



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2013	.	
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The Committee on Children, Families, and Elder Affairs (Clemens) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

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



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13 the quality of life for residents.

14 (2) "Agency" means the Agency for Health Care  
15 Administration.

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

17 (4) "District" means a geographical area designated by the  
18 state ombudsman in which individuals certified as ombudsmen  
19 carry out the duties of the state ombudsman program. "Local  
20 council" means a local long-term care ombudsman council  
21 designated by the ombudsman pursuant to s. 400.0069. Local  
22 councils are also known as district long-term care ombudsman  
23 councils or district councils.

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

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

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

36 (8) "Representative of the office" means the state  
37 ombudsman, an employee of the office, or an individual certified  
38 as an ombudsman.

39 (9)-(8) "Resident" means an individual 18 ~~60~~ years of age or  
40 older who resides in a long-term care facility.

41 (10)-(9) "Secretary" means the Secretary of Elderly Affairs.



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42           ~~(11)-(10)~~ "State council" means the State Long-Term Care  
43 Ombudsman Council created by s. 400.0067.

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

47           (13) "State ombudsman program" means the program operating  
48 under the direction of the office.

49           Section 2. Section 400.0061, Florida Statutes, is amended  
50 to read:

51           400.0061 Legislative findings and intent; long-term care  
52 facilities.-

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



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71 Care Ombudsman, to be headed by the state ~~Long-Term Care~~  
72 ombudsman, and carry out a state ~~long-term care~~ ombudsman  
73 program.

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

94 Section 3. Section 400.0063, Florida Statutes, is amended  
95 to read:

96 400.0063 Establishment of Office of State Long-Term Care  
97 Ombudsman; designation of ombudsman and legal advocate.—

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



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

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

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

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

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

121 2. Assisting the state council and representatives of the  
122 office ~~local councils~~ in carrying out their responsibilities  
123 under this part.

124 3. Pursuing administrative, legal, and other appropriate  
125 remedies on behalf of residents.

126 4. Serving as legal counsel to the state council and  
127 representatives of the office ~~local councils, or individual~~  
128 ~~members thereof~~, against whom any suit or other legal action is



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129 initiated in connection with the performance of the official  
130 duties of the state ombudsman program ~~councils or an individual~~  
131 ~~member.~~

132 Section 4. Section 400.0065, Florida Statutes, is amended  
133 to read:

134 400.0065 Office of State Long-Term Care Ombudsman; duties  
135 and responsibilities.-

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

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

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

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

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

153 (e) Represent the interests of residents before  
154 governmental agencies and seek administrative, legal, and other  
155 remedies to protect the health, safety, welfare, and rights of  
156 the residents.

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



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

166 (h) Provide technical support for the development of  
167 resident and family councils to protect the well-being and  
168 rights of residents.

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

171 (a) Establish and coordinate districts ~~local councils~~  
172 throughout the state.

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

175 (c) Within the limits of appropriated federal and state  
176 funding, employ such personnel as are necessary to perform  
177 adequately the functions of the office and provide or contract  
178 for legal services to assist the state council and  
179 representatives of the office ~~local councils~~ in the performance  
180 of their duties. ~~Staff positions established for the purpose of~~  
181 ~~coordinating the activities of each local council and assisting~~  
182 ~~its members may be filled by the ombudsman after approval by the~~  
183 ~~secretary. Notwithstanding any other provision of this part,~~  
184 ~~upon certification by the ombudsman that the staff member hired~~  
185 ~~to fill any such position has completed the initial training~~  
186 ~~required under s. 400.0091, such person shall be considered a~~



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187 ~~representative of the State Long Term Care Ombudsman Program for~~  
188 ~~purposes of this part.~~

189 (d) Contract for services necessary to carry out the  
190 activities of the office.

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

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

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

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

207 (h) ~~(i)~~ Prepare an annual report describing the activities  
208 carried out by the office, the state council, and the districts  
209 ~~local councils~~ in the year for which the report is prepared. The  
210 state ombudsman shall submit the report to the secretary, the  
211 United States Assistant Secretary for Aging, the Governor, the  
212 President of the Senate, the Speaker of the House of  
213 Representatives, the Secretary of Children and Families, and the  
214 Secretary of Health Care Administration at least 30 days before  
215 the convening of the regular session of the Legislature. ~~The~~





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216 ~~secretary shall in turn submit the report to the United States~~  
217 ~~Assistant Secretary for Aging, the Governor, the President of~~  
218 ~~the Senate, the Speaker of the House of Representatives, the~~  
219 ~~Secretary of Children and Family Services, and the Secretary of~~  
220 ~~Health Care Administration.~~ The report shall, at a minimum:

221 1. Contain and analyze data collected concerning complaints  
222 about and conditions in long-term care facilities and the  
223 disposition of such complaints.

224 2. Evaluate the problems experienced by residents.

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

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

235 5. Contain recommendations from the state ~~Long-Term Care~~  
236 ~~Ombudsman~~ council regarding program functions and activities and  
237 recommendations for policy, regulatory, and statutory changes  
238 designed to protect residents' rights, health, safety, and  
239 welfare.

240 6. Contain any relevant recommendations from  
241 representatives of the office ~~local councils~~ regarding program  
242 functions and activities.

243 Section 5. Section 400.0067, Florida Statutes, is amended  
244 to read:



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245 400.0067 State Long-Term Care Ombudsman Council; duties;  
246 membership.—

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

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

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

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

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

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

266 (e) Elicit and coordinate state, district ~~local~~, and  
267 voluntary organizational assistance for the purpose of improving  
268 the care received by residents.

269 (f) Assist the state ombudsman in preparing the annual  
270 report described in s. 400.0065.

271 (3) The state ~~Long-Term Care Ombudsman~~ council shall be  
272 composed of one active certified ombudsman from each district  
273 ~~local council member elected by each local council~~ plus three



274 at-large members appointed by the secretary ~~Governor~~.

275 (a) Each district manager, in consultation with the

276 district ombudsmen, shall select a district ombudsman ~~local~~

277 ~~council shall elect by majority vote a representative from among~~

278 ~~the council members~~ to represent the interests of the district

279 ~~local council~~ on the state council. A ~~local council chair may~~

280 ~~not serve as the representative of the local council on the~~

281 ~~state council~~.

282 (b)1. The state ombudsman ~~secretary~~, ~~after consulting with~~

283 ~~the ombudsman~~, shall submit to the secretary ~~Governor~~ a list of

284 individuals ~~persons~~ recommended for appointment to the at-large

285 positions on the state council. The list may ~~shall~~ not include

286 the name of any individual ~~person~~ who is currently serving in a

287 district ~~on a local council~~.

288 2. The secretary ~~Governor~~ shall appoint three at-large

289 members chosen from the list.

290 3. If the secretary ~~Governor~~ does not appoint an at-large

291 member to fill a vacant position within 60 days after the list

292 is submitted, the state ~~secretary~~, ~~after consulting with the~~

293 ~~ombudsman~~, shall appoint an at-large member to fill that vacant

294 position.

295 (4) (a) ~~(e)1.~~ All State council members shall serve 3-year

296 terms.

297 ~~2.~~ A member of the state council may not serve more than

298 two consecutive terms.

299 (b) ~~3.~~ A district manager, in consultation with the district

300 ombudsmen, ~~local council~~ may recommend replacement ~~removal~~ of

301 its selected ombudsman ~~on elected representative from the state~~

302 council ~~by a majority vote~~. If the district manager, in



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303 consultation with the district ombudsmen, selects a replacement  
304 ombudsman, council votes to remove its representative, the local  
305 council chair shall immediately notify the state ombudsman must  
306 be notified. The secretary shall advise the Governor of the  
307 local council's vote upon receiving notice from the ombudsman.

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

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

314 (e)(d)1. The state council shall elect a chair to serve for  
315 a term of 1 year. A chair may not serve more than two  
316 consecutive terms.

317 2. The chair shall select a vice chair from among the  
318 members. The vice chair shall preside over the state council in  
319 the absence of the chair.

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

325 4. A chair may be immediately removed from office before  
326 ~~prior to~~ the expiration of his or her term by a vote of two-  
327 thirds of all state council members present at any meeting at  
328 which a quorum is present. If a chair is removed from office  
329 before ~~prior to~~ the expiration of his or her term, a replacement  
330 chair shall be chosen during the same meeting in the same manner  
331 as described in this paragraph, and the term of the replacement



332 chair shall begin immediately. The replacement chair shall serve  
333 for the remainder of the term and is eligible to serve two  
334 subsequent consecutive terms.

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

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

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

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

349 Section 6. Section 400.0069, Florida Statutes, is amended  
350 to read:

351 400.0069 ~~Local~~ Long-term care ombudsman districts ~~councils~~;  
352 duties; appointment ~~membership~~.—

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

358 (b) The state ombudsman shall ensure that there are  
359 representatives of the office ~~is at least one local council~~  
360 operating in each district ~~of the department's planning and~~



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361 ~~service areas. The ombudsman may create additional local~~  
362 ~~councils~~ as necessary to ensure that residents throughout the  
363 state have adequate access to state Long-Term Care ombudsman  
364 program services. ~~The ombudsman, after approval from the~~  
365 ~~secretary, shall designate the jurisdictional boundaries of each~~  
366 ~~local council.~~

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

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

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

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

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

387 (e) Review personal property and money accounts of  
388 residents who are receiving assistance under the Medicaid  
389 program pursuant to an investigation to obtain information



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390 regarding a specific complaint ~~or problem.~~

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

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

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

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

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

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

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

417 2. ~~At least one registered nurse who has geriatric~~  
418 ~~experience;~~



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

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

421 ~~5. At least six nursing home residents or representative~~  
422 ~~consumer advocates for nursing home residents;~~

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

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

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

428 (b) The following individuals may not be appointed as  
429 ombudsmen:

430 1. The owner or representative of a long-term care  
431 facility.

432 2. A provider or representative of a provider of long-term  
433 care services.

434 3. An employee of the agency.

435 4. An employee of the department, except for a  
436 representative of the office.

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

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

439 ~~In no case shall the medical director of a long-term care~~  
440 ~~facility or an employee of the agency, the department, the~~  
441 ~~Department of Children and Family Services, or the Agency for~~  
442 ~~Persons with Disabilities serve as a member or as an ex officio~~  
443 ~~member of a council.~~

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

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

447 2. Successfully complete level 2 background screening





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448 ~~pursuant to s. 430.0402 and chapter 435. The ombudsman shall~~  
449 ~~review the individual's application and advise the secretary of~~  
450 ~~his or her recommendation for approval or disapproval of the~~  
451 ~~candidate's membership on the local council. If the secretary~~  
452 ~~approves of the individual's membership, the individual shall be~~  
453 ~~appointed as a member of the local council.~~

454 (b) The state ombudsman shall approve or deny the  
455 appointment of the individual as an ombudsman. The secretary may  
456 rescind the ombudsman's approval of a member on a local council  
457 at any time. If the secretary rescinds the approval of a member  
458 on a local council, the ombudsman shall ensure that the  
459 individual is immediately removed from the local council on  
460 which he or she serves and the individual may no longer  
461 represent the State Long-Term Care Ombudsman Program until the  
462 secretary provides his or her approval.

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

468 (d) The state ombudsman, for good cause shown, such as  
469 development of a conflict of interest, failure to adhere to the  
470 policies and procedures established by the office, or  
471 demonstrated inability to carry out the responsibilities of the  
472 office, may rescind the appointment of an individual as an  
473 ombudsman. After the appointment is rescinded, the individual  
474 may not conduct any duties as an ombudsman and may not represent  
475 the office or the state ombudsman program. A local council may  
476 recommend the removal of one or more of its members by



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477 ~~submitting to the ombudsman a resolution adopted by a two-thirds~~  
478 ~~vote of the members of the council stating the name of the~~  
479 ~~member or members recommended for removal and the reasons for~~  
480 ~~the recommendation. If such a recommendation is adopted by a~~  
481 ~~local council, the local council chair or district coordinator~~  
482 ~~shall immediately report the council's recommendation to the~~  
483 ~~ombudsman. The ombudsman shall review the recommendation of the~~  
484 ~~local council and advise the secretary of his or her~~  
485 ~~recommendation regarding removal of the council member or~~  
486 ~~members.~~

487 ~~(6) (a) Each local council shall elect a chair for a term of~~  
488 ~~1 year. There shall be no limitation on the number of terms that~~  
489 ~~an approved member of a local council may serve as chair.~~

490 ~~(b) The chair shall select a vice chair from among the~~  
491 ~~members of the council. The vice chair shall preside over the~~  
492 ~~council in the absence of the chair.~~

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

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



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

510       ~~(6)(8) An ombudsman may not~~ An ombudsman may not ~~A member of a local council~~  
511 ~~shall~~ receive ~~no~~ compensation but shall, with approval from the  
512 state ombudsman, be reimbursed for travel expenses ~~both within~~  
513 ~~and outside the jurisdiction of the local council~~ in accordance  
514 with ~~the provisions of~~ s. 112.061.

515       ~~(7)(9) The~~ representatives of the office ~~local councils~~ are  
516 authorized to call upon appropriate state agencies ~~of state~~  
517 ~~government~~ for ~~such~~ professional assistance as ~~may be~~ needed in  
518 the discharge of their duties, and such. ~~All~~ state agencies  
519 shall cooperate ~~with the local councils~~ in providing requested  
520 information and agency representation ~~at council meetings~~.

521       Section 7. Section 400.0070, Florida Statutes, is amended  
522 to read:

523       400.0070 Conflicts of interest.—

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

525       (a) Have a direct involvement in the licensing or  
526 certification of, or an ownership or investment interest in, a  
527 long-term care facility or a provider of a long-term care  
528 service.

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

531       (c) Receive, or have a right to receive, directly or  
532 indirectly, remuneration, in cash or in kind, under a  
533 compensation agreement with the owner or operator of a long-term  
534 care facility.



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

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

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

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

549           Section 8. Section 400.0071, Florida Statutes, is amended  
550 to read:

551           400.0071 State ~~Long-Term Care~~ ombudsman program complaint  
552 procedures.—The department, in consultation with the state  
553 ombudsman, shall adopt rules implementing state and local  
554 complaint procedures. The rules must include procedures for  
555 receiving, investigating, identifying, and resolving complaints  
556 concerning the health, safety, welfare, and rights of residents+

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

559           ~~(2) Conducting investigations of a long-term care facility~~  
560 ~~or an employee of a long-term care facility subsequent to~~  
561 ~~receiving a complaint.~~

562           ~~(3) Conducting onsite administrative assessments of long-~~  
563 ~~term care facilities.~~



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564 Section 9. Section 400.0073, Florida Statutes, is amended  
565 to read:

566 400.0073 Complaint ~~State and local ombudsman council~~  
567 investigations.-

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

575 (a) Contrary to law;

576 (b) Unreasonable, unfair, oppressive, or unnecessarily  
577 discriminatory, even though in accordance with law;

578 (c) Based on a mistake of fact;

579 (d) Based on improper or irrelevant grounds;

580 (e) Unaccompanied by an adequate statement of reasons;

581 (f) Performed in an inefficient manner; or

582 (g) Otherwise adversely affecting the health, safety,  
583 welfare, or rights of a resident.

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

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

589 (2) ~~(4)~~ If a representative of the office ~~the ombudsman or~~  
590 ~~any state or local council member~~ is not allowed to enter a  
591 long-term care facility, the administrator of the facility shall  
592 be considered to have interfered with a representative of the



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593 office, ~~the state council, or the local council~~ in the  
594 performance of official duties as described in s. 400.0083(1)  
595 and to have committed a violation of this part. The  
596 representative of the office ~~ombudsman~~ shall report a facility's  
597 refusal to allow entry to the facility to the state ombudsman or  
598 his or her designee, who shall then report the incident to the  
599 agency, and the agency shall record the report and take it into  
600 consideration when determining actions allowable under s.  
601 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
602 429.71.

603 Section 10. Section 400.0074, Florida Statutes, is amended  
604 to read:

605 400.0074 ~~Local ombudsman council~~ Onsite administrative  
606 assessments.—

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

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

620 (a) To the extent possible and reasonable, the  
621 administrative assessment ~~assessments~~ shall not duplicate the



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622 efforts of ~~the agency~~ surveys and inspections conducted by state  
623 agencies of long-term care facilities ~~under part II of this~~  
624 ~~chapter and parts I and II of chapter 429.~~

625 (b) An administrative assessment shall be conducted at a  
626 time and for a duration necessary to produce the information  
627 required to complete the assessment ~~carry out the duties of the~~  
628 ~~local council.~~

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

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

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

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

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

647 ~~(3) Regardless of jurisdiction, the ombudsman may authorize~~  
648 ~~a state or local council member to assist another local council~~  
649 ~~to perform the administrative assessments described in this~~  
650 ~~section.~~



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651            (3)~~(4)~~ An onsite administrative assessment may not be  
652 accomplished by forcible entry. However, if a representative of  
653 the office ombudsman or a state or local council member is not  
654 allowed to enter a long-term care facility, the administrator of  
655 the facility shall be considered to have interfered with a  
656 representative of the office,~~the state council, or the local~~  
657 ~~council~~ in the performance of official duties as described in s.  
658 400.0083(1) and to have committed a violation of this part. The  
659 representative of the office ombudsman shall report the refusal  
660 by a facility to allow entry to the state ombudsman or his or  
661 her designee, who shall then report the incident to the agency,  
662 and the agency shall record the report and take it into  
663 consideration when determining actions allowable under s.  
664 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
665 429.71.

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

670            Section 11. Section 400.0075, Florida Statutes, is amended  
671 to read:

672            400.0075 Complaint notification and resolution procedures.-

673            (1) (a) Any complaint ~~or problem~~ verified by a  
674 representative of the office an ombudsman council as a result of  
675 an investigation may or onsite administrative assessment, which  
676 ~~complaint or problem is determined to require remedial action by~~  
677 ~~the local council,~~ shall be identified and brought to the  
678 attention of the long-term care facility administrator subject  
679 to the confidentiality provisions of s. 400.0077 in writing.





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

691 ~~1. Extend the target date if the chair has reason to~~  
692 ~~believe such action would facilitate the resolution of the~~  
693 ~~complaint.~~

694 ~~2. In accordance with s. 400.0077, publicize the complaint,~~  
695 ~~the recommendations of the council, and the response of the~~  
696 ~~long-term care facility.~~

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

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

708 (c) If the state ombudsman or legal advocate has reason to



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709 believe that the long-term care facility or an employee of the  
710 facility has committed a criminal act, the state ombudsman or  
711 legal advocate shall provide the local law enforcement agency  
712 with the relevant information to initiate an investigation of  
713 the case.

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

721 (a) ~~1.~~ In accordance with s. 400.0077, publicize the  
722 complaint, the recommendations of the representatives of the  
723 office local or state council, and the response of the long-term  
724 care facility.

725 (b) ~~2.~~ Recommend to the department and the agency a series  
726 of facility reviews pursuant to s. 400.19, s. 429.34, or s.  
727 429.67 to ensure correction and nonrecurrence of the conditions  
728 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a  
729 long-term care facility.

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

733 (d) ~~4.~~ Recommend to the department and the agency that  
734 procedures be initiated for action against ~~revocation of~~ the  
735 long-term care facility's license in accordance with chapter  
736 120.

737 ~~(b) If the state council chair believes that the health,~~



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738 ~~safety, welfare, or rights of the resident are in imminent~~  
739 ~~danger, the chair shall notify the ombudsman or legal advocate,~~  
740 ~~who, after verifying that such imminent danger exists, shall~~  
741 ~~seek immediate legal or administrative remedies to protect the~~  
742 ~~resident.~~

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

749 Section 12. Section 400.0078, Florida Statutes, is amended  
750 to read:

751 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman  
752 program services.—

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

757 (2) ~~Every resident or representative of a resident shall~~  
758 ~~receive,~~ Upon admission to a long-term care facility, each  
759 resident or representative of a resident must receive  
760 information regarding:

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

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

765 (c) Information that retaliatory action cannot be taken  
766 against a resident for presenting grievances or for exercising



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767 any other resident rights.

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

770  
771 Residents or their representatives must be furnished additional  
772 copies of this information upon request.

773 Section 13. Section 400.0079, Florida Statutes, is amended  
774 to read:

775 400.0079 Immunity.—

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

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

786 Section 14. Section 400.0081, Florida Statutes, is amended  
787 to read:

788 400.0081 Access to facilities, residents, and records.—

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

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

795 (b) Appropriate access to medical and social records of a



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796 resident for review ~~as necessary to investigate or resolve a~~  
797 ~~complaint~~, if:

798 1. The representative of the office has the permission of  
799 the resident or the legal representative of the resident; or

800 2. The resident is unable to consent to the review and has  
801 no legal representative.

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

804 1. A legal representative or guardian of the resident  
805 refuses to give permission;

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

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

811 (d) Access to the administrative records, policies, and  
812 documents to which residents or the general public have access.

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

816 (2) The department, in consultation with the state  
817 ombudsman ~~and the state council~~, may adopt rules to establish  
818 procedures to ensure access to facilities, residents, and  
819 records as described in this section.

820 Section 15. Section 400.0083, Florida Statutes, is amended  
821 to read:

822 400.0083 Interference; retaliation; penalties.—

823 (1) It shall be unlawful for any person, long-term care  
824 facility, or other entity to willfully interfere with a



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

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

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

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

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

839 Section 16. Section 400.0087, Florida Statutes, is amended  
840 to read:

841 400.0087 Department oversight; funding.—

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

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

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



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854 activities.

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

858 (3) The department is responsible for ensuring that the  
859 office:

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

862 (b) Provides information to public and private agencies,  
863 legislators, and others.

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

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

870 (4) The department shall also:

871 (a) Receive and disburse state and federal funds for  
872 purposes that the state ombudsman has formulated in accordance  
873 with the Older Americans Act.

874 (b) Whenever necessary, act as liaison between agencies and  
875 branches of the federal and state governments and the office  
876 ~~State Long-Term Care Ombudsman Program~~.

877 Section 17. Section 400.0089, Florida Statutes, is amended  
878 to read:

879 400.0089 Complaint data reports.—The office shall maintain  
880 a statewide uniform reporting system to collect and analyze data  
881 relating to complaints and conditions in long-term care  
882 facilities and to residents for the purpose of identifying and



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883 resolving significant complaints ~~problems~~. The office shall  
884 publish quarterly and make readily available information  
885 pertaining to the number and types of complaints received by the  
886 state ~~Long-Term-Care~~ ombudsman program and shall include such  
887 information in the annual report required under s. 400.0065.

888 Section 18. Section 400.0091, Florida Statutes, is amended  
889 to read:

890 400.0091 Training.—The state ombudsman shall ensure that  
891 appropriate training is provided to all representatives  
892 ~~employees~~ of the office ~~and to the members of the state and~~  
893 ~~local councils~~.

894 (1) All representatives ~~state and local council members and~~  
895 ~~employees~~ of the office shall be given a minimum of 20 hours of  
896 training upon employment with the office or appointment as an  
897 ombudsman. ~~Ten approval as a state or local council member and~~  
898 ~~10~~ hours of continuing education are required annually  
899 thereafter.

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

- 903 (a) Resident confidentiality.  
904 (b) Guardianships and powers of attorney.  
905 (c) Medication administration.  
906 (d) Care and medication of residents with dementia and  
907 Alzheimer's disease.  
908 (e) Accounting for residents' funds.  
909 (f) Discharge rights and responsibilities.  
910 (g) Cultural sensitivity.  
911 (h) Any other topic related to residency within a long-term





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912 care facility recommended by the secretary.

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

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

924 20.41 Department of Elderly Affairs.—There is created a  
925 Department of Elderly Affairs.

926 (4) The department shall administer the Office of State  
927 Long-Term Care Ombudsman ~~Council,~~ created by s. 400.0063  
928 ~~400.0067,~~ and ~~the local long-term care ombudsman councils,~~  
929 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the  
930 federal Older Americans Act of 1965, ensure that ~~both~~ the state  
931 office operates ~~and local long-term care ombudsman councils~~  
932 ~~operate~~ in compliance with the Older Americans Act.

933 Section 20. Subsections (11) through (19) of section  
934 400.021, Florida Statutes, are renumbered as subsections (10)  
935 through (18), respectively, and present subsections (10) and  
936 (18) are amended to read:

937 400.021 Definitions.—When used in this part, unless the  
938 context otherwise requires, the term:

939 ~~(10) "Local ombudsman council" means a local long-term care~~  
940 ~~ombudsman council established pursuant to s. 400.0069, located~~



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941 ~~within the Older Americans Act planning and service areas.~~

942 ~~(17)-(18)~~ "State ombudsman program council" means the Office  
943 of State Long-Term Care Ombudsman Council established pursuant  
944 to s. 400.0063 ~~400.0067~~.

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

948 400.022 Residents' rights.—

949 (1) All licensees of nursing home facilities shall adopt  
950 and make public a statement of the rights and responsibilities  
951 of the residents of such facilities and shall treat such  
952 residents in accordance with the provisions of that statement.  
953 The statement shall assure each resident the following:

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

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

969 2. Subject to the resident's right to deny or withdraw



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970 consent, immediate family or other relatives of the resident.

971

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

976 (2) The licensee for each nursing home shall orally inform  
977 the resident of the resident's rights and provide a copy of the  
978 statement required by subsection (1) to each resident or the  
979 resident's legal representative at or before the resident's  
980 admission to a facility. The licensee shall provide a copy of  
981 the resident's rights to each staff member of the facility. Each  
982 such licensee shall prepare a written plan and provide  
983 appropriate staff training to implement ~~the provisions of this~~  
984 section. The written statement of rights must include a  
985 statement that a resident may file a complaint with the agency  
986 or state local ombudsman program council. The statement must be  
987 in boldfaced type and shall include the ~~name, address, and~~  
988 telephone number and e-mail address of the state numbers of the  
989 local ombudsman program council and the telephone number of the  
990 central abuse hotline where complaints may be lodged.

991 (3) Any violation of the resident's rights set forth in  
992 this section shall constitute grounds for action by the agency  
993 under ~~the provisions of~~ s. 400.102, s. 400.121, or part II of  
994 chapter 408. In order to determine whether the licensee is  
995 adequately protecting residents' rights, the licensure  
996 inspection of the facility shall include private informal  
997 conversations with a sample of residents to discuss residents'  
998 experiences within the facility with respect to rights specified



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999 in this section and general compliance with standards, and  
1000 consultation with the state ombudsman program ~~council in the~~  
1001 ~~local planning and service area of the Department of Elderly~~  
1002 ~~Affairs in which the nursing home is located.~~

1003 Section 22. Subsections (8) and (9) and (11) through (14)  
1004 of section 400.0255, Florida Statutes, are amended to read:

1005 400.0255 Resident transfer or discharge; requirements and  
1006 procedures; hearings.—

1007 (8) The notice required by subsection (7) must be in  
1008 writing and must contain all information required by state and  
1009 federal law, rules, or regulations applicable to Medicaid or  
1010 Medicare cases. The agency shall develop a standard document to  
1011 be used by all facilities licensed under this part for purposes  
1012 of notifying residents of a discharge or transfer. Such document  
1013 must include a means for a resident to request the state ~~local~~  
1014 ~~long-term care~~ ombudsman program ~~council~~ to review the notice  
1015 and request information about or assistance with initiating a  
1016 fair hearing with the department's Office of Appeals Hearings.  
1017 In addition to any other pertinent information included, the  
1018 form shall specify the reason allowed under federal or state law  
1019 that the resident is being discharged or transferred, with an  
1020 explanation to support this action. Further, the form shall  
1021 state the effective date of the discharge or transfer and the  
1022 location to which the resident is being discharged or  
1023 transferred. The form shall clearly describe the resident's  
1024 appeal rights and the procedures for filing an appeal, including  
1025 the right to request the state ~~local~~ ombudsman program ~~council~~  
1026 to review the notice of discharge or transfer. A copy of the  
1027 notice must be placed in the resident's clinical record, and a



1028 copy must be transmitted to the resident's legal guardian or  
1029 representative and to the state ~~local~~ ombudsman program ~~council~~  
1030 within 5 business days after signature by the resident or  
1031 resident designee.

1032 (9) A resident may request that the state ~~local~~ ombudsman  
1033 program ~~council~~ review any notice of discharge or transfer given  
1034 to the resident. When requested by a resident to review a notice  
1035 of discharge or transfer, the state ~~local~~ ombudsman program  
1036 ~~council~~ shall do so within 7 days after receipt of the request.  
1037 The nursing home administrator, or the administrator's designee,  
1038 must forward the request for review contained in the notice to  
1039 the state ~~local~~ ombudsman program ~~council~~ within 24 hours after  
1040 such request is submitted. Failure to forward the request within  
1041 24 hours after the request is submitted shall toll the running  
1042 of the 30-day advance notice period until the request has been  
1043 forwarded.

1044 (11) Notwithstanding paragraph (10) (b), an emergency  
1045 discharge or transfer may be implemented as necessary pursuant  
1046 to state or federal law during the period of time after the  
1047 notice is given and before the time a hearing decision is  
1048 rendered. Notice of an emergency discharge or transfer to the  
1049 resident, the resident's legal guardian or representative, and  
1050 the state ~~local~~ ombudsman program ~~council~~ if requested pursuant  
1051 to subsection (9) must be by telephone or in person. This notice  
1052 shall be given before the transfer, if possible, or as soon  
1053 thereafter as practicable. A representative of the state ~~local~~  
1054 ombudsman program ~~council~~ conducting a review under this  
1055 subsection shall do so within 24 hours after receipt of the  
1056 request. The resident's file must be documented to show who was



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1057 contacted, whether the contact was by telephone or in person,  
1058 and the date and time of the contact. If the notice is not given  
1059 in writing, written notice meeting the requirements of  
1060 subsection (8) must be given the next working day.

1061 (12) After receipt of any notice required under this  
1062 section, the state local ombudsman program council may request a  
1063 private informal conversation with a resident to whom the notice  
1064 is directed, and, if known, a family member or the resident's  
1065 legal guardian or designee, to ensure that the facility is  
1066 proceeding with the discharge or transfer in accordance with ~~the~~  
1067 ~~requirements of~~ this section. If requested, the state local  
1068 ombudsman program council shall assist the resident with filing  
1069 an appeal of the proposed discharge or transfer.

1070 (13) The following persons must be present at all hearings  
1071 authorized under this section:

1072 (a) The resident, or the resident's legal representative or  
1073 designee.

1074 (b) The facility administrator, or the facility's legal  
1075 representative or designee.

1076  
1077 A representative of the state local long-term care ombudsman  
1078 program council may be present at all hearings authorized by  
1079 this section.

1080 (14) In any hearing under this section, the following  
1081 information concerning the parties shall be confidential and  
1082 exempt from ~~the provisions of~~ s. 119.07(1):

1083 (a) Names and addresses.

1084 (b) Medical services provided.

1085 (c) Social and economic conditions or circumstances.



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- 1086 (d) Evaluation of personal information.  
1087 (e) Medical data, including diagnosis and past history of  
1088 disease or disability.  
1089 (f) Any information received verifying income eligibility  
1090 and amount of medical assistance payments. Income information  
1091 received from the Social Security Administration or the Internal  
1092 Revenue Service must be safeguarded according to the  
1093 requirements of the agency that furnished the data.

1094  
1095 The exemption created by this subsection does not prohibit  
1096 access to such information by the state ombudsman program ~~a~~  
1097 ~~local long-term care ombudsman council~~ upon request, by a  
1098 reviewing court if such information is required to be part of  
1099 the record upon subsequent review, or as specified in s. 24(a),  
1100 Art. I of the State Constitution.

1101 Section 23. Subsection (2) of section 400.1413, Florida  
1102 Statutes, is amended to read:

1103 400.1413 Volunteers in nursing homes.-

1104 (2) This section does not affect the activities of the  
1105 ~~state or local long-term care ombudsman program councils~~  
1106 authorized under part I.

1107 Section 24. Paragraph (d) of subsection (5) of section  
1108 400.162, Florida Statutes, is amended to read:

1109 400.162 Property and personal affairs of residents.-

1110 (5)

1111 (d) If, at any time during the period for which a license  
1112 is issued, a licensee that has not purchased a surety bond or  
1113 entered into a self-insurance agreement, as provided in  
1114 paragraphs (b) and (c), is requested to provide safekeeping for



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1115 the personal funds of a resident, the licensee shall notify the  
1116 agency of the request and make application for a surety bond or  
1117 for participation in a self-insurance agreement within 7 days  
1118 after ~~of~~ the request, exclusive of weekends and holidays. Copies  
1119 of the application, along with written documentation of related  
1120 correspondence with an insurance agency or group, shall be  
1121 maintained by the licensee for review by the agency and the  
1122 state ~~Nursing Home and Long-Term Care Facility~~ ombudsman program  
1123 Council.

1124 Section 25. Subsections (1) and (4) of section 400.19,  
1125 Florida Statutes, are amended to read:

1126 400.19 Right of entry and inspection.-

1127 (1) In accordance with part II of chapter 408, the agency  
1128 and any duly designated officer or employee thereof or a  
1129 representative ~~member~~ of the state ~~Long-Term Care~~ ombudsman  
1130 program ~~Council or the local long-term care ombudsman council~~  
1131 ~~shall~~ have the right to enter upon and into the premises of any  
1132 facility licensed pursuant to this part, or any distinct nursing  
1133 home unit of a hospital licensed under chapter 395 or any  
1134 freestanding facility licensed under chapter 395 that provides  
1135 extended care or other long-term care services, at any  
1136 reasonable time in order to determine the state of compliance  
1137 with ~~the provisions of~~ this part, part II of chapter 408, and  
1138 applicable rules in force pursuant thereto. The agency shall,  
1139 within 60 days after receipt of a complaint made by a resident  
1140 or resident's representative, complete its investigation and  
1141 provide to the complainant its findings and resolution.

1142 (4) The agency shall conduct unannounced onsite facility  
1143 reviews following written verification of licensee noncompliance





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1144 in instances in which the state ombudsman program ~~a long-term~~  
1145 ~~care ombudsman council~~, pursuant to ss. 400.0071 and 400.0075,  
1146 has received a complaint and has documented deficiencies in  
1147 resident care or in the physical plant of the facility that  
1148 threaten the health, safety, or security of residents, or when  
1149 the agency documents through inspection that conditions in a  
1150 facility present a direct or indirect threat to the health,  
1151 safety, or security of residents. However, the agency shall  
1152 conduct unannounced onsite reviews every 3 months of each  
1153 facility while the facility has a conditional license.  
1154 Deficiencies related to physical plant do not require followup  
1155 reviews after the agency has determined that correction of the  
1156 deficiency has been accomplished and that the correction is of  
1157 the nature that continued compliance can be reasonably expected.

1158 Section 26. Subsection (1) of section 400.191, Florida  
1159 Statutes, is amended to read:

1160 400.191 Availability, distribution, and posting of reports  
1161 and records.—

1162 (1) The agency shall provide information to the public  
1163 about all of the licensed nursing home facilities operating in  
1164 the state. The agency shall, within 60 days after a licensure  
1165 inspection visit or within 30 days after any interim visit to a  
1166 facility, send copies of the inspection reports to the state  
1167 ~~local long-term care ombudsman program council~~, the agency's  
1168 local office, and a public library or the county seat for the  
1169 county in which the facility is located. The agency may provide  
1170 electronic access to inspection reports as a substitute for  
1171 sending copies.

1172 Section 27. Subsection (6) and paragraph (c) of subsection



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1173 (7) of section 400.23, Florida Statutes, is amended to read:

1174 400.23 Rules; evaluation and deficiencies; licensure  
1175 status.—

1176 (6) Before ~~Prior to~~ conducting a survey of the facility,  
1177 the survey team shall obtain a copy of the state local long-term  
1178 ~~care~~ ombudsman program ~~council~~ report on the facility. Problems  
1179 noted in the report shall be incorporated into and followed up  
1180 through the agency's inspection process. This procedure does not  
1181 preclude the state local long-term care ombudsman program  
1182 ~~council~~ from requesting the agency to conduct a followup visit  
1183 to the facility.

1184 (7) The agency shall, at least every 15 months, evaluate  
1185 all nursing home facilities and make a determination as to the  
1186 degree of compliance by each licensee with the established rules  
1187 adopted under this part as a basis for assigning a licensure  
1188 status to that facility. The agency shall base its evaluation on  
1189 the most recent inspection report, taking into consideration  
1190 findings from other official reports, surveys, interviews,  
1191 investigations, and inspections. In addition to license  
1192 categories authorized under part II of chapter 408, the agency  
1193 shall assign a licensure status of standard or conditional to  
1194 each nursing home.

1195 (c) In evaluating the overall quality of care and services  
1196 and determining whether the facility will receive a conditional  
1197 or standard license, the agency shall consider the needs and  
1198 limitations of residents in the facility and the results of  
1199 interviews and surveys of a representative sampling of  
1200 residents, families of residents, representatives of the state  
1201 ombudsman program ~~council members in the planning and service~~



1202 ~~area in which the facility is located~~, guardians of residents,  
1203 and staff of the nursing home facility.

1204 Section 28. Paragraph (a) of subsection (3), paragraph (f)  
1205 of subsection (5), and subsection (6) of section 400.235,  
1206 Florida Statutes, are amended to read:

1207 400.235 Nursing home quality and licensure status; Gold  
1208 Seal Program.—

1209 (3) (a) The Gold Seal Program shall be developed and  
1210 implemented by the Governor's Panel on Excellence in Long-Term  
1211 Care which shall operate under the authority of the Executive  
1212 Office of the Governor. The panel shall be composed of three  
1213 persons appointed by the Governor, to include a consumer  
1214 advocate for senior citizens and two persons with expertise in  
1215 the fields of quality management, service delivery excellence,  
1216 or public sector accountability; three persons appointed by the  
1217 Secretary of Elderly Affairs, to include an active member of a  
1218 nursing facility family and resident care council and a member  
1219 of the University Consortium on Aging; a representative of the  
1220 Office of State Long-Term Care Ombudsman; one person appointed  
1221 by the Florida Life Care Residents Association; one person  
1222 appointed by the State Surgeon General; two persons appointed by  
1223 the Secretary of Health Care Administration; one person  
1224 appointed by the Florida Association of Homes for the Aging; and  
1225 one person appointed by the Florida Health Care Association.  
1226 Vacancies on the panel shall be filled in the same manner as the  
1227 original appointments.

1228 (5) Facilities must meet the following additional criteria  
1229 for recognition as a Gold Seal Program facility:

1230 (f) Evidence an outstanding record regarding the number and



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1231 types of substantiated complaints reported to the Office of  
1232 State Long-Term Care Ombudsman ~~Council~~ within the 30 months  
1233 preceding application for the program.

1234  
1235 A facility assigned a conditional licensure status may not  
1236 qualify for consideration for the Gold Seal Program until after  
1237 it has operated for 30 months with no class I or class II  
1238 deficiencies and has completed a regularly scheduled relicensure  
1239 survey.

1240 (6) The agency, nursing facility industry organizations,  
1241 consumers, Office of State Long-Term Care Ombudsman ~~Council~~, and  
1242 members of the community may recommend to the Governor  
1243 facilities that meet the established criteria for consideration  
1244 for and award of the Gold Seal. The panel shall review nominees  
1245 and make a recommendation to the Governor for final approval and  
1246 award. The decision of the Governor is final and is not subject  
1247 to appeal.

1248 Section 29. Paragraph (a) of subsection (1) of section  
1249 415.1034, Florida Statutes, is amended to read:

1250 415.1034 Mandatory reporting of abuse, neglect, or  
1251 exploitation of vulnerable adults; mandatory reports of death.—

1252 (1) MANDATORY REPORTING.—

1253 (a) Any person, including, but not limited to, any:

1254 1. Physician, osteopathic physician, medical examiner,  
1255 chiropractic physician, nurse, paramedic, emergency medical  
1256 technician, or hospital personnel engaged in the admission,  
1257 examination, care, or treatment of vulnerable adults;

1258 2. Health professional or mental health professional other  
1259 than one listed in subparagraph 1.;



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1260           3. Practitioner who relies solely on spiritual means for  
1261 healing;

1262           4. Nursing home staff; assisted living facility staff;  
1263 adult day care center staff; adult family-care home staff;  
1264 social worker; or other professional adult care, residential, or  
1265 institutional staff;

1266           5. State, county, or municipal criminal justice employee or  
1267 law enforcement officer;

1268           6. ~~An~~ Employee of the Department of Business and  
1269 Professional Regulation conducting inspections of public lodging  
1270 establishments under s. 509.032;

1271           7. Florida advocacy council member or representative of the  
1272 Office of State Long-Term Care Ombudsman ~~council member~~; or

1273           8. Bank, savings and loan, or credit union officer,  
1274 trustee, or employee,  
1275  
1276 who knows, or has reasonable cause to suspect, that a vulnerable  
1277 adult has been or is being abused, neglected, or exploited shall  
1278 immediately report such knowledge or suspicion to the central  
1279 abuse hotline.

1280           Section 30. Subsection (1) of section 415.104, Florida  
1281 Statutes, is amended to read:

1282           415.104 Protective investigations of cases of abuse,  
1283 neglect, or exploitation of vulnerable adults; transmittal of  
1284 records to state attorney.-

1285           (1) The department shall, upon receipt of a report alleging  
1286 abuse, neglect, or exploitation of a vulnerable adult, begin  
1287 within 24 hours a protective investigation of the facts alleged  
1288 therein. If a caregiver refuses to allow the department to begin



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1289 a protective investigation or interferes with the conduct of  
1290 such an investigation, the appropriate law enforcement agency  
1291 shall be contacted for assistance. If, during the course of the  
1292 investigation, the department has reason to believe that the  
1293 abuse, neglect, or exploitation is perpetrated by a second  
1294 party, the appropriate law enforcement agency and state attorney  
1295 shall be orally notified. The department and the law enforcement  
1296 agency shall cooperate to allow the criminal investigation to  
1297 proceed concurrently with, and not be hindered by, the  
1298 protective investigation. The department shall make a  
1299 preliminary written report to the law enforcement agencies  
1300 within 5 working days after the oral report. The department  
1301 shall, within 24 hours after receipt of the report, notify the  
1302 appropriate Florida local advocacy council, or state long-term  
1303 ~~care~~ ombudsman program council, when appropriate, that an  
1304 alleged abuse, neglect, or exploitation perpetrated by a second  
1305 party has occurred. Notice to the Florida local advocacy council  
1306 or state long-term care ~~ombudsman program council~~ may be  
1307 accomplished orally or in writing and shall include the name and  
1308 location of the vulnerable adult alleged to have been abused,  
1309 neglected, or exploited and the nature of the report.

1310 Section 31. Subsection (8) of section 415.1055, Florida  
1311 Statutes, is amended to read:

1312 415.1055 Notification to administrative entities.—

1313 (8) At the conclusion of a protective investigation at a  
1314 facility, the department shall notify either the Florida local  
1315 advocacy council or state long-term care ~~ombudsman program~~  
1316 ~~council~~ of the results of the investigation. This notification  
1317 must be in writing.



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1318 Section 32. Subsection (2) of section 415.106, Florida  
1319 Statutes, is amended to read:

1320 415.106 Cooperation by the department and criminal justice  
1321 and other agencies.—

1322 (2) To ensure coordination, communication, and cooperation  
1323 with the investigation of abuse, neglect, or exploitation of  
1324 vulnerable adults, the department shall develop and maintain  
1325 interprogram agreements or operational procedures among  
1326 appropriate departmental programs and the Office of State Long-  
1327 Term Care Ombudsman Council, the Florida Statewide Advocacy  
1328 Council, and other agencies that provide services to vulnerable  
1329 adults. These agreements or procedures must cover such subjects  
1330 as the appropriate roles and responsibilities of the department  
1331 in identifying and responding to reports of abuse, neglect, or  
1332 exploitation of vulnerable adults; the provision of services;  
1333 and related coordinated activities.

1334 Section 33. Paragraph (g) of subsection (3) of section  
1335 415.107, Florida Statutes, is amended to read:

1336 415.107 Confidentiality of reports and records.—

1337 (3) Access to all records, excluding the name of the  
1338 reporter which shall be released only as provided in subsection  
1339 (6), shall be granted only to the following persons, officials,  
1340 and agencies:

1341 (g) Any appropriate official of the Florida advocacy  
1342 council or state long-term care ombudsman program council  
1343 investigating a report of known or suspected abuse, neglect, or  
1344 exploitation of a vulnerable adult.

1345 Section 34. Subsection (20) of section 429.02, Florida  
1346 Statutes, is amended to read:



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1347 429.02 Definitions.—When used in this part, the term:  
1348 (20) “Resident’s representative or designee” means a person  
1349 other than the owner, or an agent or employee of the facility,  
1350 designated in writing by the resident, if legally competent, to  
1351 receive notice of changes in the contract executed pursuant to  
1352 s. 429.24; to receive notice of and to participate in meetings  
1353 between the resident and the facility owner, administrator, or  
1354 staff concerning the rights of the resident; to assist the  
1355 resident in contacting the state ombudsman program council if  
1356 the resident has a complaint against the facility; or to bring  
1357 legal action on behalf of the resident pursuant to s. 429.29.

1358 Section 35. Paragraph (b) of subsection (3) of section  
1359 429.07, Florida Statutes, is amended to read:

1360 429.07 License required; fee.—

1361 (3) In addition to the requirements of s. 408.806, each  
1362 license granted by the agency must state the type of care for  
1363 which the license is granted. Licenses shall be issued for one  
1364 or more of the following categories of care: standard, extended  
1365 congregate care, limited nursing services, or limited mental  
1366 health.

1367 (b) An extended congregate care license shall be issued to  
1368 facilities providing, directly or through contract, services  
1369 beyond those authorized in paragraph (a), including services  
1370 performed by persons licensed under part I of chapter 464 and  
1371 supportive services, as defined by rule, to persons who would  
1372 otherwise be disqualified from continued residence in a facility  
1373 licensed under this part.

1374 1. In order for extended congregate care services to be  
1375 provided, the agency must first determine that all requirements





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1376 established in law and rule are met and must specifically  
1377 designate, on the facility's license, that such services may be  
1378 provided and whether the designation applies to all or part of  
1379 the facility. Such designation may be made at the time of  
1380 initial licensure or relicensure, or upon request in writing by  
1381 a licensee under this part and part II of chapter 408. The  
1382 notification of approval or the denial of the request shall be  
1383 made in accordance with part II of chapter 408. Existing  
1384 facilities qualifying to provide extended congregate care  
1385 services must have maintained a standard license and may not  
1386 have been subject to administrative sanctions during the  
1387 previous 2 years, or since initial licensure if the facility has  
1388 been licensed for less than 2 years, for any of the following  
1389 reasons:

1390 a. A class I or class II violation;

1391 b. Three or more repeat or recurring class III violations  
1392 of identical or similar resident care standards from which a  
1393 pattern of noncompliance is found by the agency;

1394 c. Three or more class III violations that were not  
1395 corrected in accordance with the corrective action plan approved  
1396 by the agency;

1397 d. Violation of resident care standards which results in  
1398 requiring the facility to employ the services of a consultant  
1399 pharmacist or consultant dietitian;

1400 e. Denial, suspension, or revocation of a license for  
1401 another facility licensed under this part in which the applicant  
1402 for an extended congregate care license has at least 25 percent  
1403 ownership interest; or

1404 f. Imposition of a moratorium pursuant to this part or part



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1405 II of chapter 408 or initiation of injunctive proceedings.  
1406       2. A facility that is licensed to provide extended  
1407 congregate care services shall maintain a written progress  
1408 report on each person who receives services which describes the  
1409 type, amount, duration, scope, and outcome of services that are  
1410 rendered and the general status of the resident's health. A  
1411 registered nurse, or appropriate designee, representing the  
1412 agency shall visit the facility at least quarterly to monitor  
1413 residents who are receiving extended congregate care services  
1414 and to determine whether ~~if~~ the facility is in compliance with  
1415 this part, part II of chapter 408, and relevant rules. One of  
1416 the visits may be in conjunction with the regular survey. The  
1417 monitoring visits may be provided through contractual  
1418 arrangements with appropriate community agencies. A registered  
1419 nurse shall serve as part of the team that inspects the  
1420 facility. The agency may waive one of the required yearly  
1421 monitoring visits for a facility that has been licensed for at  
1422 least 24 months to provide extended congregate care services,  
1423 if, during the inspection, the registered nurse determines that  
1424 extended congregate care services are being provided  
1425 appropriately, and if the facility has no class I or class II  
1426 violations and no uncorrected class III violations. The agency  
1427 must first consult with the state ~~long-term care~~ ombudsman  
1428 program council for the area in which the facility is located to  
1429 determine whether ~~if~~ any complaints have been made and  
1430 substantiated about the quality of services or care. The agency  
1431 may not waive one of the required yearly monitoring visits if  
1432 complaints have been made and substantiated.  
1433       3. A facility that is licensed to provide extended



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1434 congregate care services must:

1435       a. Demonstrate the capability to meet unanticipated  
1436 resident service needs.

1437       b. Offer a physical environment that promotes a homelike  
1438 setting, provides for resident privacy, promotes resident  
1439 independence, and allows sufficient congregate space as defined  
1440 by rule.

1441       c. Have sufficient staff available, taking into account the  
1442 physical plant and firesafety features of the building, to  
1443 assist with the evacuation of residents in an emergency.

1444       d. Adopt and follow policies and procedures that maximize  
1445 resident independence, dignity, choice, and decisionmaking to  
1446 permit residents to age in place, so that moves due to changes  
1447 in functional status are minimized or avoided.

1448       e. Allow residents or, if applicable, a resident's  
1449 representative, designee, surrogate, guardian, or attorney in  
1450 fact to make a variety of personal choices, participate in  
1451 developing service plans, and share responsibility in  
1452 decisionmaking.

1453       f. Implement the concept of managed risk.

1454       g. Provide, directly or through contract, the services of a  
1455 person licensed under part I of chapter 464.

1456       h. In addition to the training mandated in s. 429.52,  
1457 provide specialized training as defined by rule for facility  
1458 staff.

1459       4. A facility that is licensed to provide extended  
1460 congregate care services is exempt from the criteria for  
1461 continued residency set forth in rules adopted under s. 429.41.  
1462 A licensed facility must adopt its own requirements within



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1463 guidelines for continued residency set forth by rule. However,  
1464 the facility may not serve residents who require 24-hour nursing  
1465 supervision. A licensed facility that provides extended  
1466 congregate care services must also provide each resident with a  
1467 written copy of facility policies governing admission and  
1468 retention.

1469         5. The primary purpose of extended congregate care services  
1470 is to allow residents, as they become more impaired, the option  
1471 of remaining in a familiar setting from which they would  
1472 otherwise be disqualified for continued residency. A facility  
1473 licensed to provide extended congregate care services may also  
1474 admit an individual who exceeds the admission criteria for a  
1475 facility with a standard license, if the individual is  
1476 determined appropriate for admission to the extended congregate  
1477 care facility.

1478         6. Before the admission of an individual to a facility  
1479 licensed to provide extended congregate care services, the  
1480 individual must undergo a medical examination as provided in s.  
1481 429.26(4) and the facility must develop a preliminary service  
1482 plan for the individual.

1483         7. When a facility can no longer provide or arrange for  
1484 services in accordance with the resident's service plan and  
1485 needs and the facility's policy, the facility shall make  
1486 arrangements for relocating the person in accordance with s.  
1487 429.28(1)(k).

1488         8. Failure to provide extended congregate care services may  
1489 result in denial of extended congregate care license renewal.

1490         Section 36. Subsection (9) of section 429.19, Florida  
1491 Statutes, is amended to read:



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1492           429.19 Violations; imposition of administrative fines;  
1493 grounds.—

1494           (9) The agency shall develop and disseminate an annual list  
1495 of all facilities sanctioned or fined for violations of state  
1496 standards, the number and class of violations involved, the  
1497 penalties imposed, and the current status of cases. The list  
1498 shall be disseminated, at no charge, to the Department of  
1499 Elderly Affairs, the Department of Health, the Department of  
1500 Children and Families ~~Family Services~~, the Agency for Persons  
1501 with Disabilities, the area agencies on aging, the Florida  
1502 Statewide Advocacy Council, and the state ~~and local~~ ombudsman  
1503 program councils. The Department of Children and Families ~~Family~~  
1504 ~~Services~~ shall disseminate the list to service providers under  
1505 contract to the department who are responsible for referring  
1506 persons to a facility for residency. The agency may charge a fee  
1507 commensurate with the cost of printing and postage to other  
1508 interested parties requesting a copy of this list. This  
1509 information may be provided electronically or through the  
1510 agency's Internet site.

1511           Section 37. Subsection (8) of section 429.26, Florida  
1512 Statutes, is amended to read:

1513           429.26 Appropriateness of placements; examinations of  
1514 residents.—

1515           (8) The Department of Children and Families ~~Family Services~~  
1516 may require an examination for supplemental security income and  
1517 optional state supplementation recipients residing in facilities  
1518 at any time and shall provide the examination whenever a  
1519 resident's condition requires it. Any facility administrator;  
1520 personnel of the agency, the department, or the Department of



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1521 Children and Families ~~Family Services~~; or representative of the  
1522 state long-term care ombudsman program ~~council member~~ who  
1523 believes a resident needs to be evaluated shall notify the  
1524 resident's case manager, who shall take appropriate action. A  
1525 report of the examination findings shall be provided to the  
1526 resident's case manager and the facility administrator to help  
1527 the administrator meet his or her responsibilities under  
1528 subsection (1).

1529 Section 38. Subsection (2) and paragraph (b) of subsection  
1530 (3) of section 429.28, Florida Statutes, are amended to read:

1531 429.28 Resident bill of rights.-

1532 (2) The administrator of a facility shall ensure that a  
1533 written notice of the rights, obligations, and prohibitions set  
1534 forth in this part is posted in a prominent place in each  
1535 facility and read or explained to residents who cannot read.  
1536 This notice shall include the statewide toll-free telephone  
1537 number and e-mail address ~~name, address, and telephone numbers~~  
1538 of the state local ombudsman program ~~council~~ and central abuse  
1539 hotline and, when applicable, the Advocacy Center for Persons  
1540 with Disabilities, Inc., and the Florida local advocacy council,  
1541 where complaints may be lodged. The facility must ensure a  
1542 resident's access to a telephone to call the state local  
1543 ombudsman program ~~council~~, central abuse hotline, Advocacy  
1544 Center for Persons with Disabilities, Inc., and the Florida  
1545 local advocacy council.

1546 (3)

1547 (b) In order to determine whether the facility is  
1548 adequately protecting residents' rights, the biennial survey  
1549 shall include private informal conversations with a sample of



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1550 residents and consultation with the state ombudsman program  
1551 ~~council~~ in the planning and service area in which the facility  
1552 is located to discuss residents' experiences within the  
1553 facility.

1554 Section 39. Section 429.34, Florida Statutes, is amended to  
1555 read:

1556 429.34 Right of entry and inspection.—In addition to the  
1557 requirements of s. 408.811, any duly designated officer or  
1558 employee of the department, the Department of Children and  
1559 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the  
1560 Office of the Attorney General, the state or local fire marshal,  
1561 or a representative member of the state ~~or local long-term care~~  
1562 ombudsman program ~~has council shall have~~ the right to enter  
1563 unannounced upon and into the premises of any facility licensed  
1564 pursuant to this part in order to determine the state of  
1565 compliance with ~~the provisions of~~ this part, part II of chapter  
1566 408, and applicable rules. Data collected by the state ~~or local~~  
1567 ~~long-term care~~ ombudsman program ~~councils~~ or the state or local  
1568 advocacy councils may be used by the agency in investigations  
1569 involving violations of regulatory standards.

1570 Section 40. Subsection (2) of section 429.35, Florida  
1571 Statutes, is amended to read:

1572 429.35 Maintenance of records; reports.—

1573 (2) Within 60 days after the date of the biennial  
1574 inspection visit required under s. 408.811 or within 30 days  
1575 after the date of any interim visit, the agency shall forward  
1576 the results of the inspection to the state ~~local~~ ombudsman  
1577 program ~~council in whose planning and service area, as defined~~  
1578 ~~in part II of chapter 400, the facility is located;~~ to at least



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1579 one public library or, in the absence of a public library, the  
1580 county seat in the county in which the inspected assisted living  
1581 facility is located; and, when appropriate, to the district  
1582 Adult Services and Mental Health Program Offices.

1583 Section 41. Subsection (2) of section 429.85, Florida  
1584 Statutes, is amended to read:

1585 429.85 Residents' bill of rights.—

1586 (2) The provider shall ensure that residents and their  
1587 legal representatives are made aware of the rights, obligations,  
1588 and prohibitions set forth in this part. Residents must also be  
1589 given the statewide toll-free telephone number and e-mail  
1590 address of the state ombudsman program and the telephone number  
1591 of names, addresses, and telephone numbers of the local  
1592 ~~ombudsman council~~ and the central abuse hotline where they may  
1593 lodge complaints.

1594 Section 42. Subsection (17) of section 744.444, Florida  
1595 Statutes, is amended to read:

1596 744.444 Power of guardian without court approval.—Without  
1597 obtaining court approval, a plenary guardian of the property, or  
1598 a limited guardian of the property within the powers granted by  
1599 the order appointing the guardian or an approved annual or  
1600 amended guardianship report, may:

1601 (17) Provide confidential information about a ward that is  
1602 related to an investigation arising under part I of chapter 400  
1603 to a representative of the local or state ombudsman program  
1604 ~~council member~~ conducting such an investigation. Any such  
1605 ombudsman has ~~shall have~~ a duty to maintain the confidentiality  
1606 of such information.

1607 Section 43. This act shall take effect July 1, 2013.





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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to the state ombudsman program;  
amending s. 400.0060, F.S.; revising and providing  
definitions; amending s. 400.0061, F.S.; revising  
legislative intent with respect to citizen ombudsmen;  
deleting references to ombudsman councils and  
transferring their responsibilities to representatives  
of the Office of State Long-Term Care Ombudsman;  
amending s. 400.0063, F.S.; revising duties of the  
office; amending s. 400.0065, F.S.; revising the  
purpose of the Office of State Long-Term Care  
Ombudsman; establishing districts; requiring the state  
ombudsman to submit an annual report to the Governor,  
the Legislature, and specified agencies and entities;  
amending s. 400.0067, F.S.; revising duties and  
membership of the State Long-Term Care Ombudsman  
Council; amending s. 400.0069, F.S.; requiring the  
state ombudsman to designate and direct program  
districts; providing duties of representatives of the  
office in the districts; providing for appointment and  
qualifications of district ombudsmen; prohibiting  
certain individuals from serving as ombudsmen;  
amending s. 400.0070, F.S.; providing conditions under  
which a representative of the office could be found to



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1637 have a conflict of interest; amending s. 400.0071,  
1638 F.S.; requiring the Department of Elderly Affairs to  
1639 consult with the state ombudsman before adopting rules  
1640 pertaining to complaint resolution; amending s.  
1641 400.0073, F.S.; providing procedures for investigation  
1642 of complaints; amending s. 400.0074, F.S.; revising  
1643 procedures for conducting onsite administrative  
1644 assessments; authorizing the department to adopt  
1645 rules; amending s. 400.0075, F.S.; revising complaint  
1646 notification and resolution procedures; amending s.  
1647 400.0078, F.S.; providing for a resident or  
1648 representative of a resident to receive additional  
1649 information regarding resident rights; amending s.  
1650 400.0079, F.S.; providing immunity from liability for  
1651 a representative of the office under certain  
1652 circumstances; amending s. 400.0081, F.S.; requiring  
1653 long-term care facilities to provide representatives  
1654 of the office with access to facilities, residents,  
1655 and records for certain purposes; amending s.  
1656 400.0083, F.S.; conforming provisions to changes made  
1657 by the act; amending s. 400.0087, F.S.; providing for  
1658 the office to coordinate ombudsman services with  
1659 Disability Rights Florida; amending s. 400.0089, F.S.;  
1660 conforming provisions to changes made by the act;  
1661 amending s. 400.0091, F.S.; revising training  
1662 requirements for representatives of the office and  
1663 ombudsmen; amending ss. 20.41, 400.021, 400.022,  
1664 400.0255, 400.1413, 400.162, 400.19, 400.191, 400.23,  
1665 400.235, 415.1034, 415.104, 415.1055, 415.106,



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1666 415.107, 429.02, 429.07, 429.19, 429.26, 429.28,  
1667 429.34, 429.35, 429.85, and 744.444, F.S.; conforming  
1668 provisions to changes made by the act; providing an  
1669 effective date.