

By Senator Detert

23-01700A-11

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1                                   A bill to be entitled  
2           An act relating to the Long-Term Care Ombudsman  
3           Program; amending ss. 400.0060 and 400.0067, F.S.;  
4           removing references to onsite administrative  
5           assessments and conforming cross-references to changes  
6           made by the act; amending s. 400.0061, F.S.; revising  
7           legislative intent; amending s. 400.0069, F.S.;  
8           providing additional duties of the local long-term  
9           care ombudsman councils; amending s. 400.0071, F.S.;  
10          revising rules relating to State Long-Term Care  
11          Ombudsman Program complaint procedures; repealing s.  
12          400.0074, F.S., relating to a requirement that local  
13          ombudsman councils conduct onsite administrative  
14          assessments; amending s. 400.0081, F.S.; requiring  
15          written consent of a resident of a long-term care  
16          facility for release of medical records; repealing s.  
17          400.0089, F.S., relating to data reports regarding  
18          complaints about and conditions in long-term care  
19          facilities; amending s. 400.19, F.S.; revising  
20          conditions under which the Agency for Health Care  
21          Administration is required to conduct unannounced  
22          onsite facility reviews; amending s. 400.235, F.S.;  
23          eliminating the role of the State Long-Term Care  
24          Ombudsman Council in evaluating a nursing facility for  
25          the Gold Seal Program; providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29          Section 1. Subsections (2) through (10) of section

23-01700A-11

20111658

30 400.0060, Florida Statutes, are renumbered as subsections (1)  
31 through (9), respectively, and present subsection (1) of that  
32 section is amended to read:

33 400.0060 Definitions.—When used in this part, unless the  
34 context clearly dictates otherwise, the term:

35 ~~(1) "Administrative assessment" means a review of~~  
36 ~~conditions in a long-term care facility which impact the rights,~~  
37 ~~health, safety, and welfare of residents with the purpose of~~  
38 ~~noting needed improvement and making recommendations to enhance~~  
39 ~~the quality of life for residents.~~

40 Section 2. Subsection (2) of section 400.0061, Florida  
41 Statutes, is amended to read:

42 400.0061 Legislative findings and intent; long-term care  
43 facilities.—

44 (2) It is the intent of the Legislature, therefore, to  
45 utilize voluntary citizen ombudsman councils under the  
46 leadership of the ombudsman, and through them to operate an  
47 ombudsman program which shall, without interference by any  
48 executive agency, undertake to discover, investigate, and  
49 determine the presence of conditions or individuals which  
50 constitute a threat to the rights, health, safety, or welfare of  
51 the residents of long-term care facilities. To ensure that the  
52 effectiveness and efficiency of such investigations are not  
53 impeded by advance notice or delay, the Legislature intends that  
54 the ombudsman and ombudsman councils and their designated  
55 representatives not be required to obtain warrants in order to  
56 enter into a long-term care facility to conduct the duties of  
57 the Office of State Long-Term Care Ombudsman, the State Long-  
58 Term Care Ombudsman Council, or a local long-term care ombudsman

23-01700A-11

20111658

59 ~~council or conduct investigations or onsite administrative~~  
60 ~~assessments of long-term care facilities.~~ It is the further  
61 intent of the Legislature that the environment in long-term care  
62 facilities be conducive to the dignity and independence of  
63 residents and that investigations by ombudsman councils shall  
64 further the enforcement of laws, rules, and regulations that  
65 safeguard the health, safety, and welfare of residents.

66 Section 3. Paragraph (b) of subsection (2) of section  
67 400.0067, Florida Statutes, is amended to read:

68 400.0067 State Long-Term Care Ombudsman Council; duties;  
69 membership.—

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

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

76 Section 4. Subsection (3) of section 400.0069, Florida  
77 Statutes, is amended, and paragraphs (h) and (i) are added to  
78 subsection (2) of that section, to read:

79 400.0069 Local long-term care ombudsman councils; duties;  
80 membership.—

81 (2) The duties of the local councils are to:

82 (h) Ensure that residents have regular, timely access to  
83 the ombudsman through visitations and that residents and  
84 complainants receive timely responses to their complaints.

85 (i) Provide technical support for the development of  
86 resident and family councils to protect the well-being and  
87 rights of residents.

23-01700A-11

20111658

88 (3) In order to carry out the duties specified in  
89 subsection (2), a member of a local council is authorized to  
90 enter any long-term care facility without notice or first  
91 obtaining a warrant, ~~subject to the provisions of s.~~  
92 ~~400.0074(2).~~

93 Section 5. Section 400.0071, Florida Statutes, is amended  
94 to read:

95 400.0071 State Long-Term Care Ombudsman Program complaint  
96 procedures.—The department shall adopt rules implementing state  
97 and local complaint procedures. The rules must include  
98 procedures for:

99 (1) Receiving complaints made by or on behalf of long-term  
100 care facility residents ~~against a long-term care facility or an~~  
101 ~~employee of a long-term care facility.~~

102 (2) Conducting complaint investigations on behalf of long-  
103 term care facility residents ~~of a long-term care facility or an~~  
104 ~~employee of a long-term care facility subsequent to receiving a~~  
105 ~~complaint.~~

106 ~~(3) Conducting onsite administrative assessments of long-~~  
107 ~~term care facilities.~~

108 Section 6. Section 400.0074, Florida Statutes, is repealed.

109 Section 7. Paragraph (b) of subsection (1) of section  
110 400.0081, Florida Statutes, is amended to read:

111 400.0081 Access to facilities, residents, and records.—

112 (1) A long-term care facility shall provide the office, the  
113 state council and its members, and the local councils and their  
114 members access to:

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

23-01700A-11

20111658\_\_

117 1. The office has the written permission of the resident or  
118 the legal representative of the resident and presents that  
119 permission to the long-term care facility; or

120 2. The resident is unable to consent to the review and has  
121 no legal representative.

122 Section 8. Section 400.0089, Florida Statutes, is repealed.

123 Section 9. Subsection (4) of section 400.19, Florida  
124 Statutes, is amended to read:

125 400.19 Right of entry and inspection.—

126 (4) The agency shall conduct unannounced onsite facility  
127 reviews ~~following written verification of licensee noncompliance~~  
128 ~~in instances in which a long-term care ombudsman council,~~  
129 ~~pursuant to ss. 400.0071 and 400.0075, has received a complaint~~  
130 ~~and has documented deficiencies in resident care or in the~~  
131 ~~physical plant of the facility that threaten the health, safety,~~  
132 ~~or security of residents, or when the agency documents through~~  
133 inspection that conditions in a facility present a direct or  
134 indirect threat to the health, safety, or security of residents.  
135 However, the agency shall conduct unannounced onsite reviews  
136 every 3 months of each facility while the facility has a  
137 conditional license. Deficiencies related to physical plant do  
138 not require followup reviews after the agency has determined  
139 that correction of the deficiency has been accomplished and that  
140 the correction is of the nature that continued compliance can be  
141 reasonably expected.

142 Section 10. Paragraphs (f) and (g) of subsection (5) of  
143 section 400.235, Florida Statutes, are amended to read:

144 400.235 Nursing home quality and licensure status; Gold  
145 Seal Program.—

23-01700A-11

20111658\_\_

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

148 ~~(f) Evidence an outstanding record regarding the number and~~  
149 ~~types of substantiated complaints reported to the State Long-~~  
150 ~~Term Care Ombudsman Council within the 30 months preceding~~  
151 ~~application for the program.~~

152 (f)~~(g)~~ Provide targeted inservice training provided to meet  
153 training needs identified by internal or external quality  
154 assurance efforts.

155

156 A facility assigned a conditional licensure status may not  
157 qualify for consideration for the Gold Seal Program until after  
158 it has operated for 30 months with no class I or class II  
159 deficiencies and has completed a regularly scheduled relicensure  
160 survey.

161 Section 11. This act shall take effect July 1, 2011.