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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
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The Committee on Children, Families, and Elder Affairs (Detert) 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,



537700

11 health, safety, and welfare of residents with the purpose of
12 noting needed improvement and making recommendations to enhance
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. A district
20 may have more than one local unit of ombudsmen ~~"Local council"~~
21 ~~means a local long-term care ombudsman council designated by the~~
22 ~~ombudsman pursuant to s. 400.0069. Local councils are also known~~
23 ~~as district long-term care ombudsman councils or district~~
24 ~~councils.~~

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

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

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

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



537700

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

42 ~~(10)-(9)~~ "Secretary" means the Secretary of Elderly Affairs.

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

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

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

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

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

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



537700

69 order to be eligible to receive an allotment of funds authorized
70 and appropriated under the federal Older Americans Act, the
71 state must establish and operate an Office of State Long-Term
72 Care Ombudsman, to be headed by the state ~~Long-Term Care~~
73 ombudsman, and carry out a state long-term care ombudsman
74 program.

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

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

97 400.0063 Establishment of Office of State Long-Term Care



537700

98 Ombudsman; designation of ombudsman and legal advocate.—

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

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

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

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

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

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

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

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



537700

127 4. Serving as legal counsel to the state council and
128 representatives of the office ~~local councils, or individual~~
129 ~~members thereof,~~ against whom any suit or other legal action
130 that is initiated in connection with the performance of the
131 official duties of the state ombudsman program ~~councils or an~~
132 ~~individual member.~~

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

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

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

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

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

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

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

154 (e) Represent the interests of residents before
155 governmental agencies and seek administrative, legal, and other



537700

156 remedies to protect the health, safety, welfare, and rights of
157 the residents.

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

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

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

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

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

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

176 (c) Within the limits of appropriated federal and state
177 funding, employ such personnel ~~as are~~ necessary to perform
178 adequately the functions of the office and provide or contract
179 for legal services to assist the state council and
180 representatives of the office ~~local councils~~ in the performance
181 of their duties. ~~Staff positions established for the purpose of~~
182 ~~coordinating the activities of each local council and assisting~~
183 ~~its members may be filled by the ombudsman after approval by the~~
184 ~~secretary. Notwithstanding any other provision of this part,~~



537700

185 ~~upon certification by the ombudsman that the staff member hired~~
186 ~~to fill any such position has completed the initial training~~
187 ~~required under s. 400.0091, such person shall be considered a~~
188 ~~representative of the State Long Term Care Ombudsman Program for~~
189 ~~purposes of this part.~~

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

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

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

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

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

208 (h) ~~(i)~~ Prepare an annual report describing the activities
209 carried out by the office, the state council, and the districts
210 ~~local councils~~ in the year for which the report is prepared. The
211 state ombudsman shall submit the report to the secretary, the
212 United States Assistant Secretary for Aging, the Governor, the
213 President of the Senate, the Speaker of the House of



537700

214 Representatives, the Secretary of Children and Families, and the
215 Secretary of Health Care Administration at least 30 days before
216 the convening of the regular session of the Legislature. ~~The~~
217 ~~secretary shall in turn submit the report to the United States~~
218 ~~Assistant Secretary for Aging, the Governor, the President of~~
219 ~~the Senate, the Speaker of the House of Representatives, the~~
220 ~~Secretary of Children and Family Services, and the Secretary of~~
221 ~~Health Care Administration.~~ The report must ~~shall~~, at a minimum:
222 1. Contain and analyze data collected concerning complaints
223 about and conditions in long-term care facilities and the
224 disposition of such complaints.
225 2. Evaluate the problems experienced by residents.
226 3. Analyze the successes of the state ombudsman program
227 during the preceding year, including an assessment of how
228 successfully the office ~~program~~ has carried out its
229 responsibilities under the Older Americans Act.
230 4. Provide recommendations for policy, regulatory, and
231 statutory changes designed to solve identified problems; resolve
232 residents' complaints; improve residents' lives and quality of
233 care; protect residents' rights, health, safety, and welfare;
234 and remove any barriers to the optimal operation of the state
235 ~~Long-Term Care~~ ombudsman program.
236 5. Contain recommendations from the state ~~Long-Term Care~~
237 ~~Ombudsman~~ council regarding program functions and activities and
238 recommendations for policy, regulatory, and statutory changes
239 designed to protect residents' rights, health, safety, and
240 welfare.
241 6. Contain any relevant recommendations from
242 representatives of the office ~~local councils~~ regarding program



537700

243 functions and activities.

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

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

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

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

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

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

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

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

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

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



537700

272 (3) The state ~~Long Term Care Ombudsman~~ council consists
273 ~~shall be composed~~ of one active certified ombudsman from each
274 local unit within a district council member elected by each
275 ~~local council~~ plus three at-large members appointed by the
276 secretary Governor.

277 (a) Each local unit in a district must select ~~council shall~~
278 ~~elect by majority vote~~ a representative of its choice to serve
279 ~~from among the council members to represent the interests of the~~
280 ~~local council~~ on the state council. A ~~local council chair may~~
281 ~~not serve as the representative of the local council on the~~
282 ~~state council~~.

283 (b)1. The state ombudsman secretary, ~~after consulting with~~
284 ~~the ombudsman~~, shall submit to the secretary Governor a list of
285 individuals ~~persons~~ recommended for appointment to the at-large
286 positions on the state council. The list may ~~shall~~ not include
287 the name of any individual ~~person~~ who is currently serving in a
288 district ~~on a local council~~.

289 2. The secretary Governor shall appoint three at-large
290 members chosen from the list.

291 3. If the secretary Governor does not appoint an at-large
292 member to fill a vacant position within 60 days after the list
293 is submitted, the state secretary, ~~after consulting with the~~
294 ~~ombudsman~~, shall appoint an at-large member to fill that vacant
295 position.

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

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

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



537700

301 ~~ombudsmen, local council~~ may recommend replacement ~~removal~~ of
302 its selected ombudsman ~~elected representative~~ from the state
303 council ~~by a majority vote~~. If the district manager, in
304 consultation with the district ombudsmen, selects a replacement
305 ombudsman, the district manager ~~council votes to remove its~~
306 ~~representative, the local council chair~~ shall immediately notify
307 the state ombudsman. ~~The secretary shall advise the Governor of~~
308 ~~the local council's vote upon receiving notice from the~~
309 ~~ombudsman.~~

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

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

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

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

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

327 4. A chair may be immediately removed from office before
328 ~~prior to~~ the expiration of his or her term by a vote of two-
329 thirds of all state council members present at any meeting at



537700

330 which a quorum is present. If a chair is removed from office
331 before ~~prior to~~ the expiration of his or her term, a replacement
332 chair shall be chosen during the same meeting in the same manner
333 as described in this paragraph, and the term of the replacement
334 chair shall begin immediately. The replacement chair shall serve
335 for the remainder of the term and is eligible to serve two
336 subsequent consecutive terms.

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

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

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

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

351 Section 6. Section 400.0069, Florida Statutes, is amended
352 to read:

353 400.0069 ~~Local~~ Long-term care ombudsman districts ~~councils~~;
354 duties; appointment ~~membership~~.

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



537700

359 of the state ombudsman.

360 (b) The state ombudsman shall ensure that there are
361 representatives of the office ~~is at least one local council~~
362 ~~operating in each district of the department's planning and~~
363 ~~service areas. The ombudsman may create additional local~~
364 ~~councils~~ as necessary to ensure that residents throughout the
365 state have adequate access to state ~~Long-Term Care~~ ombudsman
366 program services. ~~The ombudsman, after approval from the~~
367 ~~secretary, shall designate the jurisdictional boundaries of each~~
368 ~~local council.~~

369 (c) Each district shall convene a public meeting every
370 quarter.

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

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

376 (b) Discover, investigate, and determine the existence of
377 abuse, or neglect, or exploitation using in any long-term care
378 ~~facility and to use~~ the procedures provided for in ss. 415.101-
379 415.113 when applicable.

380 (c) Identify Elicit, receive, investigate, respond to, and
381 resolve complaints made by or on behalf of residents relating to
382 actions or omissions by providers or representatives of
383 providers of long-term care services, other public agencies,
384 guardians, or representative payees which may adversely affect
385 the health, safety, welfare, or rights of residents.

386 (d) Review and, if necessary, comment on all existing or
387 proposed rules, regulations, and other governmental policies and



537700

388 actions relating to long-term care facilities that may
389 potentially have an effect on the ~~rights~~, health, safety,
390 welfare, and rights ~~welfare~~ of residents.

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

395 (f) Recommend that the state ombudsman and the legal
396 advocate seek administrative, legal, and other remedies to
397 protect the health, safety, welfare, and rights of ~~the~~
398 residents.

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

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

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

409 (4) Each district ~~local council~~ shall be composed of
410 ombudsmen ~~members~~ whose primary residences are ~~residence is~~
411 located within the boundaries of the district ~~local council's~~
412 jurisdiction.

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



537700

417 ~~1. At least one medical or osteopathic physician whose~~
418 ~~practice includes or has included a substantial number of~~
419 ~~geriatric patients and who may practice in a long-term care~~
420 ~~facility;~~

421 ~~2. At least one registered nurse who has geriatric~~
422 ~~experience;~~

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

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

425 ~~5. At least six nursing home residents or representative~~
426 ~~consumer advocates for nursing home residents;~~

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

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

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

432 (b) The following individuals may not be appointed as
433 ombudsmen:

434 1. The owner or representative of a long-term care
435 facility.

436 2. A provider or representative of a provider of long-term
437 care service.

438 3. An employee of the agency.

439 4. An employee of the department, except for a
440 representative of the office.

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

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

443 ~~In no case shall the medical director of a long-term care~~
444 ~~facility or an employee of the agency, the department, the~~
445 ~~Department of Children and Family Services, or the Agency for~~



537700

446 ~~Persons with Disabilities serve as a member or as an ex officio~~
447 ~~member of a council.~~

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

449 1. Individuals wishing to join a local council shall Submit
450 an application to the state ombudsman or his or her designee.

451 2. Successfully complete level 2 background screening
452 pursuant to s. 430.0402 and chapter 435 ~~The ombudsman shall~~
453 ~~review the individual's application and advise the secretary of~~
454 ~~his or her recommendation for approval or disapproval of the~~
455 ~~candidate's membership on the local council. If the secretary~~
456 ~~approves of the individual's membership, the individual shall be~~
457 ~~appointed as a member of the local council.~~

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

467 (c) Upon appointment as an ombudsman, the individual may
468 participate in district activities but may not represent the
469 office or conduct any authorized program duties until the
470 individual has completed the initial training specified in s.
471 400.0091(1) and has been certified by the state ombudsman.

472 (d) The state ombudsman, for good cause shown, such as
473 development of a conflict of interest, failure to adhere to the
474 policies and procedures established by the office, or



537700

475 demonstrated inability to carry out the responsibilities of the
476 office, may rescind the appointment of an individual as an
477 ombudsman. After the appointment is rescinded, the individual
478 may not conduct any duties as an ombudsman and may not represent
479 the office or the state ombudsman program ~~A local council may~~
480 ~~recommend the removal of one or more of its members by~~
481 ~~submitting to the ombudsman a resolution adopted by a two-thirds~~
482 ~~vote of the members of the council stating the name of the~~
483 ~~member or members recommended for removal and the reasons for~~
484 ~~the recommendation. If such a recommendation is adopted by a~~
485 ~~local council, the local council chair or district coordinator~~
486 ~~shall immediately report the council's recommendation to the~~
487 ~~ombudsman. The ombudsman shall review the recommendation of the~~
488 ~~local council and advise the secretary of his or her~~
489 ~~recommendation regarding removal of the council member or~~
490 ~~members.~~

491 ~~(6) (a) Each local council shall elect a chair for a term of~~
492 ~~1 year. There shall be no limitation on the number of terms that~~
493 ~~an approved member of a local council may serve as chair.~~

494 ~~(b) The chair shall select a vice chair from among the~~
495 ~~members of the council. The vice chair shall preside over the~~
496 ~~council in the absence of the chair.~~

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

502 ~~(d) A chair may be immediately removed from office prior to~~
503 ~~the expiration of his or her term by a vote of two-thirds of the~~



537700

504 ~~members of the local council. If any chair is removed from~~
505 ~~office prior to the expiration of his or her term, a replacement~~
506 ~~chair shall be elected during the same meeting, and the term of~~
507 ~~the replacement chair shall begin immediately. The replacement~~
508 ~~chair shall serve for the remainder of the term of the person he~~
509 ~~or she replaced.~~

510 ~~(7) Each local council shall meet upon the call of its~~
511 ~~chair or upon the call of the ombudsman. Each local council~~
512 ~~shall meet at least once a month but may meet more frequently if~~
513 ~~necessary.~~

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

519 ~~(7)(9) A representative of the office may~~ The local
520 ~~councils are authorized to~~ call upon appropriate state agencies
521 ~~of state government~~ for ~~such~~ professional assistance as ~~may be~~
522 needed in the discharge of his or her ~~their~~ duties, and ~~such~~.
523 ~~All~~ state agencies shall cooperate with ~~the local councils~~ in
524 providing requested information and agency representation ~~at~~
525 ~~council meetings.~~

526 Section 7. Section 400.0070, Florida Statutes, is amended
527 to read:

528 400.0070 Conflicts of interest.-

529 (1) A representative of the office may ~~The ombudsman shall~~
530 not:

531 (a) Have a direct involvement in the licensing or
532 certification of, or an ownership or investment interest in, a



537700

533 long-term care facility or a provider of a long-term care
534 service.

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

537 (c) Receive, or have a right to receive, directly or
538 indirectly, remuneration, in cash or in kind, under a
539 compensation agreement with the owner or operator of a long-term
540 care facility.

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

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

546 (a) Situations that constitute an individual ~~a person~~
547 having a conflict of interest which ~~that~~ could materially affect
548 the objectivity or capacity of the individual ~~a person~~ to serve
549 as a representative on an ombudsman council, or as an employee
550 of the office, while carrying out the purposes of the State
551 Long Term Care Ombudsman Program as specified in this part.

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

555 Section 8. Section 400.0071, Florida Statutes, is amended
556 to read:

557 400.0071 State ~~Long Term Care~~ ombudsman program complaint
558 procedures.—The department, in consultation with the state
559 ombudsman, shall adopt rules implementing state and local
560 complaint procedures. The rules must include procedures for
561 receiving, investigating, identifying, and resolving complaints



537700

562 concerning the health, safety, welfare, and rights of residents:

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

565 ~~(2) Conducting investigations of a long-term care facility~~
566 ~~or an employee of a long-term care facility subsequent to~~
567 ~~receiving a complaint.~~

568 ~~(3) Conducting onsite administrative assessments of long-~~
569 ~~term care facilities.~~

570 Section 9. Section 400.0073, Florida Statutes, is amended
571 to read:

572 400.0073 Complaint ~~State and local ombudsman council~~
573 ~~investigations.-~~

574 (1) A representative of the office ~~local council~~ shall
575 identify and investigate, ~~within a reasonable time after a~~
576 complaint is made, any complaint made by or on behalf of a
577 resident, ~~a representative of a resident, or any other credible~~
578 ~~source based on an action or omission by an administrator, an~~
579 ~~employee, or a representative of a long-term care facility~~ which
580 might be:

581 (a) Contrary to law;

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

584 (c) Based on a mistake of fact;

585 (d) Based on improper or irrelevant grounds;

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

587 (f) Performed in an inefficient manner; or

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

590 ~~(2) In an investigation, both the state and local councils~~



537700

591 ~~have the authority to hold public hearings.~~

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

595 ~~(2)(4) If a representative of the office the ombudsman or~~
596 ~~any state or local council member is not allowed to enter a~~
597 ~~long-term care facility, the administrator of the facility shall~~
598 ~~be considered to have interfered with a representative of the~~
599 ~~office, the state council, or the local council in the~~
600 ~~performance of official duties as described in s. 400.0083(1)~~
601 ~~and to have violated ~~committed a violation of~~ this part. The~~
602 ~~representative of the office ombudsman shall report a facility's~~
603 ~~refusal to allow entry to the facility to the state ombudsman or~~
604 ~~his or her designee, who shall report the incident to the~~
605 ~~agency, and the agency shall record the report and take it into~~
606 ~~consideration when determining actions allowable under s.~~
607 ~~400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.~~
608 ~~429.71.~~

609 Section 10. Section 400.0074, Florida Statutes, is amended
610 to read:

611 400.0074 ~~Local ombudsman council~~ Onsite administrative
612 assessments.-

613 (1) A representative of the office shall ~~In addition to any~~
614 ~~specific investigation conducted pursuant to a complaint, the~~
615 ~~local council shall~~ conduct, at least annually, an onsite
616 administrative assessment of each nursing home, assisted living
617 facility, and adult family-care home ~~within its jurisdiction.~~
618 This administrative assessment must be resident-centered and
619 must ~~shall~~ focus on factors affecting the rights, health,



537700

620 safety, and welfare of the residents. ~~Each local council is~~
621 ~~encouraged to conduct a similar onsite administrative assessment~~
622 ~~of each additional long-term care facility within its~~
623 ~~jurisdiction.~~

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

626 (a) To the extent possible and reasonable, the
627 administrative assessment may ~~assessments shall~~ not duplicate
628 the efforts of ~~the agency~~ surveys and inspections conducted by
629 state agencies of long-term care facilities under part II of
630 ~~this chapter and parts I and II of chapter 429.~~

631 (b) An administrative assessment shall be conducted at a
632 time and for a duration necessary to produce the information
633 required to complete the assessment ~~carry out the duties of the~~
634 ~~local council.~~

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

638 (d) A representative of the office ~~local council member~~
639 ~~physically~~ present for the administrative assessment must ~~shall~~
640 identify himself or herself to the administrator ~~and cite the~~
641 ~~specific statutory authority for his or her assessment of the~~
642 facility or his or her designee.

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

645 (f) A representative of the office ~~local council member~~ may
646 not enter a single-family residential unit within a long-term
647 care facility during an administrative assessment without the
648 permission of the resident or the representative of the



537700

649 resident.

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

653 ~~(3) Regardless of jurisdiction, the ombudsman may authorize~~
654 ~~a state or local council member to assist another local council~~
655 ~~to perform the administrative assessments described in this~~
656 ~~section.~~

657 ~~(4)~~ An onsite administrative assessment may not be
658 accomplished by forcible entry. However, if a representative of
659 the office ombudsman ~~or a state or local council member~~ is not
660 allowed to enter a long-term care facility, the administrator of
661 the facility shall be considered to have interfered with a
662 representative of the office, ~~the state council, or the local~~
663 ~~council~~ in the performance of official duties as described in s.
664 400.0083(1) and to have committed a violation of this part. The
665 representative of the office ombudsman shall report the refusal
666 by a facility to allow entry to the state ombudsman or his or
667 her designee, who shall then report the incident to the agency,
668 and the agency shall record the report and take it into
669 consideration when determining actions allowable under s.
670 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
671 429.71.

672 (4) The department, in consultation with the state
673 ombudsman, may adopt rules implementing procedures for
674 conducting onsite administrative assessments of long-term care
675 facilities.

676 Section 11. Section 400.0075, Florida Statutes, is amended
677 to read:



537700

678 400.0075 Complaint notification and resolution procedures.-

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

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

697 1. ~~Extend the target date if the chair has reason to~~
698 ~~believe such action would facilitate the resolution of the~~
699 ~~complaint.~~

700 2. ~~In accordance with s. 400.0077, publicize the complaint,~~
701 ~~the recommendations of the council, and the response of the~~
702 ~~long term care facility.~~

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

704 (b) If an ombudsman determines ~~the local council chair~~
705 ~~believes~~ that the health, safety, welfare, or rights of a ~~the~~
706 resident are in imminent danger, the ombudsman must immediately



537700

707 notify the district manager. The district manager chair shall
708 ~~notify the ombudsman or legal advocate, who,~~ after verifying
709 that such imminent danger exists, must notify the appropriate
710 state agencies, including law enforcement agencies, the state
711 ombudsman, and the legal advocate to ensure the protection of
712 ~~shall seek immediate legal or administrative remedies to protect~~
713 the resident.

714 (c) If the state ombudsman or legal advocate has reason to
715 believe that the long-term care facility or an employee of the
716 facility has committed a criminal act, the state ombudsman or
717 legal advocate shall provide the local law enforcement agency
718 with the relevant information to initiate an investigation of
719 the case.

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

727 ~~(a)1.~~ In accordance with s. 400.0077, publicize the
728 complaint, the recommendations of the representatives of the
729 office local or state council, and the response of the long-term
730 care facility.

731 ~~(b)2.~~ Recommend to the department and the agency a series
732 of facility reviews pursuant to s. 400.19, s. 429.34, or s.
733 429.67 to ensure correction and nonrecurrence of the conditions
734 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a
735 long-term care facility.



537700

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

739 (d)4. Recommend to the department and the agency that
740 procedures be initiated for action against ~~revocation of~~ the
741 long-term care facility's license in accordance with chapter
742 120.

743 ~~(b) If the state council chair believes that the health,~~
744 ~~safety, welfare, or rights of the resident are in imminent~~
745 ~~danger, the chair shall notify the ombudsman or legal advocate,~~
746 ~~who, after verifying that such imminent danger exists, shall~~
747 ~~seek immediate legal or administrative remedies to protect the~~
748 ~~resident.~~

749 (3)(e) If the state ombudsman, after consultation with the
750 legal advocate, has reason to believe that the long-term care
751 facility or an employee of the facility has committed a criminal
752 act, the office ombudsman shall provide the local law
753 enforcement agency with the relevant information to initiate an
754 investigation of the case.

755 Section 12. Section 400.0078, Florida Statutes, is amended
756 to read:

757 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman
758 program services.—

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

763 (2) ~~Every resident or representative of a resident shall~~
764 ~~receive,~~ Upon admission to a long-term care facility, each



537700

765 resident or representative of a resident must receive
766 information regarding:

767 (a) The purpose of the state ~~Long-Term-Care~~ ombudsman
768 program.

769 (b) The statewide toll-free telephone number and e-mail
770 address for receiving complaints.

771 (c) Information that retaliatory action cannot be taken
772 against a resident for presenting grievances or for exercising
773 any other resident rights.

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

776
777 Residents or their representatives must be furnished additional
778 copies of this information upon request.

779 Section 13. Section 400.0079, Florida Statutes, is amended
780 to read:

781 400.0079 Immunity.—

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

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

792 Section 14. Section 400.0081, Florida Statutes, is amended
793 to read:



537700

794 400.0081 Access to facilities, residents, and records.-
795 (1) A long-term care facility shall provide representatives
796 of the office with, ~~the state council and its members, and the~~
797 ~~local councils and their members access to:~~
798 (a) Access to ~~Any portion of~~ the long-term care facility
799 and residents ~~any resident as necessary to investigate or~~
800 ~~resolve a complaint.~~
801 (b) Appropriate access to medical and social records of a
802 resident for review ~~as necessary to investigate or resolve a~~
803 ~~complaint~~, if:
804 1. The representative of the office has the permission of
805 the resident or the legal representative of the resident; or
806 2. The resident is unable to consent to the review and does
807 not have a ~~has no~~ legal representative.
808 (c) Access to medical and social records of a ~~the~~ resident
809 as necessary to investigate ~~or resolve~~ a complaint, if:
810 1. A legal representative or guardian of the resident
811 refuses to give permission;
812 2. A representative of the office has reasonable cause to
813 believe that the legal representative or guardian is not acting
814 in the best interests of the resident; and
815 3. The representative of the office ~~state or local council~~
816 ~~member~~ obtains the approval of the state ombudsman.
817 (d) Access to the administrative records, policies, and
818 documents to which residents or the general public has ~~have~~
819 access.
820 (e) Upon request, copies of all licensing and certification
821 records maintained by the state with respect to a long-term care
822 facility.



537700

823 (2) The department, in consultation with the state
824 ombudsman ~~and the state council~~, may adopt rules to establish
825 procedures to ensure access to facilities, residents, and
826 records as described in this section.

827 Section 15. Section 400.0083, Florida Statutes, is amended
828 to read:

829 400.0083 Interference; retaliation; penalties.—

830 (1) A ~~It shall be unlawful for any person, long-term care~~
831 ~~facility, or other entity~~ may not ~~to~~ willfully interfere with a
832 representative of the office or, ~~the state council, or a local~~
833 ~~council~~ in the performance of official duties.

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

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

842 (a) Is ~~Shall be~~ liable for damages and equitable relief as
843 determined by law.

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

846 Section 16. Section 400.0087, Florida Statutes, is amended
847 to read:

848 400.0087 Department oversight; funding.—

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



537700

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

856 (b) The department may divert from the federal ombudsman
857 appropriation an amount equal to the department's administrative
858 cost ratio to cover the costs associated with administering the
859 state ombudsman program. The remaining allotment from the Older
860 Americans Act program shall be expended on direct ombudsman
861 activities.

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

865 (3) The department is responsible for ensuring that the
866 office:

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

869 (b) Provides information to public and private agencies,
870 legislators, and others.

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

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

877 (4) The department shall also:

878 (a) Receive and disburse state and federal funds for
879 purposes that the state ombudsman has formulated in accordance
880 with the Older Americans Act.



537700

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

884 Section 17. Section 400.0089, Florida Statutes, is amended
885 to read:

886 400.0089 Complaint data reports.—The office shall maintain
887 a statewide uniform reporting system to collect and analyze data
888 relating to complaints and conditions in long-term care
889 facilities and to residents for the purpose of identifying and
890 resolving complaints ~~significant problems~~. The office shall
891 publish quarterly and make readily available information
892 pertaining to the number and types of complaints received by the
893 state ~~Long Term Care~~ ombudsman program and shall include such
894 information in the annual report required under s. 400.0065.

895 Section 18. Section 400.0091, Florida Statutes, is amended
896 to read:

897 400.0091 Training.—The state ombudsman shall ensure that
898 appropriate training is provided to all representatives
899 ~~employees~~ of the office ~~and to the members of the state and~~
900 ~~local councils.~~

901 (1) All representatives ~~state and local council members and~~
902 ~~employees~~ of the office shall be given a minimum of 20 hours of
903 training upon employment with the office or appointment as an
904 ombudsman. Ten approval as a state or local council member and
905 ~~10~~ hours of continuing education is required annually
906 thereafter.

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



537700

- 910 (a) Resident confidentiality.
911 (b) Guardianships and powers of attorney.
912 (c) Medication administration.
913 (d) Care and medication of residents with dementia and
914 Alzheimer's disease.
915 (e) Accounting for residents' funds.
916 (f) Discharge rights and responsibilities.
917 (g) Cultural sensitivity.
918 (h) Any other topic related to residency within a long-term
919 care facility recommended by the secretary.

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

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

931 20.41 Department of Elderly Affairs.—There is created a
932 Department of Elderly Affairs.

933 (4) The department shall administer the Office of State
934 Long-Term Care Ombudsman Council, created by s. 400.0063
935 ~~400.0067, and the local long-term care ombudsman councils,~~
936 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the
937 federal Older Americans Act of 1965, ensure that ~~both~~ the state
938 office operates ~~and local long-term care ombudsman councils~~



537700

939 ~~operate~~ in compliance with the Older Americans Act.

940 Section 20. Subsections (10) through (19) of section
941 400.021, Florida Statutes, are amended to read:

942 400.021 Definitions.—When used in this part, unless the
943 context otherwise requires, the term:

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

947 (10) ~~(11)~~ "Nursing home bed" means an accommodation which is
948 ready for immediate occupancy, or is capable of being made ready
949 for occupancy within 48 hours, excluding provision of staffing;
950 and which conforms to minimum space requirements, including the
951 availability of appropriate equipment and furnishings within the
952 48 hours, as specified by rule of the agency, for the provision
953 of services specified in this part to a single resident.

954 (11) ~~(12)~~ "Nursing home facility" means any facility which
955 provides nursing services as defined in part I of chapter 464
956 and which is licensed according to this part.

957 (12) ~~(13)~~ "Nursing service" means such services or acts as
958 may be rendered, directly or indirectly, to and in behalf of a
959 person by individuals as defined in s. 464.003.

960 (13) "Office" has the same meaning as in s. 400.0060.

961 (14) "Planning and service area" means the geographic area
962 in which the Older Americans Act programs are administered and
963 services are delivered by the Department of Elderly Affairs.

964 (15) "Representative of the office" has the same meaning as
965 in s. 400.0060.

966 (16) ~~(15)~~ "Respite care" means admission to a nursing home
967 for the purpose of providing a short period of rest or relief or



537700

968 emergency alternative care for the primary caregiver of an
969 individual receiving care at home who, without home-based care,
970 would otherwise require institutional care.

971 (17)~~(16)~~ "Resident care plan" means a written plan
972 developed, maintained, and reviewed not less than quarterly by a
973 registered nurse, with participation from other facility staff
974 and the resident or his or her designee or legal representative,
975 which includes a comprehensive assessment of the needs of an
976 individual resident; the type and frequency of services required
977 to provide the necessary care for the resident to attain or
978 maintain the highest practicable physical, mental, and
979 psychosocial well-being; a listing of services provided within
980 or outside the facility to meet those needs; and an explanation
981 of service goals.

982 (18)~~(17)~~ "Resident designee" means a person, other than the
983 owner, administrator, or employee of the facility, designated in
984 writing by a resident or a resident's guardian, if the resident
985 is adjudicated incompetent, to be the resident's representative
986 for a specific, limited purpose.

987 (19)~~(18)~~ "State ombudsman program council" has the same
988 meaning as in s. 400.0060 ~~means the State Long-Term Care~~
989 ~~Ombudsman Council established pursuant to s. 400.0067.~~

990 (20)~~(19)~~ "Therapeutic spa services" means bathing, nail,
991 and hair care services and other similar services related to
992 personal hygiene.

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

996 400.022 Residents' rights.—



537700

997 (1) All licensees of nursing home facilities shall adopt
998 and make public a statement of the rights and responsibilities
999 of the residents of such facilities and shall treat such
1000 residents in accordance with the provisions of that statement.
1001 The statement shall assure each resident the following:

1002 (c) Any entity or individual that provides health, social,
1003 legal, or other services to a resident has the right to have
1004 reasonable access to the resident. The resident has the right to
1005 deny or withdraw consent to access at any time by any entity or
1006 individual. Notwithstanding the visiting policy of the facility,
1007 the following individuals must be permitted immediate access to
1008 the resident:

1009 1. Any representative of the federal or state government,
1010 including, but not limited to, representatives of the Department
1011 of Children and Families ~~Family Services~~, the Department of
1012 Health, the Agency for Health Care Administration, the Office of
1013 the Attorney General, and the Department of Elderly Affairs; any
1014 law enforcement officer; any representative ~~members~~ of the
1015 office ~~state or local ombudsman council~~; and the resident's
1016 individual physician.

1017 2. Subject to the resident's right to deny or withdraw
1018 consent, immediate family or other relatives of the resident.

1019
1020 The facility must allow representatives of the office ~~state~~
1021 ~~Long Term Care ombudsman Council~~ to examine a resident's
1022 clinical records with the permission of the resident or the
1023 resident's legal representative and consistent with state law.

1024 (2) The licensee for each nursing home shall orally inform
1025 the resident of the resident's rights and provide a copy of the



537700

1026 statement required by subsection (1) to each resident or the
1027 resident's legal representative at or before the resident's
1028 admission to a facility. The licensee shall provide a copy of
1029 the resident's rights to each staff member of the facility. Each
1030 such licensee shall prepare a written plan and provide
1031 appropriate staff training to implement ~~the provisions of this~~
1032 section. The written statement of rights must include a
1033 statement that a resident may file a complaint with the agency
1034 or state local ombudsman program council. The statement must be
1035 in boldfaced type and ~~shall~~ include the ~~name, address, and~~
1036 telephone number and e-mail address of the state numbers of the
1037 ~~local~~ ombudsman program council and the telephone number of the
1038 central abuse hotline where complaints may be lodged.

1039 (3) Any violation of the resident's rights set forth in
1040 this section constitutes ~~shall constitute~~ grounds for action by
1041 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or
1042 part II of chapter 408. In order to determine whether the
1043 licensee is adequately protecting residents' rights, the
1044 licensure inspection of the facility must ~~shall~~ include private
1045 informal conversations with a sample of residents to discuss
1046 residents' experiences within the facility with respect to
1047 rights specified in this section and general compliance with
1048 standards, and consultation with the state ombudsman program
1049 ~~council in the local planning and service area of the Department~~
1050 ~~of Elderly Affairs in which the nursing home is located.~~

1051 Section 22. Subsections (8), (9), and (11) through (14) of
1052 section 400.0255, Florida Statutes, are amended to read:

1053 400.0255 Resident transfer or discharge; requirements and
1054 procedures; hearings.-



537700

1055 (8) The notice required by subsection (7) must be in
1056 writing and must contain all information required by state and
1057 federal law, rules, or regulations applicable to Medicaid or
1058 Medicare cases. The agency shall develop a standard document to
1059 be used by all facilities licensed under this part for purposes
1060 of notifying residents of a discharge or transfer. Such document
1061 must include a means for a resident to request the office local
1062 ~~long-term care ombudsman council~~ to review the notice and
1063 request information about or assistance with initiating a fair
1064 hearing with the department's Office of Appeals Hearings. In
1065 addition to any other pertinent information included, the form
1066 shall specify the reason allowed under federal or state law that
1067 the resident is being discharged or transferred, with an
1068 explanation to support this action. Further, the form must ~~shall~~
1069 state the effective date of the discharge or transfer and the
1070 location to which the resident is being discharged or
1071 transferred. The form must ~~shall~~ clearly describe the resident's
1072 appeal rights and the procedures for filing an appeal, including
1073 the right to request the office local~~ombudsman council~~ to
1074 review the notice of discharge or transfer. A copy of the notice
1075 must be placed in the resident's clinical record, and a copy
1076 must be transmitted to the resident's legal guardian or
1077 representative and to the office local~~ombudsman council~~ within
1078 5 business days after signature by the resident or resident
1079 designee.

1080 (9) A resident may request that the office local~~ombudsman~~
1081 ~~council~~ review any notice of discharge or transfer given to the
1082 resident. When requested by a resident to review a notice of
1083 discharge or transfer, the office local~~ombudsman council~~ shall



537700

1084 do so within 7 days after receipt of the request. The nursing
1085 home administrator, or the administrator's designee, must
1086 forward the request for review contained in the notice to the
1087 office ~~local ombudsman council~~ within 24 hours after such
1088 request is submitted. Failure to forward the request within 24
1089 hours after the request is submitted shall toll the running of
1090 the 30-day advance notice period until the request has been
1091 forwarded.

1092 (11) Notwithstanding paragraph (10) (b), an emergency
1093 discharge or transfer may be implemented as necessary pursuant
1094 to state or federal law during the ~~period of~~ time after the
1095 notice is given and before the time a hearing decision is
1096 rendered. Notice of an emergency discharge or transfer to the
1097 resident, the resident's legal guardian or representative, and
1098 the office ~~local ombudsman council~~ if requested pursuant to
1099 subsection (9) must be by telephone or in person. This notice
1100 shall be given before the transfer, if possible, or as soon
1101 thereafter as practicable. A representative of the office ~~local~~
1102 ~~ombudsman council~~ conducting a review under this subsection
1103 shall do so within 24 hours after receipt of the request. The
1104 resident's file must be documented to show who was contacted,
1105 whether the contact was by telephone or in person, and the date
1106 and time of the contact. If the notice is not given in writing,
1107 written notice meeting the requirements of subsection (8) must
1108 be given the next working day.

1109 (12) After receipt of any notice required under this
1110 section, the office ~~local ombudsman council~~ may request a
1111 private informal conversation with a resident to whom the notice
1112 is directed, and, if known, a family member or the resident's



537700

1113 legal guardian or designee, to ensure that the facility is
1114 proceeding with the discharge or transfer in accordance with ~~the~~
1115 ~~requirements of~~ this section. If requested, the office local
1116 ~~ombudsman council~~ shall assist the resident with filing an
1117 appeal of the proposed discharge or transfer.

1118 (13) The following persons must be present at all hearings
1119 authorized under this section:

1120 (a) The resident, or the resident's legal representative or
1121 designee.

1122 (b) The facility administrator, or the facility's legal
1123 representative or designee.

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1125 A representative of the office local long-term care ombudsman
1126 ~~council~~ may be present at all hearings authorized by this
1127 section.

1128 (14) In any hearing under this section, the following
1129 information concerning the parties shall be confidential and
1130 exempt from ~~the provisions of~~ s. 119.07(1):

1131 (a) Names and addresses.

1132 (b) Medical services provided.

1133 (c) Social and economic conditions or circumstances.

1134 (d) Evaluation of personal information.

1135 (e) Medical data, including diagnosis and past history of
1136 disease or disability.

1137 (f) Any information received verifying income eligibility
1138 and amount of medical assistance payments. Income information
1139 received from the Social Security Administration or the Internal
1140 Revenue Service must be safeguarded according to the
1141 requirements of the agency that furnished the data.



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

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

400.1413 Volunteers in nursing homes.—

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

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

400.162 Property and personal affairs of residents.—

(5)

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



537700

1171 ~~Council.~~

1172 Section 25. Subsections (1) and (4) of section 400.19,
1173 Florida Statutes, are amended to read:

1174 400.19 Right of entry and inspection.-

1175 (1) In accordance with part II of chapter 408, the agency
1176 and any duly designated officer or employee thereof or a
1177 representative member of the office state Long-Term Care
1178 ~~ombudsman Council or the local long-term care ombudsman council~~
1179 shall have the right to enter upon and into the premises of any
1180 facility licensed pursuant to this part, or any distinct nursing
1181 home unit of a hospital licensed under chapter 395 or any
1182 freestanding facility licensed under chapter 395 which that
1183 provides extended care or other long-term care services, at any
1184 reasonable time in order to determine the state of compliance
1185 with ~~the provisions of~~ this part, part II of chapter 408, and
1186 applicable rules in force pursuant thereto. The agency shall,
1187 within 60 days after receipt of a complaint made by a resident
1188 or resident's representative, complete its investigation and
1189 provide to the complainant its findings and resolution.

1190 (4) The agency shall conduct unannounced onsite facility
1191 reviews following written verification of licensee noncompliance
1192 in instances in which the office a long-term care ombudsman
1193 ~~council~~, pursuant to ss. 400.0071 and 400.0075, has received a
1194 complaint and has documented deficiencies in resident care or in
1195 the physical plant of the facility that threaten the health,
1196 safety, or security of residents, or when the agency documents
1197 through inspection that conditions in a facility present a
1198 direct or indirect threat to the health, safety, or security of
1199 residents. However, the agency shall conduct unannounced onsite



537700

1200 reviews every 3 months of each facility while the facility has a
1201 conditional license. Deficiencies related to physical plant do
1202 not require followup reviews after the agency has determined
1203 that correction of the deficiency has been accomplished and that
1204 the correction is of the nature that continued compliance can be
1205 reasonably expected.

1206 Section 26. Subsection (1) of section 400.191, Florida
1207 Statutes, is amended to read:

1208 400.191 Availability, distribution, and posting of reports
1209 and records.—

1210 (1) The agency shall provide information to the public
1211 about all of the licensed nursing home facilities operating in
1212 the state. The agency shall, within 60 days after a licensure
1213 inspection visit or within 30 days after any interim visit to a
1214 facility, send copies of the inspection reports to the office
1215 ~~local long term care ombudsman council~~, the agency's local
1216 office, and a public library or the county seat for the county
1217 in which the facility is located. The agency may provide
1218 electronic access to inspection reports as a substitute for
1219 sending copies.

1220 Section 27. Subsection (6) and paragraph (c) of subsection
1221 (7) of section 400.23, Florida Statutes, are amended to read:

1222 400.23 Rules; evaluation and deficiencies; licensure
1223 status.—

1224 (6) Before ~~Prior to~~ conducting a survey of the facility,
1225 the survey team shall obtain a copy of the office's ~~local long-~~
1226 ~~term care ombudsman council~~ report on the facility. Problems
1227 noted in the report shall be incorporated into and followed up
1228 through the agency's inspection process. This procedure does not



537700

1229 preclude the office ~~local long-term care ombudsman council~~ from
1230 requesting the agency to conduct a followup visit to the
1231 facility.

1232 (7) The agency shall, at least every 15 months, evaluate
1233 all nursing home facilities and make a determination as to the
1234 degree of compliance by each licensee with the established rules
1235 adopted under this part as a basis for assigning a licensure
1236 status to that facility. The agency shall base its evaluation on
1237 the most recent inspection report, taking into consideration
1238 findings from other official reports, surveys, interviews,
1239 investigations, and inspections. In addition to license
1240 categories authorized under part II of chapter 408, the agency
1241 shall assign a licensure status of standard or conditional to
1242 each nursing home.

1243 (c) In evaluating the overall quality of care and services
1244 and determining whether the facility will receive a conditional
1245 or standard license, the agency shall consider the needs and
1246 limitations of residents in the facility and the results of
1247 interviews and surveys of a representative sampling of
1248 residents, families of residents, representatives of the office
1249 ~~ombudsman council members in the planning and service area in~~
1250 ~~which the facility is located~~, guardians of residents, and staff
1251 of the nursing home facility.

1252 Section 28. Paragraph (a) of subsection (3), paragraph (f)
1253 of subsection (5), and subsection (6) of section 400.235,
1254 Florida Statutes, are amended to read:

1255 400.235 Nursing home quality and licensure status; Gold
1256 Seal Program.—

1257 (3) (a) The Gold Seal Program shall be developed and



537700

1258 implemented by the Governor's Panel on Excellence in Long-Term
1259 Care which shall operate under the authority of the Executive
1260 Office of the Governor. The panel shall be composed of three
1261 persons appointed by the Governor, to include a consumer
1262 advocate for senior citizens and two persons with expertise in
1263 the fields of quality management, service delivery excellence,
1264 or public sector accountability; three persons appointed by the
1265 Secretary of Elderly Affairs, to include an active member of a
1266 nursing facility family and resident care council and a member
1267 of the University Consortium on Aging; a representative of the
1268 Office of State Long-Term Care Ombudsman; one person appointed
1269 by the Florida Life Care Residents Association; one person
1270 appointed by the State Surgeon General; two persons appointed by
1271 the Secretary of Health Care Administration; one person
1272 appointed by the Florida Association of Homes for the Aging; and
1273 one person appointed by the Florida Health Care Association.
1274 Vacancies on the panel shall be filled in the same manner as the
1275 original appointments.

1276 (5) Facilities must meet the following additional criteria
1277 for recognition as a Gold Seal Program facility:

1278 (f) Evidence that verified an outstanding record regarding
1279 the number and types of substantiated complaints reported to the
1280 Office of State Long-Term Care Ombudsman Council within the 30
1281 months preceding application for the program have been resolved
1282 or, if they have not been resolved, that the facility has made a
1283 good faith effort to resolve the complaints.

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1285 A facility assigned a conditional licensure status may not
1286 qualify for consideration for the Gold Seal Program until after



537700

1287 it has operated for 30 months with no class I or class II
1288 deficiencies and has completed a regularly scheduled relicensure
1289 survey.

1290 (6) The agency, nursing facility industry organizations,
1291 consumers, Office of State Long-Term Care Ombudsman Council, and
1292 members of the community may recommend to the Governor
1293 facilities that meet the established criteria for consideration
1294 for and award of the Gold Seal. The panel shall review nominees
1295 and make a recommendation to the Governor for final approval and
1296 award. The decision of the Governor is final and is not subject
1297 to appeal.

1298 Section 29. Present subsections (18) through (28) of
1299 section 415.102, Florida Statutes, are redesignated as
1300 subsections (19) through (29), respectively, and a new
1301 subsection (18) is added to that section, to read:

1302 415.102 Definitions of terms used in ss. 415.101-415.113.-
1303 As used in ss. 415.101-415.113, the term:

1304 (18) "Office" has the same meaning as in s. 400.0060.

1305 Section 30. Paragraph (a) of subsection (1) of section
1306 415.1034, Florida Statutes, is amended to read:

1307 415.1034 Mandatory reporting of abuse, neglect, or
1308 exploitation of vulnerable adults; mandatory reports of death.-

1309 (1) MANDATORY REPORTING.-

1310 (a) Any person, including, but not limited to, any:

1311 1. Physician, osteopathic physician, medical examiner,
1312 chiropractic physician, nurse, paramedic, emergency medical
1313 technician, or hospital personnel engaged in the admission,
1314 examination, care, or treatment of vulnerable adults;

1315 2. Health professional or mental health professional other



537700

1316 than one listed in subparagraph 1.;

1317 3. Practitioner who relies solely on spiritual means for
1318 healing;

1319 4. Nursing home staff; assisted living facility staff;
1320 adult day care center staff; adult family-care home staff;
1321 social worker; or other professional adult care, residential, or
1322 institutional staff;

1323 5. State, county, or municipal criminal justice employee or
1324 law enforcement officer;

1325 6. ~~An~~ Employee of the Department of Business and
1326 Professional Regulation conducting inspections of public lodging
1327 establishments under s. 509.032;

1328 7. Florida advocacy council member or representative of the
1329 Office of State Long-Term Care Ombudsman ~~council member~~; or

1330 8. Bank, savings and loan, or credit union officer,
1331 trustee, or employee,
1332

1333 who knows, or has reasonable cause to suspect, that a vulnerable
1334 adult has been or is being abused, neglected, or exploited shall
1335 immediately report such knowledge or suspicion to the central
1336 abuse hotline.

1337 Section 31. Subsection (1) of section 415.104, Florida
1338 Statutes, is amended to read:

1339 415.104 Protective investigations of cases of abuse,
1340 neglect, or exploitation of vulnerable adults; transmittal of
1341 records to state attorney.—

1342 (1) The department shall, upon receipt of a report alleging
1343 abuse, neglect, or exploitation of a vulnerable adult, begin
1344 within 24 hours a protective investigation of the facts alleged



537700

1345 therein. If a caregiver refuses to allow the department to begin
1346 a protective investigation or interferes with the conduct of
1347 such an investigation, the appropriate law enforcement agency
1348 shall be contacted for assistance. If, during the course of the
1349 investigation, the department has reason to believe that the
1350 abuse, neglect, or exploitation is perpetrated by a second
1351 party, the appropriate law enforcement agency and state attorney
1352 shall be orally notified. The department and the law enforcement
1353 agency shall cooperate to allow the criminal investigation to
1354 proceed concurrently with, and not be hindered by, the
1355 protective investigation. The department shall make a
1356 preliminary written report to the law enforcement agencies
1357 within 5 working days after the oral report. The department
1358 shall, within 24 hours after receipt of the report, notify the
1359 appropriate Florida local advocacy council, or the office long-
1360 ~~term care ombudsman council~~, when appropriate, that an alleged
1361 abuse, neglect, or exploitation perpetrated by a second party
1362 has occurred. Notice to the Florida local advocacy council or
1363 the office long-term care ombudsman council may be accomplished
1364 orally or in writing and shall include the name and location of
1365 the vulnerable adult alleged to have been abused, neglected, or
1366 exploited and the nature of the report.

1367 Section 32. Subsection (8) of section 415.1055, Florida
1368 Statutes, is amended to read:

1369 415.1055 Notification to administrative entities.—

1370 (8) At the conclusion of a protective investigation at a
1371 facility, the department shall notify ~~either~~ the Florida local
1372 advocacy council or the office long-term care ombudsman council
1373 of the results of the investigation. This notification must be



537700

1374 in writing.

1375 Section 33. Subsection (2) of section 415.106, Florida
1376 Statutes, is amended to read:

1377 415.106 Cooperation by the department and criminal justice
1378 and other agencies.—

1379 (2) To ensure coordination, communication, and cooperation
1380 with the investigation of abuse, neglect, or exploitation of
1381 vulnerable adults, the department shall develop and maintain
1382 interprogram agreements or operational procedures among
1383 appropriate departmental programs and the Office of State Long-
1384 Term Care Ombudsman Council, the Florida Statewide Advocacy
1385 Council, and other agencies that provide services to vulnerable
1386 adults. These agreements or procedures must cover such subjects
1387 as the appropriate roles and responsibilities of the department
1388 in identifying and responding to reports of abuse, neglect, or
1389 exploitation of vulnerable adults; the provision of services;
1390 and related coordinated activities.

1391 Section 34. Paragraph (g) of subsection (3) of section
1392 415.107, Florida Statutes, is amended to read:

1393 415.107 Confidentiality of reports and records.—

1394 (3) Access to all records, excluding the name of the
1395 reporter which shall be released only as provided in subsection
1396 (6), shall be granted only to the following persons, officials,
1397 and agencies:

1398 (g) Any appropriate official of the Florida advocacy
1399 council or the office ~~long-term care ombudsman council~~
1400 investigating a report of known or suspected abuse, neglect, or
1401 exploitation of a vulnerable adult.

1402 Section 35. Present subsections (16) through (26) of



537700

1403 section 429.02, Florida Statutes, are redesignated as
1404 subsections (17) through (27), respectively, present subsections
1405 (11) and (20) are amended, and a new subsection (16) is added to
1406 that section, to read:

1407 429.02 Definitions.—When used in this part, the term:

1408 (11) "Extended congregate care" means acts beyond those
1409 authorized in subsection (17) ~~(16)~~ that may be performed
1410 pursuant to part I of chapter 464 by persons licensed thereunder
1411 while carrying out their professional duties, and other
1412 supportive services which may be specified by rule. The purpose
1413 of such services is to enable residents to age in place in a
1414 residential environment despite mental or physical limitations
1415 that might otherwise disqualify them from residency in a
1416 facility licensed under this part.

1417 (16) "Office" has the same meaning as in s. 400.0060.

1418 (21) ~~(20)~~ "Resident's representative or designee" means a
1419 person other than the owner, or an agent or employee of the
1420 facility, designated in writing by the resident, if legally
1421 competent, to receive notice of changes in the contract executed
1422 pursuant to s. 429.24; to receive notice of and to participate
1423 in meetings between the resident and the facility owner,
1424 administrator, or staff concerning the rights of the resident;
1425 to assist the resident in contacting the office ombudsman
1426 ~~council~~ if the resident has a complaint against the facility; or
1427 to bring legal action on behalf of the resident pursuant to s.
1428 429.29.

1429 Section 36. Paragraph (b) of subsection (3) of section
1430 429.07, Florida Statutes, is amended to read:

1431 429.07 License required; fee.—



537700

1432 (3) In addition to the requirements of s. 408.806, each
1433 license granted by the agency must state the type of care for
1434 which the license is granted. Licenses shall be issued for one
1435 or more of the following categories of care: standard, extended
1436 congregate care, limited nursing services, or limited mental
1437 health.

1438 (b) An extended congregate care license shall be issued to
1439 facilities providing, directly or through contract, services
1440 beyond those authorized in paragraph (a), including services
1441 performed by persons licensed under part I of chapter 464 and
1442 supportive services, as defined by rule, to persons who would
1443 otherwise be disqualified from continued residence in a facility
1444 licensed under this part.

1445 1. In order for extended congregate care services to be
1446 provided, the agency must first determine that all requirements
1447 established in law and rule are met and must specifically
1448 designate, on the facility's license, that such services may be
1449 provided and whether the designation applies to all or part of
1450 the facility. Such designation may be made at the time of
1451 initial licensure or relicensure, or upon request in writing by
1452 a licensee under this part and part II of chapter 408. The
1453 notification of approval or the denial of the request shall be
1454 made in accordance with part II of chapter 408. Existing
1455 facilities qualifying to provide extended congregate care
1456 services must have maintained a standard license and may not
1457 have been subject to administrative sanctions during the
1458 previous 2 years, or since initial licensure if the facility has
1459 been licensed for less than 2 years, for any of the following
1460 reasons:



537700

1461 a. A class I or class II violation;

1462 b. Three or more repeat or recurring class III violations
1463 of identical or similar resident care standards from which a
1464 pattern of noncompliance is found by the agency;

1465 c. Three or more class III violations that were not
1466 corrected in accordance with the corrective action plan approved
1467 by the agency;

1468 d. Violation of resident care standards which results in
1469 requiring the facility to employ the services of a consultant
1470 pharmacist or consultant dietitian;

1471 e. Denial, suspension, or revocation of a license for
1472 another facility licensed under this part in which the applicant
1473 for an extended congregate care license has at least 25 percent
1474 ownership interest; or

1475 f. Imposition of a moratorium pursuant to this part or part
1476 II of chapter 408 or initiation of injunctive proceedings.

1477 2. A facility that is licensed to provide extended
1478 congregate care services shall maintain a written progress
1479 report on each person who receives services which describes the
1480 type, amount, duration, scope, and outcome of services that are
1481 rendered and the general status of the resident's health. A
1482 registered nurse, or appropriate designee, representing the
1483 agency shall visit the facility at least quarterly to monitor
1484 residents who are receiving extended congregate care services
1485 and to determine whether ~~if~~ the facility is in compliance with
1486 this part, part II of chapter 408, and relevant rules. One of
1487 the visits may be in conjunction with the regular survey. The
1488 monitoring visits may be provided through contractual
1489 arrangements with appropriate community agencies. A registered



537700

1490 nurse shall serve as part of the team that inspects the
1491 facility. The agency may waive one of the required yearly
1492 monitoring visits for a facility that has been licensed for at
1493 least 24 months to provide extended congregate care services,
1494 if, during the inspection, the registered nurse determines that
1495 extended congregate care services are being provided
1496 appropriately, and if the facility has no class I or class II
1497 violations and no uncorrected class III violations. The agency
1498 must first consult with the office ~~long-term care ombudsman~~
1499 ~~council~~ for the area in which the facility is located to
1500 determine whether ~~if~~ any complaints have been made and
1501 substantiated about the quality of services or care. The agency
1502 may not waive one of the required yearly monitoring visits if
1503 complaints have been made and substantiated.

1504 3. A facility that is licensed to provide extended
1505 congregate care services must:

1506 a. Demonstrate the capability to meet unanticipated
1507 resident service needs.

1508 b. Offer a physical environment that promotes a homelike
1509 setting, provides for resident privacy, promotes resident
1510 independence, and allows sufficient congregate space as defined
1511 by rule.

1512 c. Have sufficient staff available, taking into account the
1513 physical plant and firesafety features of the building, to
1514 assist with the evacuation of residents in an emergency.

1515 d. Adopt and follow policies and procedures that maximize
1516 resident independence, dignity, choice, and decisionmaking to
1517 permit residents to age in place, so that moves due to changes
1518 in functional status are minimized or avoided.



537700

1519 e. Allow residents or, if applicable, a resident's
1520 representative, designee, surrogate, guardian, or attorney in
1521 fact to make a variety of personal choices, participate in
1522 developing service plans, and share responsibility in
1523 decisionmaking.

1524 f. Implement the concept of managed risk.

1525 g. Provide, directly or through contract, the services of a
1526 person licensed under part I of chapter 464.

1527 h. In addition to the training mandated in s. 429.52,
1528 provide specialized training as defined by rule for facility
1529 staff.

1530 4. A facility that is licensed to provide extended
1531 congregate care services is exempt from the criteria for
1532 continued residency set forth in rules adopted under s. 429.41.
1533 A licensed facility must adopt its own requirements within
1534 guidelines for continued residency set forth by rule. However,
1535 the facility may not serve residents who require 24-hour nursing
1536 supervision. A licensed facility that provides extended
1537 congregate care services must also provide each resident with a
1538 written copy of facility policies governing admission and
1539 retention.

1540 5. The primary purpose of extended congregate care services
1541 is to allow residents, as they become more impaired, the option
1542 of remaining in a familiar setting from which they would
1543 otherwise be disqualified for continued residency. A facility
1544 licensed to provide extended congregate care services may also
1545 admit an individual who exceeds the admission criteria for a
1546 facility with a standard license, if the individual is
1547 determined appropriate for admission to the extended congregate



537700

1548 care facility.

1549 6. Before the admission of an individual to a facility
1550 licensed to provide extended congregate care services, the
1551 individual must undergo a medical examination as provided in s.
1552 429.26(4) and the facility must develop a preliminary service
1553 plan for the individual.

1554 7. When a facility can no longer provide or arrange for
1555 services in accordance with the resident's service plan and
1556 needs and the facility's policy, the facility shall make
1557 arrangements for relocating the person in accordance with s.
1558 429.28(1)(k).

1559 8. Failure to provide extended congregate care services may
1560 result in denial of extended congregate care license renewal.

1561 Section 37. Subsection (9) of section 429.19, Florida
1562 Statutes, is amended to read:

1563 429.19 Violations; imposition of administrative fines;
1564 grounds.—

1565 (9) The agency shall develop and disseminate an annual list
1566 of all facilities sanctioned or fined for violations of state
1567 standards, the number and class of violations involved, the
1568 penalties imposed, and the current status of cases. The list
1569 shall be disseminated, at no charge, to the Department of
1570 Elderly Affairs, the Department of Health, the Department of
1571 Children and Families ~~Family Services~~, the Agency for Persons
1572 with Disabilities, the area agencies on aging, the Florida
1573 Statewide Advocacy Council, and the office ~~state and local~~
1574 ~~ombudsman councils~~. The Department of Children and Families
1575 ~~Family Services~~ shall disseminate the list to service providers
1576 under contract to the department who are responsible for



537700

1577 referring persons to a facility for residency. The agency may
1578 charge a fee commensurate with the cost of printing and postage
1579 to other interested parties requesting a copy of this list. This
1580 information may be provided electronically or through the
1581 agency's Internet site.

1582 Section 38. Subsection (8) of section 429.26, Florida
1583 Statutes, is amended to read:

1584 429.26 Appropriateness of placements; examinations of
1585 residents.—

1586 (8) The Department of Children and Families ~~Family Services~~
1587 may require an examination for supplemental security income and
1588 optional state supplementation recipients residing in facilities
1589 at any time and shall provide the examination whenever a
1590 resident's condition requires it. Any facility administrator;
1591 personnel of the agency, the department, or the Department of
1592 Children and Families ~~Family Services~~; or representative of the
1593 Office of the State Long-Term Care Ombudsman ~~long-term care~~
1594 ~~ombudsman council member~~ who believes a resident needs to be
1595 evaluated shall notify the resident's case manager, who shall
1596 take appropriate action. A report of the examination findings
1597 shall be provided to the resident's case manager and the
1598 facility administrator to help the administrator meet his or her
1599 responsibilities under subsection (1).

1600 Section 39. Subsection (2) and paragraph (b) of subsection
1601 (3) of section 429.28, Florida Statutes, are amended to read:

1602 429.28 Resident bill of rights.—

1603 (2) The administrator of a facility shall ensure that a
1604 written notice of the rights, obligations, and prohibitions set
1605 forth in this part is posted in a prominent place in each



537700

1606 facility and read or explained to residents who cannot read.
1607 This notice must ~~shall~~ include the statewide toll-free telephone
1608 number and e-mail address of the state ombudsman program and the
1609 telephone number of the name, address, and telephone numbers of
1610 ~~the local ombudsman council~~ and central abuse hotline and, when
1611 applicable, the Advocacy Center for Persons with Disabilities,
1612 Inc., and the Florida local advocacy council, where complaints
1613 may be lodged. The facility must ensure a resident's access to a
1614 telephone to call the state local ombudsman program council, the
1615 central abuse hotline, the Advocacy Center for Persons with
1616 Disabilities, Inc., and the Florida local advocacy council.

1617 (3)

1618 (b) In order to determine whether the facility is
1619 adequately protecting residents' rights, the biennial survey
1620 shall include private informal conversations with a sample of
1621 residents and consultation with the state ombudsman program
1622 ~~council~~ in the planning and service area in which the facility
1623 is located to discuss residents' experiences within the
1624 facility.

1625 Section 40. Section 429.34, Florida Statutes, is amended to
1626 read:

1627 429.34 Right of entry and inspection.—In addition to the
1628 requirements of s. 408.811, a ~~any~~ duly designated officer or
1629 employee of the department, the Department of Children and
1630 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the
1631 Office of the Attorney General, the state or local fire marshal,
1632 or a representative member of the Office of the State Long-Term
1633 Care Ombudsman may state or local long-term care ombudsman
1634 ~~council shall have the right to enter unannounced upon and into~~



537700

1635 the premises of any facility licensed under ~~pursuant to~~ this
1636 part in order to determine the state of compliance with ~~the~~
1637 ~~provisions of~~ this part, part II of chapter 408, and applicable
1638 rules. Data collected by the office ~~state or local long-term~~
1639 ~~care ombudsman councils~~ or the state or local advocacy councils
1640 may be used by the agency in investigations involving violations
1641 of regulatory standards.

1642 Section 41. Subsection (2) of section 429.35, Florida
1643 Statutes, is amended to read:

1644 429.35 Maintenance of records; reports.—

1645 (2) Within 60 days after the date of the biennial
1646 inspection visit required under s. 408.811 or within 30 days
1647 after the date of any interim visit, the agency shall forward
1648 the results of the inspection to the office ~~local ombudsman~~
1649 ~~council in whose planning and service area, as defined in part~~
1650 ~~II of chapter 400, the facility is located;~~ to at least one
1651 public library or, in the absence of a public library, the
1652 county seat in the county in which the inspected assisted living
1653 facility is located; and, when appropriate, to the district
1654 Adult Services and Mental Health Program Offices.

1655 Section 42. Subsection (6) of section 429.67, Florida
1656 Statutes, is amended to read:

1657 429.67 Licensure.—

1658 (6) In addition to the requirements of s. 408.811, access
1659 to a licensed adult family-care home must be provided at
1660 reasonable times for the appropriate officials of the
1661 department, the Department of Health, the Department of Children
1662 and Families ~~Family Services~~, the agency, and the State Fire
1663 Marshal, who are responsible for the development and maintenance



537700

1664 of fire, health, sanitary, and safety standards, to inspect the
1665 facility to assure compliance with these standards. In addition,
1666 access to a licensed adult family-care home must be provided at
1667 reasonable times to representatives of the Office of State ~~for~~
1668 ~~the local~~ Long-Term Care Ombudsman ~~council~~.

1669 Section 43. Subsection (2) of section 429.85, Florida
1670 Statutes, is amended to read:

1671 429.85 Residents' bill of rights.—

1672 (2) The provider shall ensure that residents and their
1673 legal representatives are made aware of the rights, obligations,
1674 and prohibitions set forth in this part. Residents must also be
1675 given the statewide toll-free telephone number and e-mail
1676 address of the state ombudsman program and the telephone number
1677 of names, addresses, and telephone numbers of the local
1678 ~~ombudsman council~~ and the central abuse hotline where they may
1679 lodge complaints.

1680 Section 44. Subsection (17) of section 744.444, Florida
1681 Statutes, is amended to read:

1682 744.444 Power of guardian without court approval.—Without
1683 obtaining court approval, a plenary guardian of the property, or
1684 a limited guardian of the property within the powers granted by
1685 the order appointing the guardian or an approved annual or
1686 amended guardianship report, may:

1687 (17) Provide confidential information about a ward which
1688 ~~that~~ is related to an investigation arising under part I of
1689 chapter 400 to a representative of the Office of the State Long-
1690 Term Care Ombudsman ~~local or state ombudsman council member~~
1691 conducting such an investigation. Any such ombudsman shall have
1692 a duty to maintain the confidentiality of such information.



537700

1693 Section 45. This act shall take effect July 1, 2014.

1694

1695 ===== T I T L E A M E N D M E N T =====

1696 And the title is amended as follows:

1697 Delete everything before the enacting clause

1698 and insert:

1699 A bill to be entitled

1700 An act relating to the state ombudsman program;
1701 amending s. 400.0060, F.S.; revising and providing
1702 definitions; amending s. 400.0061, F.S.; revising
1703 legislative intent with respect to citizen ombudsmen;
1704 deleting references to ombudsman councils and
1705 transferring their responsibilities to representatives
1706 of the Office of State Long-Term Care Ombudsman;
1707 amending s. 400.0063, F.S.; revising duties of the
1708 office; amending s. 400.0065, F.S.; revising the
1709 purpose of the office; revising the duties and
1710 authority of the state ombudsman; requiring the state
1711 ombudsman to submit an annual report to the Governor,
1712 the Legislature, and specified agencies and entities;
1713 amending s. 400.0067, F.S.; revising duties and
1714 membership of the State Long-Term Care Ombudsman
1715 Council; amending s. 400.0069, F.S.; requiring the
1716 state ombudsman to designate and direct program
1717 districts; requiring each district to conduct public
1718 meetings; providing duties of representatives of the
1719 office in the districts; revising the appointments of
1720 and qualifications for district ombudsmen; prohibiting
1721 certain individuals from serving as ombudsmen;



537700

1722 deleting provisions that provide for an election of a
1723 chair of a local council and the meeting times for the
1724 local council; amending s. 400.0070, F.S.; providing
1725 conditions under which a representative of the office
1726 could be found to have a conflict of interest;
1727 requiring the Department of Elderly Affairs, in
1728 consultation with the state ombudsman, to define by
1729 rule what constitutes a conflict of interest; amending
1730 s. 400.0071, F.S.; requiring the Department of Elderly
1731 Affairs to consult with the state ombudsman to adopt
1732 rules pertaining to complaint procedures; amending s.
1733 400.0073, F.S.; providing procedures for investigation
1734 of complaints; amending s. 400.0074, F.S.; revising
1735 procedures for conducting onsite administrative
1736 assessments; authorizing the department to adopt
1737 rules; amending s. 400.0075, F.S.; revising complaint
1738 notification and resolution procedures; amending s.
1739 400.0078, F.S.; providing for a resident or
1740 representative of a resident to receive additional
1741 information regarding resident rights; amending s.
1742 400.0079, F.S.; providing immunity from liability for
1743 a representative of the office under certain
1744 circumstances; amending s. 400.0081, F.S.; requiring
1745 long-term care facilities to provide representatives
1746 of the office with access to facilities, residents,
1747 and records for certain purposes; amending s.
1748 400.0083, F.S.; conforming provisions to changes made
1749 by the act; amending s. 400.0087, F.S.; providing for
1750 the office to coordinate ombudsman services with



537700

1751 Disability Rights Florida; amending s. 400.0089, F.S.;
1752 conforming provisions to changes made by the act;
1753 amending s. 400.0091, F.S.; revising training
1754 requirements for representatives of the office and
1755 ombudsmen; amending ss. 20.41, 400.021, 400.022,
1756 400.0255, 400.1413, 400.162, 400.19, 400.191, and
1757 400.23, F.S.; conforming provisions to changes made by
1758 the act; amending s. 400.235, F.S.; conforming
1759 provisions to changes made by the act; revising the
1760 additional criteria for recognition as a Gold Seal
1761 Program facility; amending ss. 415.102, 415.1034,
1762 415.104, 415.1055, 415.106, 415.107, 429.02, 429.07,
1763 429.19, 429.26, 429.28, 429.34, 429.35, 429.67,
1764 429.85, and 744.444, F.S.; conforming provisions to
1765 changes made by the act; providing an effective date.