~~
 1076 ~~is located.~~

1077 Section 22. Subsections (8), (9), and (11) through (14) of
 1078 section 400.0255, Florida Statutes, are amended to read:

1079 400.0255 Resident transfer or discharge; requirements and
 1080 procedures; hearings.—

1081 (8) The notice required by subsection (7) must be in
 1082 writing and must contain all information required by state and
 1083 federal law, rules, or regulations applicable to Medicaid or
 1084 Medicare cases. The agency shall develop a standard document to
 1085 be used by all facilities licensed under this part for purposes
 1086 of notifying residents of a discharge or transfer. Such document
 1087 must include a means for a resident to request the state local
 1088 ~~long-term care~~ ombudsman program council to review the notice
 1089 and request information about or assistance with initiating a
 1090 fair hearing with the department's Office of Appeals Hearings.
 1091 In addition to any other pertinent information included, the
 1092 form shall specify the reason allowed under federal or state law
 1093 that the resident is being discharged or transferred, with an
 1094 explanation to support this action. Further, the form must ~~shall~~
 1095 state the effective date of the discharge or transfer and the
 1096 location to which the resident is being discharged or
 1097 transferred. The form must ~~shall~~ clearly describe the resident's
 1098 appeal rights and the procedures for filing an appeal, including

1099 the right to request the state ~~local~~ ombudsman program ~~council~~
 1100 to review the notice of discharge or transfer. A copy of the
 1101 notice must be placed in the resident's clinical record, and a
 1102 copy must be transmitted to the resident's legal guardian or
 1103 representative and to the office ~~local ombudsman council~~ within
 1104 5 business days after signature by the resident or resident
 1105 designee.

1106 (9) A resident may request that the state ~~local~~ ombudsman
 1107 program ~~council~~ review any notice of discharge or transfer given
 1108 to the resident. When requested by a resident to review a notice
 1109 of discharge or transfer, the state ~~local~~ ombudsman program
 1110 ~~council~~ shall do so within 7 days after receipt of the request.
 1111 The nursing home administrator, or the administrator's designee,
 1112 must forward the request for review contained in the notice to
 1113 the state ~~local~~ ombudsman program ~~council~~ within 24 hours after
 1114 such request is submitted. Failure to forward the request within
 1115 24 hours after the request is submitted shall toll the running
 1116 of the 30-day advance notice period until the request has been
 1117 forwarded.

1118 (11) Notwithstanding paragraph (10) (b), an emergency
 1119 discharge or transfer may be implemented as necessary pursuant
 1120 to state or federal law during the ~~period of~~ time after the
 1121 notice is given and before the time a hearing decision is
 1122 rendered. Notice of an emergency discharge or transfer to the
 1123 resident, the resident's legal guardian or representative, and
 1124 the state ~~local~~ ombudsman program ~~council~~ if requested pursuant

1125 to subsection (9) must be by telephone or in person. This notice
1126 shall be given before the transfer, if possible, or as soon
1127 thereafter as practicable. A representative of the state local
1128 ombudsman program council conducting a review under this
1129 subsection shall do so within 24 hours after receipt of the
1130 request. The resident's file must be documented to show who was
1131 contacted, whether the contact was by telephone or in person,
1132 and the date and time of the contact. If the notice is not given
1133 in writing, written notice meeting the requirements of
1134 subsection (8) must be given the next working day.

1135 (12) After receipt of any notice required under this
1136 section, the state local ombudsman program council may request a
1137 private informal conversation with a resident to whom the notice
1138 is directed, and, if known, a family member or the resident's
1139 legal guardian or designee, to ensure that the facility is
1140 proceeding with the discharge or transfer in accordance with ~~the~~
1141 ~~requirements of~~ this section. If requested, the state local
1142 ombudsman program council shall assist the resident with filing
1143 an appeal of the proposed discharge or transfer.

1144 (13) The following persons must be present at all hearings
1145 authorized under this section:

1146 (a) The resident, or the resident's legal representative
1147 or designee.

1148 (b) The facility administrator, or the facility's legal
1149 representative or designee.

1150

1151 A representative of the state ~~local long-term care~~ ombudsman
 1152 program council may be present at all hearings authorized by
 1153 this section.

1154 (14) In any hearing under this section, the following
 1155 information concerning the parties shall be confidential and
 1156 exempt from ~~the provisions of~~ s. 119.07(1):

- 1157 (a) Names and addresses.
- 1158 (b) Medical services provided.
- 1159 (c) Social and economic conditions or circumstances.
- 1160 (d) Evaluation of personal information.
- 1161 (e) Medical data, including diagnosis and past history of
 1162 disease or disability.

1163 (f) Any information received verifying income eligibility
 1164 and amount of medical assistance payments. Income information
 1165 received from the Social Security Administration or the Internal
 1166 Revenue Service must be safeguarded according to the
 1167 requirements of the agency that furnished the data.

1168
 1169 The exemption created by this subsection does not prohibit
 1170 access to such information by a representative of the state
 1171 ~~local long-term care~~ ombudsman program council upon request, by
 1172 a reviewing court if such information is required to be part of
 1173 the record upon subsequent review, or as specified in s. 24(a),
 1174 Art. I of the State Constitution.

1175 Section 23. Subsection (2) of section 400.1413, Florida
 1176 Statutes, is amended to read:

1177 400.1413 Volunteers in nursing homes.—

1178 (2) This section does not affect the activities of the
 1179 ~~state or local long-term care~~ ombudsman program ~~councils~~
 1180 authorized under part I.

1181 Section 24. Paragraph (d) of subsection (5) of section
 1182 400.162, Florida Statutes, is amended to read:

1183 400.162 Property and personal affairs of residents.—

1184 (5)

1185 (d) If, at any time during the period for which a license
 1186 is issued, a licensee that has not purchased a surety bond or
 1187 entered into a self-insurance agreement, as provided in
 1188 paragraphs (b) and (c), is requested to provide safekeeping for
 1189 the personal funds of a resident, the licensee shall notify the
 1190 agency of the request and make application for a surety bond or
 1191 for participation in a self-insurance agreement within 7 days
 1192 after ~~of~~ the request, exclusive of weekends and holidays. Copies
 1193 of the application, along with written documentation of related
 1194 correspondence with an insurance agency or group, shall be
 1195 maintained by the licensee for review by the agency and the
 1196 state ~~Nursing Home and Long-Term Care Facility~~ ombudsman program
 1197 ~~Council~~.

1198 Section 25. Subsections (1) and (4) of section 400.19,
 1199 Florida Statutes, are amended to read:

1200 400.19 Right of entry and inspection.—

1201 (1) In accordance with part II of chapter 408, the agency
 1202 and any duly designated officer or employee thereof or a

1203 representative ~~member~~ of the state ~~Long-Term Care~~ ombudsman
 1204 program Council ~~or the local long-term care ombudsman council~~
 1205 shall have the right to enter upon and into the premises of any
 1206 facility licensed pursuant to this part, or any distinct nursing
 1207 home unit of a hospital licensed under chapter 395 or any
 1208 freestanding facility licensed under chapter 395 which ~~that~~
 1209 provides extended care or other long-term care services, at any
 1210 reasonable time in order to determine the state of compliance
 1211 with ~~the provisions of~~ this part, part II of chapter 408, and
 1212 applicable rules in force pursuant thereto. The agency shall,
 1213 within 60 days after receipt of a complaint made by a resident
 1214 or resident's representative, complete its investigation and
 1215 provide to the complainant its findings and resolution.

1216 (4) The agency shall conduct unannounced onsite facility
 1217 reviews following written verification of licensee noncompliance
 1218 in instances in which the state ~~a long-term care~~ ombudsman
 1219 program council, pursuant to ss. 400.0071 and 400.0075, has
 1220 received a complaint and has documented deficiencies in resident
 1221 care or in the physical plant of the facility that threaten the
 1222 health, safety, or security of residents, or when the agency
 1223 documents through inspection that conditions in a facility
 1224 present a direct or indirect threat to the health, safety, or
 1225 security of residents. However, the agency shall conduct
 1226 unannounced onsite reviews every 3 months of each facility while
 1227 the facility has a conditional license. Deficiencies related to
 1228 physical plant do not require followup reviews after the agency

1229 has determined that correction of the deficiency has been
 1230 accomplished and that the correction is of the nature that
 1231 continued compliance can be reasonably expected.

1232 Section 26. Subsection (1) of section 400.191, Florida
 1233 Statutes, is amended to read:

1234 400.191 Availability, distribution, and posting of reports
 1235 and records.—

1236 (1) The agency shall provide information to the public
 1237 about all of the licensed nursing home facilities operating in
 1238 the state. The agency shall, within 60 days after a licensure
 1239 inspection visit or within 30 days after any interim visit to a
 1240 facility, send copies of the inspection reports to the state
 1241 ~~local long-term care~~ ombudsman program council, the agency's
 1242 local office, and a public library or the county seat for the
 1243 county in which the facility is located. The agency may provide
 1244 electronic access to inspection reports as a substitute for
 1245 sending copies.

1246 Section 27. Subsection (6) and paragraph (c) of subsection
 1247 (7) of section 400.23, Florida Statutes, are amended to read:

1248 400.23 Rules; evaluation and deficiencies; licensure
 1249 status.—

1250 (6) Before ~~Prior to~~ conducting a survey of the facility,
 1251 the survey team shall obtain a copy of the state ~~local long-term~~
 1252 ~~care~~ ombudsman program council report on the facility. Problems
 1253 noted in the report shall be incorporated into and followed up
 1254 through the agency's inspection process. This procedure does not

1255 preclude the state ~~local long-term care~~ ombudsman program
1256 ~~council~~ from requesting the agency to conduct a followup visit
1257 to the facility.

1258 (7) The agency shall, at least every 15 months, evaluate
1259 all nursing home facilities and make a determination as to the
1260 degree of compliance by each licensee with the established rules
1261 adopted under this part as a basis for assigning a licensure
1262 status to that facility. The agency shall base its evaluation on
1263 the most recent inspection report, taking into consideration
1264 findings from other official reports, surveys, interviews,
1265 investigations, and inspections. In addition to license
1266 categories authorized under part II of chapter 408, the agency
1267 shall assign a licensure status of standard or conditional to
1268 each nursing home.

1269 (c) In evaluating the overall quality of care and services
1270 and determining whether the facility will receive a conditional
1271 or standard license, the agency shall consider the needs and
1272 limitations of residents in the facility and the results of
1273 interviews and surveys of a representative sampling of
1274 residents, families of residents, representatives of the state
1275 ombudsman program ~~council members in the planning and service~~
1276 ~~area in which the facility is located~~, guardians of residents,
1277 and staff of the nursing home facility.

1278 Section 28. Paragraph (a) of subsection (3), paragraph (f)
1279 of subsection (5), and subsection (6) of section 400.235,
1280 Florida Statutes, are amended to read:

1281 400.235 Nursing home quality and licensure status; Gold
 1282 Seal Program.—

1283 (3) (a) The Gold Seal Program shall be developed and
 1284 implemented by the Governor's Panel on Excellence in Long-Term
 1285 Care which shall operate under the authority of the Executive
 1286 Office of the Governor. The panel shall be composed of three
 1287 persons appointed by the Governor, to include a consumer
 1288 advocate for senior citizens and two persons with expertise in
 1289 the fields of quality management, service delivery excellence,
 1290 or public sector accountability; three persons appointed by the
 1291 Secretary of Elderly Affairs, to include an active member of a
 1292 nursing facility family and resident care council and a member
 1293 of the University Consortium on Aging; the state ~~Long-Term Care~~
 1294 ombudsman; one person appointed by the Florida Life Care
 1295 Residents Association; one person appointed by the State Surgeon
 1296 General; two persons appointed by the Secretary of Health Care
 1297 Administration; one person appointed by the Florida Association
 1298 of Homes for the Aging; and one person appointed by the Florida
 1299 Health Care Association. Vacancies on the panel shall be filled
 1300 in the same manner as the original appointments.

1301 (5) Facilities must meet the following additional criteria
 1302 for recognition as a Gold Seal Program facility:

1303 (f) Evidence that ~~an outstanding record regarding the~~
 1304 ~~number and types of substantiated complaints received and~~
 1305 ~~verified by reported to the state Long-Term Care ombudsman~~
 1306 ~~program Council~~ within the 30 months preceding application have

1307 been resolved or the facility made a good faith effort to
 1308 resolve the complaints ~~for the program.~~

1309
 1310 A facility assigned a conditional licensure status may not
 1311 qualify for consideration for the Gold Seal Program until after
 1312 it has operated for 30 months with no class I or class II
 1313 deficiencies and has completed a regularly scheduled relicensure
 1314 survey.

1315 (6) The agency, nursing facility industry organizations,
 1316 consumers, the state ~~Long Term Care~~ ombudsman program Council,
 1317 and members of the community may recommend to the Governor
 1318 facilities that meet the established criteria for consideration
 1319 for and award of the Gold Seal. The panel shall review nominees
 1320 and make a recommendation to the Governor for final approval and
 1321 award. The decision of the Governor is final and is not subject
 1322 to appeal.

1323 Section 29. Subsections (25) through (28) of section
 1324 415.102, Florida Statutes, are renumbered as subsections (26)
 1325 through (30), respectively, and new subsections (25) and (27)
 1326 are added to that section to read:

1327 415.102 Definitions of terms used in ss. 415.101-415.113.—
 1328 As used in ss. 415.101-415.113, the term:

1329 (25) "Representative of the state ombudsman program" has
 1330 the same meaning as provided in s. 400.0060.

1331 (27) "State ombudsman program" has the same meaning as
 1332 provided in s. 400.0060.

1333 Section 30. Paragraph (a) of subsection (1) of section
 1334 415.1034, Florida Statutes, is amended to read:

1335 415.1034 Mandatory reporting of abuse, neglect, or
 1336 exploitation of vulnerable adults; mandatory reports of death.—

1337 (1) MANDATORY REPORTING.—

1338 (a) Any person, including, but not limited to, any:

1339 1. Physician, osteopathic physician, medical examiner,
 1340 chiropractic physician, nurse, paramedic, emergency medical
 1341 technician, or hospital personnel engaged in the admission,
 1342 examination, care, or treatment of vulnerable adults;

1343 2. Health professional or mental health professional other
 1344 than one listed in subparagraph 1.;

1345 3. Practitioner who relies solely on spiritual means for
 1346 healing;

1347 4. Nursing home staff; assisted living facility staff;
 1348 adult day care center staff; adult family-care home staff;
 1349 social worker; or other professional adult care, residential, or
 1350 institutional staff;

1351 5. State, county, or municipal criminal justice employee
 1352 or law enforcement officer;

1353 6. ~~An~~ Employee of the Department of Business and
 1354 Professional Regulation conducting inspections of public lodging
 1355 establishments under s. 509.032;

1356 7. Florida advocacy council member or representative of
 1357 the state Long-Term Care ombudsman program ~~council member~~; or

1358 8. Bank, savings and loan, or credit union officer,
 1359 trustee, or employee,
 1360
 1361 who knows, or has reasonable cause to suspect, that a vulnerable
 1362 adult has been or is being abused, neglected, or exploited shall
 1363 immediately report such knowledge or suspicion to the central
 1364 abuse hotline.

1365 Section 31. Subsection (1) of section 415.104, Florida
 1366 Statutes, is amended to read:

1367 415.104 Protective investigations of cases of abuse,
 1368 neglect, or exploitation of vulnerable adults; transmittal of
 1369 records to state attorney.-

1370 (1) The department shall, upon receipt of a report
 1371 alleging abuse, neglect, or exploitation of a vulnerable adult,
 1372 begin within 24 hours a protective investigation of the facts
 1373 alleged therein. If a caregiver refuses to allow the department
 1374 to begin a protective investigation or interferes with the
 1375 conduct of such an investigation, the appropriate law
 1376 enforcement agency shall be contacted for assistance. If, during
 1377 the course of the investigation, the department has reason to
 1378 believe that the abuse, neglect, or exploitation is perpetrated
 1379 by a second party, the appropriate law enforcement agency and
 1380 state attorney shall be orally notified. The department and the
 1381 law enforcement agency shall cooperate to allow the criminal
 1382 investigation to proceed concurrently with, and not be hindered
 1383 by, the protective investigation. The department shall make a

1384 preliminary written report to the law enforcement agencies
1385 within 5 working days after the oral report. The department
1386 shall, within 24 hours after receipt of the report, notify the
1387 appropriate Florida local advocacy council, or the state ~~long-~~
1388 ~~term care~~ ombudsman program ~~council~~, when appropriate, that an
1389 alleged abuse, neglect, or exploitation perpetrated by a second
1390 party has occurred. Notice to the Florida local advocacy council
1391 or the state ~~long-term care~~ ombudsman program ~~council~~ may be
1392 accomplished orally or in writing and shall include the name and
1393 location of the vulnerable adult alleged to have been abused,
1394 neglected, or exploited and the nature of the report.

1395 Section 32. Subsection (8) of section 415.1055, Florida
1396 Statutes, is amended to read:

1397 415.1055 Notification to administrative entities.—

1398 (8) At the conclusion of a protective investigation at a
1399 facility, the department shall notify ~~either~~ the Florida local
1400 advocacy council or the state ~~long-term care~~ ombudsman program
1401 ~~council~~ of the results of the investigation. This notification
1402 must be in writing.

1403 Section 33. Subsection (2) of section 415.106, Florida
1404 Statutes, is amended to read:

1405 415.106 Cooperation by the department and criminal justice
1406 and other agencies.—

1407 (2) To ensure coordination, communication, and cooperation
1408 with the investigation of abuse, neglect, or exploitation of
1409 vulnerable adults, the department shall develop and maintain

1410 interprogram agreements or operational procedures among
1411 appropriate departmental programs and the state ~~Long-Term-Care~~
1412 ombudsman program Council, the Florida Statewide Advocacy
1413 Council, and other agencies that provide services to vulnerable
1414 adults. These agreements or procedures must cover such subjects
1415 as the appropriate roles and responsibilities of the department
1416 in identifying and responding to reports of abuse, neglect, or
1417 exploitation of vulnerable adults; the provision of services;
1418 and related coordinated activities.

1419 Section 34. Paragraph (g) of subsection (3) of section
1420 415.107, Florida Statutes, is amended to read:

1421 415.107 Confidentiality of reports and records.—

1422 (3) Access to all records, excluding the name of the
1423 reporter which shall be released only as provided in subsection
1424 (6), shall be granted only to the following persons, officials,
1425 and agencies:

1426 (g) Any appropriate official of the Florida advocacy
1427 council or the state long-term-care ombudsman program council
1428 investigating a report of known or suspected abuse, neglect, or
1429 exploitation of a vulnerable adult.

1430 Section 35. Subsections (19) through (26) of section
1431 429.02, Florida Statutes, are renumbered as subsections (20)
1432 through (27), respectively, present subsection (20) is amended,
1433 and new subsections (19) and (24) are added to that section, to
1434 read:

1435 429.02 Definitions.—When used in this part, the term:

1436 (19) "Representative of the state ombudsman program" has
 1437 the same meaning as provided in s. 400.0060.

1438 ~~(21)-(20)~~ "Resident's representative or designee" means a
 1439 person other than the owner, or an agent or employee of the
 1440 facility, designated in writing by the resident, if legally
 1441 competent, to receive notice of changes in the contract executed
 1442 pursuant to s. 429.24; to receive notice of and to participate
 1443 in meetings between the resident and the facility owner,
 1444 administrator, or staff concerning the rights of the resident;
 1445 to assist the resident in contacting the state ombudsman program
 1446 ~~council~~ if the resident has a complaint against the facility; or
 1447 to bring legal action on behalf of the resident pursuant to s.
 1448 429.29.

1449 (24) "State ombudsman program" has the same meaning as
 1450 provided in s. 400.0060.

1451 Section 36. Paragraph (b) of subsection (3) of section
 1452 429.07, Florida Statutes, is amended to read:

1453 429.07 License required; fee.—

1454 (3) In addition to the requirements of s. 408.806, each
 1455 license granted by the agency must state the type of care for
 1456 which the license is granted. Licenses shall be issued for one
 1457 or more of the following categories of care: standard, extended
 1458 congregate care, limited nursing services, or limited mental
 1459 health.

1460 (b) An extended congregate care license shall be issued to
 1461 facilities providing, directly or through contract, services

1462 beyond those authorized in paragraph (a), including services
1463 performed by persons licensed under part I of chapter 464 and
1464 supportive services, as defined by rule, to persons who would
1465 otherwise be disqualified from continued residence in a facility
1466 licensed under this part.

1467 1. In order for extended congregate care services to be
1468 provided, the agency must first determine that all requirements
1469 established in law and rule are met and must specifically
1470 designate, on the facility's license, that such services may be
1471 provided and whether the designation applies to all or part of
1472 the facility. Such designation may be made at the time of
1473 initial licensure or relicensure, or upon request in writing by
1474 a licensee under this part and part II of chapter 408. The
1475 notification of approval or the denial of the request shall be
1476 made in accordance with part II of chapter 408. Existing
1477 facilities qualifying to provide extended congregate care
1478 services must have maintained a standard license and may not
1479 have been subject to administrative sanctions during the
1480 previous 2 years, or since initial licensure if the facility has
1481 been licensed for less than 2 years, for any of the following
1482 reasons:

- 1483 a. A class I or class II violation;
- 1484 b. Three or more repeat or recurring class III violations
1485 of identical or similar resident care standards from which a
1486 pattern of noncompliance is found by the agency;

1487 c. Three or more class III violations that were not
 1488 corrected in accordance with the corrective action plan approved
 1489 by the agency;

1490 d. Violation of resident care standards which results in
 1491 requiring the facility to employ the services of a consultant
 1492 pharmacist or consultant dietitian;

1493 e. Denial, suspension, or revocation of a license for
 1494 another facility licensed under this part in which the applicant
 1495 for an extended congregate care license has at least 25 percent
 1496 ownership interest; or

1497 f. Imposition of a moratorium pursuant to this part or
 1498 part II of chapter 408 or initiation of injunctive proceedings.

1499 2. A facility that is licensed to provide extended
 1500 congregate care services shall maintain a written progress
 1501 report on each person who receives services which describes the
 1502 type, amount, duration, scope, and outcome of services that are
 1503 rendered and the general status of the resident's health. A
 1504 registered nurse, or appropriate designee, representing the
 1505 agency shall visit the facility at least quarterly to monitor
 1506 residents who are receiving extended congregate care services
 1507 and to determine whether ~~if~~ the facility is in compliance with
 1508 this part, part II of chapter 408, and relevant rules. One of
 1509 the visits may be in conjunction with the regular survey. The
 1510 monitoring visits may be provided through contractual
 1511 arrangements with appropriate community agencies. A registered
 1512 nurse shall serve as part of the team that inspects the

1513 facility. The agency may waive one of the required yearly
1514 monitoring visits for a facility that has been licensed for at
1515 least 24 months to provide extended congregate care services,
1516 if, during the inspection, the registered nurse determines that
1517 extended congregate care services are being provided
1518 appropriately, and if the facility has no class I or class II
1519 violations and no uncorrected class III violations. The agency
1520 must first consult with the state long-term care ombudsman
1521 program council for the area in which the facility is located to
1522 determine whether ~~if~~ any complaints have been made and
1523 substantiated about the quality of services or care. The agency
1524 may not waive one of the required yearly monitoring visits if
1525 complaints have been made and substantiated.

1526 3. A facility that is licensed to provide extended
1527 congregate care services must:

1528 a. Demonstrate the capability to meet unanticipated
1529 resident service needs.

1530 b. Offer a physical environment that promotes a homelike
1531 setting, provides for resident privacy, promotes resident
1532 independence, and allows sufficient congregate space as defined
1533 by rule.

1534 c. Have sufficient staff available, taking into account
1535 the physical plant and firesafety features of the building, to
1536 assist with the evacuation of residents in an emergency.

1537 d. Adopt and follow policies and procedures that maximize
1538 resident independence, dignity, choice, and decisionmaking to

1539 permit residents to age in place, so that moves due to changes
 1540 in functional status are minimized or avoided.

1541 e. Allow residents or, if applicable, a resident's
 1542 representative, designee, surrogate, guardian, or attorney in
 1543 fact to make a variety of personal choices, participate in
 1544 developing service plans, and share responsibility in
 1545 decisionmaking.

1546 f. Implement the concept of managed risk.

1547 g. Provide, directly or through contract, the services of
 1548 a person licensed under part I of chapter 464.

1549 h. In addition to the training mandated in s. 429.52,
 1550 provide specialized training as defined by rule for facility
 1551 staff.

1552 4. A facility that is licensed to provide extended
 1553 congregate care services is exempt from the criteria for
 1554 continued residency set forth in rules adopted under s. 429.41.
 1555 A licensed facility must adopt its own requirements within
 1556 guidelines for continued residency set forth by rule. However,
 1557 the facility may not serve residents who require 24-hour nursing
 1558 supervision. A licensed facility that provides extended
 1559 congregate care services must also provide each resident with a
 1560 written copy of facility policies governing admission and
 1561 retention.

1562 5. The primary purpose of extended congregate care
 1563 services is to allow residents, as they become more impaired,
 1564 the option of remaining in a familiar setting from which they

1565 would otherwise be disqualified for continued residency. A
 1566 facility licensed to provide extended congregate care services
 1567 may also admit an individual who exceeds the admission criteria
 1568 for a facility with a standard license, if the individual is
 1569 determined appropriate for admission to the extended congregate
 1570 care facility.

1571 6. Before the admission of an individual to a facility
 1572 licensed to provide extended congregate care services, the
 1573 individual must undergo a medical examination as provided in s.
 1574 429.26(4) and the facility must develop a preliminary service
 1575 plan for the individual.

1576 7. When a facility can no longer provide or arrange for
 1577 services in accordance with the resident's service plan and
 1578 needs and the facility's policy, the facility shall make
 1579 arrangements for relocating the person in accordance with s.
 1580 429.28(1)(k).

1581 8. Failure to provide extended congregate care services
 1582 may result in denial of extended congregate care license
 1583 renewal.

1584 Section 37. Subsection (9) of section 429.19, Florida
 1585 Statutes, is amended to read:

1586 429.19 Violations; imposition of administrative fines;
 1587 grounds.—

1588 (9) The agency shall develop and disseminate an annual
 1589 list of all facilities sanctioned or fined for violations of
 1590 state standards, the number and class of violations involved,

1591 the penalties imposed, and the current status of cases. The list
 1592 shall be disseminated, at no charge, to the Department of
 1593 Elderly Affairs, the Department of Health, the Department of
 1594 Children and Families, the Agency for Persons with Disabilities,
 1595 the area agencies on aging, the Florida Statewide Advocacy
 1596 Council, and the state ~~and local~~ ombudsman program ~~councils~~. The
 1597 Department of Children and Families shall disseminate the list
 1598 to service providers under contract to the department who are
 1599 responsible for referring persons to a facility for residency.
 1600 The agency may charge a fee commensurate with the cost of
 1601 printing and postage to other interested parties requesting a
 1602 copy of this list. This information may be provided
 1603 electronically or through the agency's Internet site.

1604 Section 38. Subsection (8) of section 429.26, Florida
 1605 Statutes, is amended to read:

1606 429.26 Appropriateness of placements; examinations of
 1607 residents.—

1608 (8) The Department of Children and Families may require an
 1609 examination for supplemental security income and optional state
 1610 supplementation recipients residing in facilities at any time
 1611 and shall provide the examination whenever a resident's
 1612 condition requires it. Any facility administrator; personnel of
 1613 the agency, the department, or the Department of Children and
 1614 Families; or representative of the state ombudsman program ~~long-~~
 1615 ~~term care ombudsman council member~~ who believes a resident needs
 1616 to be evaluated shall notify the resident's case manager, who

1617 shall take appropriate action. A report of the examination
 1618 findings shall be provided to the resident's case manager and
 1619 the facility administrator to help the administrator meet his or
 1620 her responsibilities under subsection (1).

1621 Section 39. Subsection (2) and paragraph (b) of subsection
 1622 (3) of section 429.28, Florida Statutes, are amended to read:

1623 429.28 Resident bill of rights.-

1624 (2) The administrator of a facility shall ensure that a
 1625 written notice of the rights, obligations, and prohibitions set
 1626 forth in this part is posted in a prominent place in each
 1627 facility and read or explained to residents who cannot read.
 1628 This notice must ~~shall~~ include the statewide toll-free telephone
 1629 number and e-mail address of the state ombudsman program and the
 1630 telephone number of the name, address, and telephone numbers of
 1631 ~~the local ombudsman council~~ and central abuse hotline and, when
 1632 applicable, the Advocacy Center for Persons with Disabilities,
 1633 Inc., and the Florida local advocacy council, where complaints
 1634 may be lodged. The facility must ensure a resident's access to a
 1635 telephone to call the state local ~~ombudsman~~ program council, the
 1636 central abuse hotline, the Advocacy Center for Persons with
 1637 Disabilities, Inc., and the Florida local advocacy council.

1638 (3)

1639 (b) In order to determine whether the facility is
 1640 adequately protecting residents' rights, the biennial survey
 1641 shall include private informal conversations with a sample of
 1642 residents and consultation with the state ~~ombudsman~~ program

1643 ~~council~~ in the planning and service area in which the facility
 1644 is located to discuss residents' experiences within the
 1645 facility.

1646 Section 40. Section 429.34, Florida Statutes, is amended
 1647 to read:

1648 429.34 Right of entry and inspection.—In addition to the
 1649 requirements of s. 408.811, a ~~any~~ duly designated officer or
 1650 employee of the department, the Department of Children and
 1651 Families, the Medicaid Fraud Control Unit of the Office of the
 1652 Attorney General, the state or local fire marshal, or a
 1653 representative ~~member~~ of the state ~~or local long-term care~~
 1654 ombudsman program ~~may council shall have the right to~~ enter
 1655 unannounced upon and into the premises of any facility licensed
 1656 under ~~pursuant to~~ this part in order to determine the state of
 1657 compliance with ~~the provisions of~~ this part, part II of chapter
 1658 408, and applicable rules. Data collected by the state ~~or local~~
 1659 ~~long-term care~~ ombudsman program ~~councils~~ or the state or local
 1660 advocacy councils may be used by the agency in investigations
 1661 involving violations of regulatory standards.

1662 Section 41. Subsection (2) of section 429.35, Florida
 1663 Statutes, is amended to read:

1664 429.35 Maintenance of records; reports.—

1665 (2) Within 60 days after the date of the biennial
 1666 inspection visit required under s. 408.811 or within 30 days
 1667 after the date of any interim visit, the agency shall forward
 1668 the results of the inspection to the state ~~local~~ ombudsman

1669 ~~program council in whose planning and service area, as defined~~
1670 ~~in part II of chapter 400, the facility is located;~~ to at least
1671 one public library or, in the absence of a public library, the
1672 county seat in the county in which the inspected assisted living
1673 facility is located; and, when appropriate, to the district
1674 Adult Services and Mental Health Program Offices.

1675 Section 42. Subsection (6) of section 429.67, Florida
1676 Statutes, is amended to read:

1677 429.67 Licensure.—

1678 (6) In addition to the requirements of s. 408.811, access
1679 to a licensed adult family-care home must be provided at
1680 reasonable times for the appropriate officials of the
1681 department, the Department of Health, the Department of Children
1682 and Families, the agency, and the State Fire Marshal, who are
1683 responsible for the development and maintenance of fire, health,
1684 sanitary, and safety standards, to inspect the facility to
1685 assure compliance with these standards. In addition, access to a
1686 licensed adult family-care home must be provided at reasonable
1687 times to representatives of the state ~~for the local long-term~~
1688 ~~care~~ ombudsman program council.

1689 Section 43. Subsection (2) of section 429.85, Florida
1690 Statutes, is amended to read:

1691 429.85 Residents' bill of rights.—

1692 (2) The provider shall ensure that residents and their
1693 legal representatives are made aware of the rights, obligations,
1694 and prohibitions set forth in this part. Residents must also be

1695 given the statewide toll-free telephone number and e-mail
1696 address of the state ombudsman program and the telephone number
1697 of names, addresses, and telephone numbers of the local
1698 ~~ombudsman council~~ and the central abuse hotline where they may
1699 lodge complaints.

1700 Section 44. This act shall take effect July 1, 2015.