

By the Committee on Elder Affairs & Long-Term Care and
Representatives Argenziano, Fiorentino, Littlefield, Russell,
Levine, Waters, Rubio, Kosmas, Reddick and Bitner

1 A bill to be entitled
2 An act relating to the long-term care ombudsman
3 program; amending s. 400.0061, F.S.; revising
4 legislative findings; amending s. 400.0065,
5 F.S.; providing duty of the State Long-Term
6 Care Ombudsman to prepare and submit annual
7 budget requests; providing duty to enter into a
8 cooperative agreement relating to investigation
9 of Medicaid fraud; providing for consultation
10 on rulemaking by the Department of Elderly
11 Affairs relating to conflict of interest;
12 deleting provisions relating to governmental
13 interference with duties of the Office of State
14 Long-Term Care Ombudsman; creating s. 400.0066,
15 F.S.; providing relationship between the office
16 and departments of state government; providing
17 responsibility of the Department of Elderly
18 Affairs for administrative support and costs
19 for the program; amending ss. 400.0067 and
20 400.0069, F.S.; revising provisions relating to
21 appointment and terms of service of members of
22 the state and local ombudsman councils;
23 amending s. 400.0077, F.S.; providing authority
24 of the office to adopt rules relating to
25 disclosure of files maintained by the program;
26 deleting such rulemaking authority of the
27 department; amending ss. 20.41, 395.3025,
28 400.0063, 400.0071, 400.0073, 400.0075,
29 400.0079, 400.0081, 400.0083, 400.0087,
30 400.0089, 400.0091, 400.021, 400.022, 400.0255,
31 400.19, 400.191, 400.23, 400.419, 400.428,

1 400.434, 400.435, 400.4415, 400.619, and
2 400.628, F.S.; clarifying and conforming
3 references and cross references; providing
4 appropriations; providing an effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Subsection (4) of section 20.41, Florida
9 Statutes, is amended to read:

10 20.41 Department of Elderly Affairs.--There is created
11 a Department of Elderly Affairs.

12 (4) The department shall administratively house the
13 State Long-Term Care Ombudsman Council, created by s.
14 400.0067, and the local ~~district~~ long-term care ombudsman
15 councils, created by s. 400.0069 and shall, as required by s.
16 712 of the federal Older Americans Act of 1965, ensure that
17 both the state and local ~~district~~ long-term care ombudsman
18 councils operate in compliance with the Older Americans Act.
19 The councils in performance of their duties shall not be
20 subject to control, supervision, or direction by the
21 department.

22 Section 2. Paragraph (h) of subsection (4) of section
23 395.3025, Florida Statutes, is amended to read:

24 395.3025 Patient and personnel records; copies;
25 examination.--

26 (4) Patient records are confidential and must not be
27 disclosed without the consent of the person to whom they
28 pertain, but appropriate disclosure may be made without such
29 consent to:

30 (h) The State Long-Term Care Ombudsman Council and the
31 local ~~district~~ long-term care ombudsman councils, with respect

1 to the records of a patient who has been admitted from a
2 nursing home or long-term care facility, when the councils are
3 conducting an investigation involving the patient as
4 authorized under part II of chapter 400, upon presentation of
5 identification as a council member by the person making the
6 request. Disclosure under this paragraph shall only be made
7 after a competent patient or the patient's representative has
8 been advised that disclosure may be made and the patient has
9 not objected.

10 Section 3. Subsection (1) of section 400.0061, Florida
11 Statutes, is amended to read:

12 400.0061 Legislative findings and intent; long-term
13 care facilities.--

14 (1) The Legislature finds that ~~conditions in long-term~~
15 ~~care facilities in this state are such that the rights,~~
16 ~~health, safety, and welfare of residents are not ensured by~~
17 ~~rules of the Department of Elderly Affairs or the Agency for~~
18 ~~Health Care Administration, or by the good faith of owners or~~
19 ~~operators of long-term care facilities. Furthermore, there is~~
20 a need for a formal mechanism whereby a long-term care
21 facility resident or his or her representative may make a
22 complaint against the facility or its employees, or against
23 other persons who are in a position to restrict, interfere
24 with, or threaten the rights, health, safety, or welfare of
25 the resident. The Legislature finds that concerned citizens
26 are more effective advocates ~~of the rights of others than~~
27 ~~governmental agencies~~. The Legislature further finds that in
28 order to be eligible to receive an allotment of funds
29 authorized and appropriated under the federal Older Americans
30 Act, the state must establish and operate an Office of State
31 Long-Term Care Ombudsman, to be headed by the State Long-Term

1 Care Ombudsman, and carry out a long-term care ombudsman
2 program.

3 Section 4. Paragraph (b) of subsection (3) of section
4 400.0063, Florida Statutes, is amended to read:

5 400.0063 Establishment of Office of State Long-Term
6 Care Ombudsman; designation of ombudsman and legal advocate.--

7 (3)

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

10 1. Assisting the ombudsman in carrying out the duties
11 of the office with respect to the abuse, neglect, or violation
12 of rights of residents of long-term care facilities.

13 2. Assisting the state and local ~~district~~ ombudsman
14 councils in carrying out their responsibilities under this
15 part.

16 3. Initiating and prosecuting legal and equitable
17 actions to enforce the rights of long-term care facility
18 residents as defined in this chapter.

19 4. Serving as legal counsel to the state and local
20 ~~district~~ ombudsman councils, or individual members thereof,
21 against whom any suit or other legal action is initiated in
22 connection with the performance of the official duties of the
23 councils or an individual member.

24 Section 5. Paragraph (f) of subsection (1) and
25 subsections (2) and (3) of section 400.0065, Florida Statutes,
26 are amended to read:

27 400.0065 State Long-Term Care Ombudsman; duties and
28 responsibilities; conflict of interest.--

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

31

1 (f) Provide administrative and technical assistance to
2 state and local ~~district~~ ombudsman councils.

3 (2) The State Long-Term Care Ombudsman shall have the
4 duty and authority to:

5 (a) Assist and support the efforts of the State
6 Long-Term Care Ombudsman Council in the establishment and
7 coordination of local ~~district~~ ombudsman councils throughout
8 the state.

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

11 (c) Within the limits of federal and state funding
12 authorized and appropriated, employ such personnel, including
13 staff for local ~~district~~ ombudsman councils, as are necessary
14 to perform adequately the functions of the office and provide
15 or contract for legal services to assist the state and local
16 ~~district~~ ombudsman councils in the performance of their
17 duties. Staff positions for each local ~~district~~ ombudsman
18 council may be established as career service positions, and
19 shall be filled by the ombudsman after ~~in~~ consultation with
20 the respective local ~~district~~ ombudsman council.

21 (d) Contract for services necessary to carry out the
22 activities of the office.

23 (e) Apply for, receive, and accept grants, gifts, or
24 other payments, including, but not limited to, real property,
25 personal property, and services from a governmental entity or
26 other public or private entity or person, and make
27 arrangements for the use of such grants, gifts, or payments.

28 (f) Annually prepare a budget request that shall be
29 submitted to the Governor by the department for transmittal to
30 the Legislature.

31

1 ~~(f) Perform the duties specified in state and federal~~
2 ~~law without interference by officials of the Department of~~
3 ~~Elderly Affairs, the Agency for Health Care Administration, or~~
4 ~~the Department of Children and Family Services. The ombudsman~~
5 ~~shall report to the Governor, the President of the Senate, and~~
6 ~~the Speaker of the House of Representatives whenever~~
7 ~~organizational or departmental policy issues threaten the~~
8 ~~ability of the Office of State Long-Term Care Ombudsman to~~
9 ~~carry out its duties under state or federal law.~~

10 (g) Coordinate, to the greatest extent possible, state
11 and local district ombudsman services with the protection and
12 advocacy systems for individuals with developmental
13 disabilities and mental illnesses and with legal assistance
14 programs for the poor through adoption of memoranda of
15 understanding and other means.

16 (h) Enter into a cooperative agreement with the
17 statewide and district human rights advocacy committees for
18 the purpose of coordinating advocacy services provided to
19 residents of long-term care facilities.

20 (i) Enter into a cooperative agreement with the office
21 of state government responsible for investigating Medicaid
22 fraud.

23 (3) The State Long-Term Care Ombudsman shall not:

24 (a) Have a direct involvement in the licensing or
25 certification of, or an ownership or investment interest in, a
26 long-term care facility or a provider of a long-term care
27 service.

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

30 (c) Receive, or have a right to receive, directly or
31 indirectly, remuneration, in cash or in kind, under a

1 compensation agreement with the owner or operator of a
2 long-term care facility.

3

4 The Department of Elderly Affairs, in consultation with
5 ombudsman, shall adopt rules to establish procedures to
6 identify and eliminate conflicts of interest as described in
7 this subsection.

8 Section 6. Section 400.0066, Florida Statutes, is
9 created to read:

10 400.0066 Office of State Long-Term Care Ombudsman and
11 departments of state government.--

12 (1) The State Long-Term Care Ombudsman shall perform
13 the duties specified in state and federal law.

14 (2) Officials from the Department of Elderly Affairs,
15 the Agency for Health Care Administration, and the Department
16 of Children and Family Services shall not interfere in the
17 performance of official duties of any ombudsman staff or
18 volunteers.

19 (3) The Department of Elderly Affairs shall provide
20 administrative support to the long-term care ombudsman
21 program, including:

22 (a) Office space for state and local ombudsman
23 councils.

24 (b) Assistance with personnel, accounting, and
25 management information systems.

26 (4) The Department of Elderly Affairs shall meet the
27 costs associated with these functions from funds appropriated
28 to the department.

29 (5) The Department of Elderly Affairs shall include
30 the costs associated with support of the long-term care
31 ombudsman program in developing its budget requests for

1 consideration by the Governor and submittal to the
2 Legislature.

3 (6) The Department of Elderly Affairs may divert from
4 the federal ombudsman appropriation an amount equal to the
5 department's administrative cost ratio, not to exceed 10
6 percent of the federal appropriation, for the ombudsman.

7 Section 7. Section 400.0067, Florida Statutes, is
8 amended to read:

9 400.0067 Establishment of State Long-Term Care
10 Ombudsman Council; duties; membership.--

11 (1) There is created within the Office of State
12 Long-Term Care Ombudsman, the State Long-Term Care Ombudsman
13 Council.

14 (2) The State Long-Term Care Ombudsman Council shall:

15 (a) Assist the ombudsman in reaching a consensus among
16 local ~~district~~ ombudsman councils on issues of statewide
17 concern.

18 (b) Serve as an appellate body in receiving from the
19 local ~~district~~ ombudsman councils complaints not resolved at
20 the local ~~district~~ level. The state ombudsman council may
21 enter any long-term care facility involved in an appeal,
22 pursuant to the conditions specified in s. 400.0069(3).

23 (c) Assist the ombudsman to discover, investigate, and
24 determine the existence of abuse or neglect in any long-term
25 care facility and to develop procedures, in consultation with
26 the Department of Elderly Affairs, relating to such
27 investigations. Investigations may consist, in part, of one or
28 more onsite administrative inspections.

29 (d) Assist the ombudsman in eliciting, receiving,
30 responding to, and resolving complaints made by or on behalf
31 of long-term care facility residents and in developing

1 procedures, in consultation with the Department of Elderly
2 Affairs, relating to the receipt and resolution of such
3 complaints.

4 (e) Elicit and coordinate state, local, and voluntary
5 organizational assistance for the purpose of improving the
6 care received by residents of a long-term care facility.

7 (f) Be authorized to call upon appropriate agencies of
8 state government for such professional assistance as may be
9 needed in the discharge of its duties, including assistance
10 from the adult protective services program of the Department
11 of Children and Family Services.

12 ~~(g) Enter into a cooperative agreement with the~~
13 ~~statewide and district human rights advocacy committees for~~
14 ~~the purpose of coordinating advocacy services provided to~~
15 ~~residents of long-term care facilities.~~

16 (g)(h) Prepare an annual report describing the
17 activities carried out by the ombudsman and the State
18 Long-Term Care Ombudsman Council in the year for which the
19 report is prepared. The State Long-Term Care Ombudsman
20 Council shall submit the report to the Commissioner of the
21 United States Administration on Aging, the Governor, the
22 President of the Senate, the Speaker of the House of
23 Representatives, the minority leaders of the House and Senate,
24 the chairpersons of appropriate House and Senate committees,
25 the Secretaries of Elderly Affairs and Children and Family
26 Services, and the Director of Health Care Administration. The
27 report shall be submitted at least 30 days before the
28 convening of the regular session of the Legislature and shall,
29 at a minimum:

30 1. Contain and analyze data collected concerning
31 complaints about and conditions in long-term care facilities.

1 2. Evaluate the problems experienced by residents of
2 long-term care facilities.

3 3. Contain recommendations for improving the quality
4 of life of the residents and for protecting the health,
5 safety, welfare, and rights of the residents.

6 4. Analyze the success of the ombudsman program during
7 the preceding year and identify the barriers that prevent the
8 optimal operation of the program. The report of the program's
9 successes shall also address the relationship between the
10 state long-term care ombudsman program, the Department of
11 Elderly Affairs, the Agency for Health Care Administration,
12 and the Department of Children and Family Services, and an
13 assessment of how successfully the state long-term care
14 ombudsman program has carried out its responsibilities under
15 the Older Americans Act.

16 5. Provide policy and regulatory and legislative
17 recommendations to solve identified problems; resolve
18 residents' complaints; improve the quality of care and life of
19 the residents; protect the health, safety, welfare, and rights
20 of the residents; and remove the barriers to the optimal
21 operation of the state long-term care ombudsman program.

22 6. Contain recommendations from the local district
23 ombudsman councils regarding program functions and activities.

24 7. Include a report on the activities of the legal
25 advocate and other legal advocates acting on behalf of the
26 local district and state councils.

27 (3)(a) The State Long-Term Care Ombudsman Council
28 shall be composed of: one active local council member
29 designated by each local council and three persons appointed
30 by the Governor. ~~a number of members equal to the number of~~
31 ~~district councils in the state plus three. Each district~~

1 ~~ombudsman council, including the ombudsman councils for~~
2 ~~subdistricts 3A and 3B, shall appoint one member and the~~
3 ~~Governor shall appoint three members to the State Long-Term~~
4 ~~Care Ombudsman Council. An individual designated by a~~
5 ~~district ombudsman council must have been a member of a~~
6 ~~district ombudsman council for at least 1 year, and shall~~
7 ~~continue to serve as an active member at the district level.~~
8 ~~The Governor's appointments shall be made from a list of not~~
9 ~~fewer than eight nominees, to be selected by the secretary in~~
10 ~~consultation with the State Long-Term Care Ombudsman Council~~
11 ~~and submitted to the Governor. If the appointments are not~~
12 ~~made within 30 days after the Governor receives the list of~~
13 ~~nominees, the secretary shall, in consultation with the State~~
14 ~~Long-Term Care Ombudsman Council, appoint three members from~~
15 ~~the list of nominees submitted to the Governor. At least one~~
16 ~~member appointed by the Governor must be over 60 years of age.~~

17 (b)1. The ombudsman, in consultation with the
18 secretary and the state ombudsman council, shall submit a list
19 of at least eight names to the Governor of persons not serving
20 on a local council.

21 2. The Governor shall appoint three members from the
22 list, at least one of whom must be over 60 years of age.

23 3. If the Governor's appointments are not made within
24 60 days after the ombudsman submits the list, the ombudsman,
25 in consultation with the state ombudsman council, shall
26 appoint three members, at least one of whom must be over 60
27 years of age.

28 (c)(b) All members shall be appointed to serve 3-year
29 terms. A member of the state ombudsman council may not serve
30 more than two consecutive terms. Any vacancy shall be filled
31 in the same manner as the original appointment. The position

1 of any member missing three consecutive regular meetings
2 without cause shall be declared vacant. The findings of the
3 ombudsman regarding cause shall be final and binding.

4 (d)~~(e)~~ The state ombudsman council shall elect a
5 chairperson for a term of 1 year from among the members who
6 have served for at least 1 year. The chairperson shall select
7 a vice chairperson from among the members. The vice
8 chairperson shall preside over the council in the absence of
9 the chairperson.

10 (e)~~(d)~~ The state ombudsman council shall meet upon the
11 call of the chairperson, at least quarterly or more frequently
12 as needed.

13 (f)~~(e)~~ Members shall receive no compensation but shall
14 be reimbursed for per diem and travel expenses as provided in
15 s. 112.061.

16 ~~(4) Members shall be appointed and serve 3-year terms~~
17 ~~as provided by this section.~~

18 (4)~~(5)~~ No officer, employee, or representative of the
19 Office of State Long-Term Care Ombudsman or of the State
20 Long-Term Care Ombudsman Council, nor any member of the
21 immediate family of such officer, employee, or representative,
22 may have a conflict of interest. ~~The Department of Elderly~~
23 ~~Affairs, in consultation with~~ The ombudsman, shall adopt rules
24 to identify and remove conflicts of interest.

25 (5)~~(6)~~ The Department of Elderly Affairs shall make a
26 separate and distinct request for an appropriation for all
27 expenses for the state and local ~~district~~ ombudsman councils.

28 Section 8. Section 400.0069, Florida Statutes, is
29 amended to read:

30 400.0069 Local ~~District~~ long-term care ombudsman
31 councils; duties; membership.--

1 (1) There shall be at least one long-term care
2 ombudsman council in each of the planning and service areas of
3 the Department of Elderly Affairs, which shall function under
4 the direction of the ombudsman and the state ombudsman
5 council.

6 (2) The duties of the local ~~district~~ ombudsman council
7 are:

8 (a) To serve as a third-party mechanism for protecting
9 the health, safety, welfare, and civil and human rights of
10 residents of a long-term care facility.

11 (b) To discover, investigate, and determine the
12 existence of abuse or neglect in any long-term care facility
13 and to use the procedures provided for in ss. 415.101-415.113
14 when applicable. Investigations may consist, in part, of one
15 or more onsite administrative inspections.

16 (c) To elicit, receive, investigate, respond to, and
17 resolve complaints made by, or on behalf of, long-term care
18 facility residents.

19 (d) To review and, if necessary, to comment on, for
20 their effect on the rights of long-term care facility
21 residents, all existing or proposed rules, regulations, and
22 other governmental policies relating to long-term care
23 facilities.

24 (e) To review personal property and money accounts of
25 Medicaid residents pursuant to an investigation to obtain
26 information regarding a specific complaint or problem.

27 (f) To represent the interests of residents before
28 government agencies and to seek administrative, legal, and
29 other remedies to protect the health, safety, welfare, and
30 rights of the residents.

31

1 (g) To carry out other activities that the ombudsman
2 determines to be appropriate.

3 (3) In order to carry out the duties specified in
4 subsection (2), the local ~~district~~ ombudsman council is
5 authorized, pursuant to ss. 400.19(1) and 400.434, to enter
6 any long-term care facility without notice or first obtaining
7 a warrant, subject to the provisions of s. 400.0073(5).

8 (4) Each local ~~district~~ ombudsman council shall be
9 composed of no less than 15 members and no more than 30
10 members from the local planning and service area ~~district~~, to
11 include the following: one medical or osteopathic physician
12 whose practice includes or has included a substantial number
13 of geriatric patients and who may have limited practice in a
14 long-term care facility; one registered nurse who has
15 geriatric experience, if possible; one licensed pharmacist;
16 one registered dietitian; at least six nursing home residents
17 or representative consumer advocates for nursing home
18 residents; at least three residents of assisted living
19 facilities or adult family-care homes or three representative
20 consumer advocates for long-term care facility residents; one
21 attorney; and one professional social worker. In no case
22 shall the medical director of a long-term care facility or an
23 employee of the Agency for Health Care Administration, the
24 Department of Children and Family Services, or the Department
25 of Elderly Affairs serve as a member or as an ex officio
26 member of a council. Each member of the council shall certify
27 that neither the council member nor any member of the council
28 member's immediate family has any conflict of interest
29 pursuant to subsection (10). Local ~~District~~ ombudsman
30 councils are encouraged to recruit council members who are 60
31 years of age or older.

1 (5) All members shall be appointed to serve 3-year
2 terms. Upon expiration of a term and in case of any other
3 vacancy, the council shall select ~~appoint~~ a replacement by
4 majority vote ~~of the council, subject to the approval of the~~
5 ~~Governor.~~ The ombudsman shall review the selection of the
6 council and recommend approval or disapproval to the Governor.
7 If no action is taken by the Governor to approve or disapprove
8 the replacement of a member within 30 days after the ombudsman
9 ~~council~~ has notified the Governor of his or her
10 recommendation, ~~the appointment, the appointment of the~~
11 replacement shall be considered disapproved and the process
12 for selection of a replacement shall be repeated ~~approved.~~ ~~The~~
13 ~~term of any member missing three consecutive regular meetings~~
14 ~~without cause shall be declared vacant.~~

15 (6) The local ~~district~~ ombudsman council shall elect a
16 chair for a term of 1 year from members who have served at
17 least 1 year. The chair shall select a vice chair from among
18 the members of the council. The vice chair shall preside over
19 the council in the absence of the chair.

20 (7) The local ~~district~~ ombudsman council shall meet
21 upon the call of the chair or the ombudsman, at least once a
22 month or more frequently as needed to handle emergency
23 situations.

24 (8) A member of a local ~~district~~ ombudsman council
25 shall receive no compensation but shall be reimbursed for
26 travel expenses both within and outside the county of
27 residence in accordance with the provisions of s. 112.061.

28 (9) The local ~~district~~ ombudsman councils are
29 authorized to call upon appropriate agencies of state
30 government for such professional assistance as may be needed
31 in the discharge of their duties. All state agencies shall

1 cooperate with the local ~~district~~ ombudsman councils in
2 providing requested information and agency representatives at
3 council meetings. ~~The Department of Children and Family~~
4 ~~Services shall continue to provide space and in-kind~~
5 ~~administrative support for each district ombudsman council~~
6 ~~staff within available resources until the Legislature~~
7 ~~appropriates funds for office space and administrative~~
8 ~~support.~~

9 (10) No officer, employee, or representative of a
10 local ~~district~~ long-term care ombudsman council, nor any
11 member of the immediate family of such officer, employee, or
12 representative, may have a conflict of interest. ~~The~~
13 ~~Department of Elderly Affairs, in consultation with The~~
14 ~~ombudsman,~~ shall adopt rules to identify and remove conflicts
15 of interest.

16 Section 9. Section 400.0071, Florida Statutes, is
17 amended to read:

18 400.0071 Complaint procedures.--

19 (1) The state ombudsman council shall establish state
20 and local ~~district~~ procedures for receiving complaints against
21 a nursing home or long-term care facility or its employee.

22 (2) These procedures shall be posted in full view in
23 every nursing home or long-term care facility. Every resident
24 or representative of a resident shall receive, upon admission
25 to a nursing home or long-term care facility, a printed copy
26 of the procedures of the state and the local ~~district~~
27 ombudsman councils.

28 Section 10. Subsections (1), (2), (3), and (4) of
29 section 400.0073, Florida Statutes, are amended to read:

30 400.0073 State and local ~~district~~ ombudsman council
31 investigations.--

1 (1) A local ~~district~~ ombudsman council shall
2 investigate any complaint of a resident or representative of a
3 resident based on an action by an administrator or employee of
4 a nursing home or long-term care facility which might be:
5 (a) Contrary to law.
6 (b) Unreasonable, unfair, oppressive, or unnecessarily
7 discriminatory, even though in accordance with law.
8 (c) Based on a mistake of fact.
9 (d) Based on improper or irrelevant grounds.
10 (e) Unaccompanied by an adequate statement of reasons.
11 (f) Performed in an inefficient manner.
12 (g) Otherwise erroneous.
13 (2) In an investigation, both the state and local
14 ~~district~~ ombudsman councils have the authority to hold
15 hearings.
16 (3) Subsequent to an appeal from a local ~~district~~
17 ombudsman council, the state ombudsman council may investigate
18 any nursing home or long-term care facility.
19 (4) In addition to any specific investigation made
20 pursuant to a complaint, the local ~~district~~ ombudsman council
21 shall conduct, at least annually, an investigation, which
22 shall consist, in part, of an onsite administrative
23 inspection, of each nursing home or long-term care facility
24 within its jurisdiction.
25 Section 11. Section 400.0075, Florida Statutes, is
26 amended to read:
27 400.0075 Complaint resolution procedures.--
28 (1) Any complaint, including any problem identified by
29 an ombudsman council as a result of an investigation, deemed
30 valid and requiring remedial action by the local ~~district~~
31 ombudsman council shall be identified and brought to the

1 attention of the long-term care facility administrator in
2 writing. Upon receipt of such document, the administrator, in
3 concurrence with the local ~~district~~ ombudsman council chair,
4 shall establish target dates for taking appropriate remedial
5 action. If, by the target date, the remedial action is not
6 completed or forthcoming, the local ~~district~~ ombudsman council
7 may:

8 (a) Extend the target date if the council has reason
9 to believe such action would facilitate the resolution of the
10 complaint.

11 (b) In accordance with s. 400.0077, publicize the
12 complaint, the recommendations of the council, and the
13 response of the long-term care facility.

14 (c) Refer the complaint to the state ombudsman
15 council.

16

17 If the health, safety, welfare, or rights of the resident are
18 in imminent danger, the local ~~district~~ long-term care
19 ombudsman council may seek immediate legal or administrative
20 remedies to protect the resident.

21 (2) Upon referral from the local ~~district~~ ombudsman
22 council, the state ombudsman council shall assume the
23 responsibility for the disposition of the complaint. If a
24 long-term care facility fails to take action on a complaint
25 found valid by the state ombudsman council, the state council
26 may:

27 (a) In accordance with s. 400.0077, publicize the
28 complaint, the recommendations of the council, and the
29 response of the long-term care facility.

30 (b) Recommend to the agency a series of facility
31 reviews pursuant to s. 400.19(4) to assure correction and

1 nonrecurrence of conditions that give rise to complaints
2 against a long-term care facility.

3 (c) Recommend to the agency changes in rules for
4 inspecting and licensing or certifying long-term care
5 facilities, and recommend to the Agency for Health Care
6 Administration changes in rules for licensing and regulating
7 long-term care facilities.

8 (d) Refer the complaint to the state attorney for
9 prosecution if there is reason to believe the long-term care
10 facility or its employee is guilty of a criminal act.

11 (e) Recommend to the Agency for Health Care
12 Administration that the long-term care facility no longer
13 receive payments under the State Medical Assistance Program
14 (Medicaid).

15 (f) Recommend that the agency initiate procedures for
16 revocation of license in accordance with chapter 120.

17 (g) Seek legal, administrative, or other remedies to
18 protect the health, safety, welfare, or rights of the
19 resident.

20
21 If the health, safety, welfare, or rights of the resident are
22 in imminent danger, the State Long-Term Care Ombudsman Council
23 shall seek immediate legal or administrative remedies to
24 protect the resident.

25 (3) The state ombudsman council shall provide, as part
26 of its annual report required pursuant to s.
27 400.0067(2)(g)~~(h)~~, information relating to the disposition of
28 all complaints to the Department of Elderly Affairs.

29 Section 12. Paragraph (a) of subsection (1) and
30 subsections (4) and (5) of section 400.0077, Florida Statutes,
31 are amended to read:

1 400.0077 Confidentiality.--

2 (1) The following are confidential and exempt from the
3 provisions of s. 119.07(1):

4 (a) Resident records held by the ombudsman or by the
5 state or a local ~~district~~ ombudsman council.

6 (4) Members of any state or local ~~district~~ ombudsman
7 council shall not be required to testify in any court with
8 respect to matters held to be confidential under s. 400.414
9 except as may be necessary to enforce the provisions of this
10 act.

11 (5) Subject to the provisions of this section, the
12 Office of State Long-Term Care Ombudsman ~~Department of Elderly~~
13 ~~Affairs, in consultation with the ombudsman and the State~~
14 ~~Long-Term Care Ombudsman Council,~~ shall adopt rules for the
15 disclosure by the ombudsman or local ~~district~~ ombudsman
16 councils of files maintained by the program.

17 Section 13. Subsection (2) of section 400.0079,
18 Florida Statutes, is amended to read:

19 400.0079 Immunity.--

20 (2) The ombudsman or any person acting on behalf of
21 the Office of State Long-Term Care Ombudsman or the state or a
22 local ~~district~~ long-term care ombudsman council shall be
23 immune from any liability, civil or criminal, that otherwise
24 might be incurred or imposed, during the good faith
25 performance of official duties.

26 Section 14. Subsections (1) and (2) of section
27 400.0081, Florida Statutes, are amended to read:

28 400.0081 Access.--

29 (1) The Office of State Long-Term Care Ombudsman, the
30 State Long-Term Care Ombudsman Council, and the local ~~district~~

31

1 long-term care ombudsman councils, or their representatives,
2 shall have access to:

3 (a) Long-term care facilities and residents.
4 (b) Medical and social records of a resident for
5 review, if:

6 1. The office has the permission of the resident or
7 the legal representative of the resident; or
8 2. The resident is unable to consent to the review and
9 has no legal representative.

10 (c) Medical and social records of the resident as
11 necessary to investigate a complaint, if:

12 1. A legal guardian of the resident refuses to give
13 permission.
14 2. The office has reasonable cause to believe that the
15 guardian is not acting in the best interests of the resident.
16 3. The representative obtains the approval of the
17 ombudsman.

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

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

24 (2) Notwithstanding paragraph (1)(b), if, pursuant to
25 a complaint investigation by the state ombudsman council or a
26 local district ~~ombudsman council~~, the legal representative of
27 the resident refuses to give permission for the release of the
28 resident's records, and if the Office of ~~the~~ State Long-Term
29 Care Ombudsman ~~Council~~ has reasonable cause to find that the
30 legal representative is not acting in the best interests of
31 the resident, the medical and social records of the resident

1 must be made available to the state or local ~~district~~ council
2 as is necessary for the members of the council to investigate
3 the complaint.

4 Section 15. Subsections (1) and (2) of section
5 400.0083, Florida Statutes, are amended to read:

6 400.0083 Interference; retaliation; penalties.--

7 (1) It shall be unlawful for any person, long-term
8 care facility, or other entity to willfully interfere with a
9 representative of the Office of ~~the~~ State Long-Term Care
10 Ombudsman, the State Long-Term Care Ombudsman Council, or a
11 local ~~district~~ long-term care ombudsman council in the
12 performance of official duties.

13 (2) It shall be unlawful for any person, long-term
14 care facility, or other entity to retaliate against any
15 resident, employee, or other person for filing a complaint
16 with, providing information to, or otherwise cooperating with
17 any representative of the Office of ~~the~~ State Long-Term Care
18 Ombudsman, the State Long-Term Care Ombudsman Council, or a
19 local ~~district~~ long-term care ombudsman council.

20 Section 16. Section 400.0087, Florida Statutes, is
21 amended to read:

22 400.0087 Agency oversight.--

23 (1) The Department of Elderly Affairs shall monitor
24 the local ~~district~~ ombudsman councils responsible for carrying
25 out the duties delegated by s. 400.0069 and federal law. The
26 department, in consultation with the ombudsman and the State
27 Long-Term Care Ombudsman Council, shall adopt rules to
28 establish the policies and procedures for the monitoring of
29 local ~~district~~ ombudsman councils.

30 (2) The department is responsible for ensuring that
31 the Office of State Long-Term Care Ombudsman prepares its

1 annual report; provides information to public and private
2 agencies, legislators, and others; provides appropriate
3 training to representatives of the office or of the state or
4 local ~~district~~ long-term care ombudsman councils; and
5 coordinates ombudsman services with the Advocacy Center for
6 Persons with Disabilities and with providers of legal services
7 to residents of long-term care facilities in compliance with
8 state and federal laws.

9 (3) The Department of Elderly Affairs is the
10 designated state unit on aging for purposes of complying with
11 the federal Older Americans Act. The Department of Elderly
12 Affairs shall ensure that the ombudsman program has the
13 objectivity and independence required to qualify it for
14 funding under the federal Older Americans Act, and shall carry
15 out the long-term care ombudsman program through the Office of
16 ~~the State Long-Term Care Ombudsman Council~~. The Department of
17 Elderly Affairs shall also:

18 (a) Receive and disburse state and federal funds for
19 purposes that the state ombudsman council has formulated in
20 accordance with the Older Americans Act.

21 (b) Act as liaison between the federal program
22 representatives, the staffs of the state and local ~~district~~
23 ombudsman councils, and members of the state and local
24 ~~district~~ ombudsman councils.

25 Section 17. Section 400.0089, Florida Statutes, is
26 amended to read:

27 400.0089 Agency reports.--The State Long-Term Care
28 Ombudsman Council, shall, in cooperation with the Department
29 of Elderly Affairs, maintain a statewide uniform reporting
30 system to collect and analyze data relating to complaints and
31 conditions in long-term care facilities and to residents, for

1 the purpose of identifying and resolving significant problems.
2 The council shall submit such data as part of its annual
3 report required pursuant to s. 400.0067(2)(g)~~(h)~~ to the Agency
4 for Health Care Administration, the Department of Children and
5 Family Services, the Statewide Human Rights Advocacy
6 Committee, the Advocacy Center for Persons with Disabilities,
7 the Commissioner for the United States Administration on
8 Aging, the National Ombudsman Resource Center, and any other
9 state or federal entities that the ombudsman determines
10 appropriate.

11 Section 18. Section 400.0091, Florida Statutes, is
12 amended to read:

13 400.0091 Training.--The ombudsman shall provide
14 appropriate training to all employees of the Office of State
15 Long-Term Care Ombudsman and to the state and local ~~district~~
16 long-term care ombudsman councils, including all unpaid
17 volunteers. The ombudsman shall implement the training
18 program no later than June 1, 1994. No employee, officer, or
19 representative of the office or of the state or local ~~district~~
20 long-term care ombudsman councils, other than the ombudsman,
21 may carry out any authorized ombudsman duty or responsibility
22 unless the person has received the training required by this
23 section and has been approved by the ombudsman as qualified to
24 carry out ombudsman activities on behalf of the office or the
25 state or local ~~district~~ long-term care ombudsman councils.

26 Section 19. Present subsections (8), (9), and (10) of
27 section 400.021, Florida Statutes, are renumbered as
28 subsections (7), (8), and (9), respectively, and present
29 subsection (7) is renumbered as subsection (10) and amended to
30 read:

31

1 400.021 Definitions.--When used in this part, unless
2 the context otherwise requires, the term:

3 ~~(10)(7)~~ "Local District ombudsman council" means a
4 local district long-term care ombudsman council established
5 pursuant to s. 400.0069, located within the Older Americans
6 Act planning and service areas.

7 Section 20. Paragraph (c) of subsection (1) and
8 subsections (2) and (3) of section 400.022, Florida Statutes,
9 are amended to read:

10 400.022 Residents' rights.--

11 (1) All licensees of nursing home facilities shall
12 adopt and make public a statement of the rights and
13 responsibilities of the residents of such facilities and shall
14 treat such residents in accordance with the provisions of that
15 statement. The statement shall assure each resident the
16 following:

17 (c) Any entity or individual that provides health,
18 social, legal, or other services to a resident has the right
19 to have reasonable access to the resident. The resident has
20 the right to deny or withdraw consent to access at any time by
21 any entity or individual. Notwithstanding the visiting policy
22 of the facility, the following individuals must be permitted
23 immediate access to the resident:

24 1. Any representative of the federal or state
25 government, including, but not limited to, representatives of
26 the Department of Children and Family Services, the Department
27 of Health, the Agency for Health Care Administration, the
28 Office of the Attorney General, and the Department of Elderly
29 Affairs; any law enforcement officer; members of the state or
30 local district ombudsman council; and the resident's
31 individual physician.

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

3
4 The facility must allow representatives of the State Long-Term
5 Care Ombudsman Council to examine a resident's clinical
6 records with the permission of the resident or the resident's
7 legal representative and consistent with state law.

8 (2) The licensee for each nursing home shall orally
9 inform the resident of the resident's rights and provide a
10 copy of the statement required by subsection (1) to each
11 resident or the resident's legal representative at or before
12 the resident's admission to a facility. The licensee shall
13 provide a copy of the resident's rights to each staff member
14 of the facility. Each such licensee shall prepare a written
15 plan and provide appropriate staff training to implement the
16 provisions of this section. The written statement of rights
17 must include a statement that a resident may file a complaint
18 with the agency or local ~~district~~ ombudsman council. The
19 statement must be in boldfaced type and shall include the
20 name, address, and telephone numbers of the local ~~district~~
21 ombudsman council and adult abuse registry where complaints
22 may be lodged.

23 (3) Any violation of the resident's rights set forth
24 in this section shall constitute grounds for action by the
25 agency under the provisions of s. 400.102. In order to
26 determine whether the licensee is adequately protecting
27 residents' rights, the annual inspection of the facility shall
28 include private informal conversations with a sample of
29 residents to discuss residents' experiences within the
30 facility with respect to rights specified in this section and
31 general compliance with standards, and consultation with the

1 ombudsman council in the local ~~district~~ in which the nursing
2 home is located.

3 Section 21. Subsections (8), (9), (11), (12), (13),
4 and (14) of section 400.0255, Florida Statutes, are amended to
5 read:

6 400.0255 Resident transfer or discharge; requirements
7 and procedures; hearings.--

8 (8) The notice required by subsection (7) must be in
9 writing and must contain all information required by state and
10 federal law, rules, or regulations applicable to Medicaid or
11 Medicare cases. The agency shall develop a standard document
12 to be used by all facilities licensed under this part for
13 purposes of notifying residents of a discharge or transfer.
14 Such document must include a means for a resident to request
15 the local ~~district~~ long-term care ombudsman council to review
16 the notice and request information about or assistance with
17 initiating a fair hearing with the department's Office of
18 Appeals Hearings. In addition to any other pertinent
19 information included, the form shall specify the reason
20 allowed under federal or state law that the resident is being
21 discharged or transferred, with an explanation to support this
22 action. Further, the form shall state the effective date of
23 the discharge or transfer and the location to which the
24 resident is being discharged or transferred. The form shall
25 clearly describe the resident's appeal rights and the
26 procedures for filing an appeal, including the right to
27 request the local ~~district~~ ombudsman council to review the
28 notice of discharge or transfer. A copy of the notice must be
29 placed in the resident's clinical record, and a copy must be
30 transmitted to the resident's legal guardian or representative
31 and to the local ~~district~~ ombudsman council.

1 (9) A resident may request that the local ~~district~~
2 ombudsman council review any notice of discharge or transfer
3 given to the resident. When requested by a resident to review
4 a notice of discharge or transfer, the local ~~district~~
5 ombudsman council shall do so within 7 days after receipt of
6 the request. The nursing home administrator, or the
7 administrator's designee, must forward the request for review
8 contained in the notice to the local ~~district~~ ombudsman
9 council within 24 hours after such request is submitted.
10 Failure to forward the request within 24 hours after the
11 request is submitted shall toll the running of the 30-day
12 advance notice period until the request has been forwarded.

13 (11) Notwithstanding paragraph (10)(b), an emergency
14 discharge or transfer may be implemented as necessary pursuant
15 to state or federal law during the period of time after the
16 notice is given and before the time a hearing decision is
17 rendered. Notice of an emergency discharge or transfer to the
18 resident, the resident's legal guardian or representative, and
19 the local ~~district~~ ombudsman council if requested pursuant to
20 subsection (9) must be by telephone or in person. This notice
21 shall be given before the transfer, if possible, or as soon
22 thereafter as practicable. A local ~~district~~ ombudsman council
23 conducting a review under this subsection shall do so within
24 24 hours after receipt of the request. The resident's file
25 must be documented to show who was contacted, whether the
26 contact was by telephone or in person, and the date and time
27 of the contact. If the notice is not given in writing, written
28 notice meeting the requirements of subsection (8) must be
29 given the next working day.

30 (12) After receipt of any notice required under this
31 section, the local ~~district~~ ombudsman council may request a

1 private informal conversation with a resident to whom the
2 notice is directed, and, if known, a family member or the
3 resident's legal guardian or designee, to ensure that the
4 facility is proceeding with the discharge or transfer in
5 accordance with the requirements of this section. If
6 requested, the local ~~district~~ ombudsman council shall assist
7 the resident with filing an appeal of the proposed discharge
8 or transfer.

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

11 (a) The resident, or the resident's legal
12 representative or designee.

13 (b) The facility administrator, or the facility's
14 legal representative or designee.

15
16 A representative of the local ~~district~~ long-term care
17 ombudsman council may be present at all hearings authorized by
18 this section.

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

22 (a) Names and addresses.

23 (b) Medical services provided.

24 (c) Social and economic conditions or circumstances.

25 (d) Evaluation of personal information.

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

28 (f) Any information received verifying income
29 eligibility and amount of medical assistance payments. Income
30 information received from the Social Security Administration
31

1 or the Internal Revenue Service must be safeguarded according
2 to the requirements of the agency that furnished the data.

3

4 The exemption created by this subsection does not prohibit
5 access to such information by a local ~~district~~ long-term care
6 ombudsman council upon request, by a reviewing court if such
7 information is required to be part of the record upon
8 subsequent review, or as specified in s. 24(a), Art. I of the
9 State Constitution.

10 Section 22. Subsection (1) of section 400.19, Florida
11 Statutes, is amended to read:

12 400.19 Right of entry and inspection.--

13 (1) The agency and any duly designated officer or
14 employee thereof or a member of the State Long-Term Care
15 Ombudsman Council or the local ~~district~~ long-term care
16 ombudsman council shall have the right to enter upon and into
17 the premises of any facility licensed pursuant to this part,
18 or any distinct nursing home unit of a hospital licensed under
19 chapter 395 or any freestanding facility licensed under
20 chapter 395 that provides extended care or other long-term
21 care services, at any reasonable time in order to determine
22 the state of compliance with the provisions of this part and
23 rules in force pursuant thereto. The right of entry and
24 inspection shall also extend to any premises which the agency
25 has reason to believe is being operated or maintained as a
26 facility without a license, but no such entry or inspection of
27 any premises shall be made without the permission of the owner
28 or person in charge thereof, unless a warrant is first
29 obtained from the circuit court authorizing same. Any
30 application for a facility license or renewal thereof, made
31 pursuant to this part, shall constitute permission for and

1 complete acquiescence in any entry or inspection of the
2 premises for which the license is sought, in order to
3 facilitate verification of the information submitted on or in
4 connection with the application; to discover, investigate, and
5 determine the existence of abuse or neglect; or to elicit,
6 receive, respond to, and resolve complaints. The agency shall,
7 within 60 days after receipt of a complaint made by a resident
8 or resident's representative, complete its investigation and
9 provide to the complainant its findings and resolution.

10 Section 23. Subsection (1) of section 400.191, Florida
11 Statutes, is amended to read:

12 400.191 Availability, distribution, and posting of
13 reports and records.--

14 (1) The agency shall provide information to the public
15 about all of the licensed nursing home facilities operating in
16 the state. The agency shall, within 60 days after an annual
17 inspection visit or within 30 days after any interim visit to
18 a facility, send copies of the inspection reports to the local
19 ~~district~~ long-term care ombudsman council, the agency's local
20 office, and a public library or the county seat for the county
21 in which the facility is located.

22 Section 24. Subsection (6) and paragraph (c) of
23 subsection (7) of section 400.23, Florida Statutes, are
24 amended to read:

25 400.23 Rules; evaluation and deficiencies; licensure
26 status.--

27 (6) Prior to conducting a survey of the facility, the
28 survey team shall obtain a copy of the local ~~district~~
29 long-term care ombudsman council report on the facility.
30 Problems noted in the report shall be incorporated into and
31 followed up through the agency's inspection process. This

1 procedure does not preclude the local ~~district nursing home~~
2 ~~and~~ long-term care ~~facility~~ ombudsman council from requesting
3 the agency to conduct a followup visit to the facility.

4 (7) The agency shall, at least every 15 months,
5 evaluate all nursing home facilities and make a determination
6 as to the degree of compliance by each licensee with the
7 established rules adopted under this part as a basis for
8 assigning a licensure status to that facility. The agency
9 shall base its evaluation on the most recent inspection
10 report, taking into consideration findings from other official
11 reports, surveys, interviews, investigations, and inspections.
12 The agency shall assign a licensure status of standard or
13 conditional to each nursing home.

14 (c) In evaluating the overall quality of care and
15 services and determining whether the facility will receive a
16 conditional or standard license, the agency shall consider the
17 needs and limitations of residents in the facility and the
18 results of interviews and surveys of a representative sampling
19 of residents, families of residents, ombudsman council members
20 in the planning and service area ~~district~~ in which the
21 facility is located, guardians of residents, and staff of the
22 nursing home facility.

23 Section 25. Subsection (13) of section 400.419,
24 Florida Statutes, is amended to read:

25 400.419 Violations; administrative fines.--

26 (13) The agency shall develop and disseminate an
27 annual list of all facilities sanctioned or fined \$5,000 or
28 more for violations of state standards, the number and class
29 of violations involved, the penalties imposed, and the current
30 status of cases. The list shall be disseminated, at no charge,
31 to the Department of Elderly Affairs, the Department of

1 Health, the Department of Children and Family Services, the
2 area agencies on aging, the Statewide Human Rights Advocacy
3 Committee, and the state and local ~~district nursing home~~
4 ombudsman councils. The Department of Children and Family
5 Services shall disseminate the list to service providers under
6 contract to the department who are responsible for referring
7 persons to a facility for residency. The agency may charge a
8 fee commensurate with the cost of printing and postage to
9 other interested parties requesting a copy of this list.

10 Section 26. Subsection (2) of section 400.428, Florida
11 Statutes, is amended to read:

12 400.428 Resident bill of rights.--

13 (2) The administrator of a facility shall ensure that
14 a written notice of the rights, obligations, and prohibitions
15 set forth in this part is posted in a prominent place in each
16 facility and read or explained to residents who cannot read.
17 This notice shall include the name, address, and telephone
18 numbers of the local ~~district~~ ombudsman council and adult
19 abuse registry and, when applicable, the Advocacy Center for
20 Persons with Disabilities, Inc., and the district human rights
21 advocacy committee, where complaints may be lodged. The
22 facility must ensure a resident's access to a telephone to
23 call the local ~~district~~ ombudsman council, adult abuse
24 registry, Advocacy Center for Persons with Disabilities, Inc.,
25 and district human rights advocacy committee.

26 Section 27. Section 400.434, Florida Statutes, is
27 amended to read:

28 400.434 Right of entry and inspection.--Any duly
29 designated officer or employee of the department, the
30 Department of Children and Family Services, the agency, the
31 state or local fire marshal, or a member of the state or local

1 ~~district~~ long-term care ombudsman council shall have the right
2 to enter unannounced upon and into the premises of any
3 facility licensed pursuant to this part in order to determine
4 the state of compliance with the provisions of this part and
5 of rules or standards in force pursuant thereto. The right of
6 entry and inspection shall also extend to any premises which
7 the agency has reason to believe is being operated or
8 maintained as a facility without a license; but no such entry
9 or inspection of any premises may be made without the
10 permission of the owner or person in charge thereof, unless a
11 warrant is first obtained from the circuit court authorizing
12 such entry. The warrant requirement shall extend only to a
13 facility which the agency has reason to believe is being
14 operated or maintained as a facility without a license. Any
15 application for a license or renewal thereof made pursuant to
16 this part shall constitute permission for, and complete
17 acquiescence in, any entry or inspection of the premises for
18 which the license is sought, in order to facilitate
19 verification of the information submitted on or in connection
20 with the application; to discover, investigate, and determine
21 the existence of abuse or neglect; or to elicit, receive,
22 respond to, and resolve complaints. Any current valid license
23 shall constitute unconditional permission for, and complete
24 acquiescence in, any entry or inspection of the premises by
25 authorized personnel. The agency shall retain the right of
26 entry and inspection of facilities that have had a license
27 revoked or suspended within the previous 24 months, to ensure
28 that the facility is not operating unlawfully. However, before
29 entering the facility, a statement of probable cause must be
30 filed with the director of the agency, who must approve or
31 disapprove the action within 48 hours. Probable cause shall

1 include, but is not limited to, evidence that the facility
2 holds itself out to the public as a provider of personal care
3 services or the receipt of a complaint by the long-term care
4 ombudsman council about the facility.

5 Section 28. Subsection (2) of section 400.435, Florida
6 Statutes, is amended to read:

7 400.435 Maintenance of records; reports.--

8 (2) Within 60 days after the date of the biennial
9 inspection visit or within 30 days after the date of any
10 interim visit, the agency shall forward the results of the
11 inspection to the local ~~district~~ ombudsman council in whose
12 planning and service area, as defined in part II, the facility
13 is located; to at least one public library or, in the absence
14 of a public library, the county seat in the county in which
15 the inspected assisted living facility is located; and, when
16 appropriate, to the district adult services and district
17 alcohol, drug abuse, and mental health program offices.

18 Section 29. Paragraph (i) of subsection (1) and
19 subsection (5) of section 400.4415, Florida Statutes, are
20 amended to read:

21 400.4415 Assisted living facilities advisory
22 committee.--

23 (1) There is created the assisted living facilities
24 advisory committee, which shall assist the agency in
25 developing and implementing a pilot rating system for
26 facilities. The committee shall consist of nine members who
27 are to be appointed by, and report directly to, the director
28 of the agency. The membership is to include:

29 (i) One consumer representative from a local ~~district~~
30 long-term care ombudsman council.

31

1 (5) In determining the rating and evaluating the
2 overall quality of care and services, the agency shall
3 consider the needs and limitations of residents in the
4 facility and the results of interviews and surveys of a
5 representative sampling of residents, families of residents,
6 long-term care ombudsman council members in the planning and
7 service area ~~district~~ in which the facility is located,
8 guardians of residents, and staff of the facility.

9 Section 30. Subsection (7) of section 400.619, Florida
10 Statutes, is amended to read:

11 400.619 Licensure application and renewal.--

12 (7) Access to a licensed adult family-care home must
13 be provided at reasonable times for the appropriate officials
14 of the department, the Department of Health, the Department of
15 Children and Family Services, the agency, and the State Fire
16 Marshal, who are responsible for the development and
17 maintenance of fire, health, sanitary, and safety standards,
18 to inspect the facility to assure compliance with these
19 standards. In addition, access to a licensed adult
20 family-care home must be provided at reasonable times for the
21 local ~~district~~ long-term care ombudsman council.

22 Section 31. Subsection (2) of section 400.62, Florida
23 Statutes, is amended to read:

24 400.628 Residents' bill of rights.--

25 (2) The provider shall ensure that residents and their
26 legal representatives are made aware of the rights,
27 obligations, and prohibitions set forth in this part.
28 Residents must also be given the names, addresses, and
29 telephone numbers of the local ~~district~~ ombudsman council and
30 the adult abuse registry where they may lodge complaints.

31

1 Section 32. There is hereby appropriated from the
2 General Revenue Fund to the long-term care ombudsman program
3 within the Department of Elderly Affairs the sum of \$40,000 to
4 be used for training members of the state and local long-term
5 care ombudsman councils.

6 Section 33. There is hereby appropriated from the
7 General Revenue Fund to the long-term care ombudsman program
8 within the Department of Elderly Affairs the sum of \$25,000 to
9 be used for materials to educate residents of long-term care
10 facilities and their families and visitors, facility staff,
11 and the general public about the ombudsman program and to
12 encourage such persons to seek assistance from the long-term
13 care ombudsman program.

14 Section 34. This act shall take effect July 1, 2000.

15
16 *****

17 HOUSE SUMMARY

18 Revises, clarifies, and conforms various provisions
19 relating to the long-term care ombudsman program.
20 Provides duty of the State Long-Term Care Ombudsman to
21 prepare and submit annual budget requests and to enter
22 into a cooperative agreement relating to investigation of
23 Medicaid fraud. Provides authority of the Office of State
24 Long-Term Care Ombudsman, rather than the Department of
25 Elderly Affairs, to adopt certain rules relating to
26 disclosure of files maintained by the program. Requires
27 the department to consult with the ombudsman on
28 rulemaking related to conflict of interest. Removes
29 provisions relating to governmental interference with the
30 Office of State Long-Term Care Ombudsman, and reports
31 there on to the Governor and Legislature. Provides for
the relationship between the office and the departments
of state government. Provides responsibilities of the
Department of Elderly Affairs, rather than the Department
of Children and Family Services, for administrative
support and costs for the program. Revises provisions
relating to appointment and terms of service of members
of the state and local long-term care ombudsman councils.
Provides appropriations. See bill for details.