

By the Committee on Children, Families, and Elder Affairs; and  
Senator Detert

586-03533-14

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1                                   A bill to be entitled  
2       An act relating to the state ombudsman program;  
3       amending s. 400.0060, F.S.; revising and providing  
4       definitions; amending s. 400.0061, F.S.; revising  
5       legislative intent with respect to citizen ombudsmen;  
6       deleting references to ombudsman councils and  
7       transferring their responsibilities to representatives  
8       of the Office of State Long-Term Care Ombudsman;  
9       amending s. 400.0063, F.S.; revising duties of the  
10      office; amending s. 400.0065, F.S.; revising the  
11      purpose of the office; revising the duties and  
12      authority of the state ombudsman; requiring the state  
13      ombudsman to submit an annual report to the Governor,  
14      the Legislature, and specified agencies and entities;  
15      amending s. 400.0067, F.S.; revising duties and  
16      membership of the State Long-Term Care Ombudsman  
17      Council; amending s. 400.0069, F.S.; requiring the  
18      state ombudsman to designate and direct program  
19      districts; requiring each district to conduct public  
20      meetings; providing duties of representatives of the  
21      office in the districts; revising the appointments of  
22      and qualifications for district ombudsmen; prohibiting  
23      certain individuals from serving as ombudsmen;  
24      deleting provisions that provide for an election of a  
25      chair of a local council and the meeting times for the  
26      local council; amending s. 400.0070, F.S.; providing  
27      conditions under which a representative of the office  
28      could be found to have a conflict of interest;  
29      requiring the Department of Elderly Affairs, in

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30 consultation with the state ombudsman, to define by  
31 rule what constitutes a conflict of interest; amending  
32 s. 400.0071, F.S.; requiring the Department of Elderly  
33 Affairs to consult with the state ombudsman to adopt  
34 rules pertaining to complaint procedures; amending s.  
35 400.0073, F.S.; providing procedures for investigation  
36 of complaints; amending s. 400.0074, F.S.; revising  
37 procedures for conducting onsite administrative  
38 assessments; authorizing the department to adopt  
39 rules; amending s. 400.0075, F.S.; revising complaint  
40 notification and resolution procedures; amending s.  
41 400.0078, F.S.; providing for a resident or  
42 representative of a resident to receive additional  
43 information regarding resident rights; amending s.  
44 400.0079, F.S.; providing immunity from liability for  
45 a representative of the office under certain  
46 circumstances; amending s. 400.0081, F.S.; requiring  
47 long-term care facilities to provide representatives  
48 of the office with access to facilities, residents,  
49 and records for certain purposes; amending s.  
50 400.0083, F.S.; conforming provisions to changes made  
51 by the act; amending s. 400.0087, F.S.; providing for  
52 the office to coordinate ombudsman services with  
53 Disability Rights Florida; amending s. 400.0089, F.S.;  
54 conforming provisions to changes made by the act;  
55 amending s. 400.0091, F.S.; revising training  
56 requirements for representatives of the office and  
57 ombudsmen; amending ss. 20.41, 400.021, 400.022,  
58 400.0255, 400.1413, 400.162, 400.19, 400.191, and

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59 400.23, F.S.; conforming provisions to changes made by  
 60 the act; amending s. 400.235, F.S.; conforming  
 61 provisions to changes made by the act; revising the  
 62 additional criteria for recognition as a Gold Seal  
 63 Program facility; amending ss. 415.102, 415.1034,  
 64 415.104, 415.1055, 415.106, 415.107, 429.02, 429.07,  
 65 429.19, 429.26, 429.28, 429.34, 429.35, 429.67,  
 66 429.85, and 744.444, F.S.; conforming provisions to  
 67 changes made by the act; providing an effective date.

68

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

70

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

73 400.0060 Definitions.—When used in this part, unless the  
 74 context clearly dictates otherwise, the term:

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

80 (2) "Agency" means the Agency for Health Care  
 81 Administration.

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

83 (4) "District" means a geographical area designated by the  
 84 state ombudsman in which individuals certified as ombudsmen  
 85 carry out the duties of the state ombudsman program. A district  
 86 may have more than one local unit of ombudsmen ~~"Local council"~~  
 87 ~~means a local long-term care ombudsman council designated by the~~

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88 ~~ombudsman pursuant to s. 400.0069. Local councils are also known~~  
 89 ~~as district long-term care ombudsman councils or district~~  
 90 ~~councils.~~

91 (5) "Long-term care facility" means a nursing home  
 92 facility, assisted living facility, adult family-care home,  
 93 board and care facility, facility in which continuing long-term  
 94 care is provided, or any other similar residential adult care  
 95 facility.

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

98 (7) "Ombudsman" means an individual who has been certified  
 99 by the state ombudsman as meeting the requirements of ss.  
 100 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~  
 101 ~~Secretary of Elderly Affairs to head the Office of State Long-~~  
 102 ~~Term Care Ombudsman.~~

103 (8) "Representative of the office" means the state  
 104 ombudsman, an employee of the office, or an individual certified  
 105 as an ombudsman.

106 (9)~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age or  
 107 older who resides in a long-term care facility.

108 (10)~~(9)~~ "Secretary" means the Secretary of Elderly Affairs.

109 (11)~~(10)~~ "State council" means the State Long-Term Care  
 110 Ombudsman Council created by s. 400.0067.

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

114 (13) "State ombudsman program" means the program operating  
 115 under the direction of the office.

116 Section 2. Section 400.0061, Florida Statutes, is amended

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117 to read:

118 400.0061 Legislative findings and intent; long-term care  
119 facilities.—

120 (1) The Legislature finds that conditions in long-term care  
121 facilities in this state are such that the rights, health,  
122 safety, and welfare of residents are not fully ensured by rules  
123 of the Department of Elderly Affairs or the Agency for Health  
124 Care Administration or by the good faith of owners or operators  
125 of long-term care facilities. Furthermore, there is a need for a  
126 formal mechanism whereby a long-term care facility resident, a  
127 representative of a long-term care facility resident, or any  
128 other concerned citizen may make a complaint against the  
129 facility or its employees, or against other persons who are in a  
130 position to restrict, interfere with, or threaten the rights,  
131 health, safety, or welfare of a long-term care facility  
132 resident. The Legislature finds that concerned citizens are  
133 often more effective advocates for the rights of others than  
134 governmental agencies. The Legislature further finds that in  
135 order to be eligible to receive an allotment of funds authorized  
136 and appropriated under the federal Older Americans Act, the  
137 state must establish and operate an Office of State Long-Term  
138 Care Ombudsman, to be headed by the state ~~Long-Term Care~~  
139 ombudsman, and carry out a state ~~long-term care~~ ombudsman  
140 program.

141 (2) It is the intent of the Legislature, therefore, to use  
142 ~~utilize~~ voluntary citizen ombudsmen ~~ombudsman councils~~ under the  
143 leadership of the state ombudsman, and, through them, to operate  
144 a state ~~an~~ ombudsman program, which shall, without interference  
145 by any executive agency, undertake to discover, investigate, and

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146 determine the presence of conditions or individuals who ~~which~~  
147 constitute a threat to the rights, health, safety, or welfare of  
148 the residents of long-term care facilities. To ensure that the  
149 effectiveness and efficiency of such investigations are not  
150 impeded by advance notice or delay, the Legislature intends that  
151 representatives of the office ~~ombudsman and ombudsman councils~~  
152 ~~and their designated representatives~~ not be required to obtain  
153 warrants in order to enter into or conduct investigations or  
154 onsite administrative assessments of long-term care facilities.  
155 It is the further intent of the Legislature that the environment  
156 in long-term care facilities be conducive to the dignity and  
157 independence of residents and that investigations by  
158 representatives of the office ~~ombudsman councils~~ shall further  
159 the enforcement of laws, rules, and regulations that safeguard  
160 the health, safety, and welfare of residents.

161 Section 3. Section 400.0063, Florida Statutes, is amended  
162 to read:

163 400.0063 Establishment of Office of State Long-Term Care  
164 Ombudsman; designation of ombudsman and legal advocate.—

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

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

173 (b) The state ombudsman shall be appointed by and shall  
174 serve at the pleasure of the Secretary of Elderly Affairs. The

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175 secretary shall appoint a person who has expertise and  
176 experience in the fields of long-term care and advocacy to serve  
177 as state ombudsman.

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

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

184 1. Assisting the state ombudsman in carrying out the duties  
185 of the office with respect to the abuse, neglect, exploitation,  
186 or violation of rights of residents of long-term care  
187 facilities.

188 2. Assisting the state council and representatives of the  
189 office ~~local councils~~ in carrying out their responsibilities  
190 under this part.

191 3. Pursuing administrative, legal, and other appropriate  
192 remedies on behalf of residents.

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

199 Section 4. Section 400.0065, Florida Statutes, is amended  
200 to read:

201 400.0065 Office of State Long-Term Care Ombudsman; duties  
202 and responsibilities.-

203 (1) The purpose of the Office of State Long-Term Care

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204 Ombudsman is ~~shall be~~ to:

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

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

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

216 (d) Ensure that residents have regular and timely access to  
217 the services provided through the office and that residents and  
218 complainants receive timely responses from representatives of  
219 the office to their complaints.

220 (e) Represent the interests of residents before  
221 governmental agencies and seek administrative, legal, and other  
222 remedies to protect the health, safety, welfare, and rights of  
223 the residents.

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

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



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233 (h) Provide technical support for the development of  
234 resident and family councils to protect the well-being and  
235 rights of residents.

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

238 (a) Establish and coordinate districts ~~local councils~~  
239 throughout the state.

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

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

256 (d) Contract for services necessary to carry out the  
257 activities of the office.

258 (e) Apply for, receive, and accept grants, gifts, or other  
259 payments, including, but not limited to, real property, personal  
260 property, and services from a governmental entity or other  
261 public or private entity or person, and make arrangements for

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262 the use of such grants, gifts, or payments.

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

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

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

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

288 1. Contain and analyze data collected concerning complaints  
289 about and conditions in long-term care facilities and the  
290 disposition of such complaints.

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- 291           2. Evaluate the problems experienced by residents.
- 292           3. Analyze the successes of the state ombudsman program  
293 during the preceding year, including an assessment of how  
294 successfully the office ~~program~~ has carried out its  
295 responsibilities under the Older Americans Act.
- 296           4. Provide recommendations for policy, regulatory, and  
297 statutory changes designed to solve identified problems; resolve  
298 residents' complaints; improve residents' lives and quality of  
299 care; protect residents' rights, health, safety, and welfare;  
300 and remove any barriers to the optimal operation of the state  
301 ~~Long-Term Care~~ ombudsman program.
- 302           5. Contain recommendations from the state ~~Long-Term Care~~  
303 ~~Ombudsman~~ council regarding program functions and activities and  
304 recommendations for policy, regulatory, and statutory changes  
305 designed to protect residents' rights, health, safety, and  
306 welfare.
- 307           6. Contain any relevant recommendations from  
308 representatives of the office ~~local councils~~ regarding program  
309 functions and activities.
- 310           Section 5. Section 400.0067, Florida Statutes, is amended  
311 to read:
- 312           400.0067 State Long-Term Care Ombudsman Council; duties;  
313 membership.—
- 314           (1) There is created, within the Office of State Long-Term  
315 Care Ombudsman, the State Long-Term Care Ombudsman Council.
- 316           (2) The state ~~Long-Term Care Ombudsman~~ council shall:
- 317           (a) Serve as an advisory body to assist the state ombudsman  
318 in reaching a consensus among districts ~~local councils~~ on issues  
319 affecting residents and impacting the optimal operation of the

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320 program.

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

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

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

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

336 (f) Assist the state ombudsman in preparing the annual  
337 report described in s. 400.0065.

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

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

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

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

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

362 (4) (a) (e) 1. All State council members shall serve 3-year  
363 terms.

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

366 (b) 3. A district manager, in consultation with the district  
367 ombudsmen, local council may recommend replacement ~~removal~~ of  
368 its selected ombudsman ~~elected representative~~ from the state  
369 council ~~by a majority vote~~. If the district manager, in  
370 consultation with the district ombudsmen, selects a replacement  
371 ombudsman, the district manager ~~council votes to remove its~~  
372 ~~representative, the local council chair~~ shall ~~immediately~~ notify  
373 the state ombudsman. ~~The secretary shall advise the Governor of~~  
374 ~~the local council's vote upon receiving notice from the~~  
375 ~~ombudsman.~~

376 (c) 4. The position of any member missing three state  
377 council meetings within a 1-year period without cause may be

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378 declared vacant by the state ombudsman. The findings of the  
379 state ombudsman regarding cause shall be final and binding.

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

382 ~~(e)(d)~~1. The state council shall elect a chair to serve for  
383 a term of 1 year. A chair may not serve more than two  
384 consecutive terms.

385 2. The chair shall select a vice chair from among the  
386 members. The vice chair shall preside over the state council in  
387 the absence of the chair.

388 3. The chair may create additional executive positions as  
389 necessary to carry out the duties of the state council. Any  
390 person appointed to an executive position shall serve at the  
391 pleasure of the chair, and his or her term shall expire on the  
392 same day as the term of the chair.

393 4. A chair may be immediately removed from office before  
394 ~~prior to~~ the expiration of his or her term by a vote of two-  
395 thirds of all state council members present at any meeting at  
396 which a quorum is present. If a chair is removed from office  
397 before ~~prior to~~ the expiration of his or her term, a replacement  
398 chair shall be chosen during the same meeting in the same manner  
399 as described in this paragraph, and the term of the replacement  
400 chair shall begin immediately. The replacement chair shall serve  
401 for the remainder of the term and is eligible to serve two  
402 subsequent consecutive terms.

403 ~~(f)(e)~~1. The state council shall meet upon the call of the  
404 chair or upon the call of the state ombudsman. The state council  
405 shall meet at least quarterly but may meet more frequently as  
406 needed.

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

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

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

417           Section 6. Section 400.0069, Florida Statutes, is amended  
418 to read:

419           400.0069 ~~Local~~ Long-term care ombudsman districts ~~councils~~;  
420 duties; appointment ~~membership~~.-

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

426           (b) The state ombudsman shall ensure that there are  
427 representatives of the office ~~is at least one local council~~  
428 operating in each district ~~of the department's planning and~~  
429 ~~service areas. The ombudsman may create additional local~~  
430 ~~councils~~ as necessary to ensure that residents throughout the  
431 state have adequate access to state ~~Long-Term Care~~ ombudsman  
432 program services. ~~The ombudsman, after approval from the~~  
433 ~~secretary, shall designate the jurisdictional boundaries of each~~  
434 ~~local council.~~

435           (c) Each district shall convene a public meeting every

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436 quarter.

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

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

442 (b) Discover, investigate, and determine the existence of  
443 abuse, or neglect, or exploitation using ~~in any long-term care~~  
444 ~~facility and to use~~ the procedures provided for in ss. 415.101-  
445 415.113 when applicable.

446 (c) Identify ~~Elicit, receive,~~ investigate, ~~respond to,~~ and  
447 resolve complaints made by or on behalf of residents relating to  
448 actions or omissions by providers or representatives of  
449 providers of long-term care services, other public agencies,  
450 guardians, or representative payees which may adversely affect  
451 the health, safety, welfare, or rights of residents.

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

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

461 (f) Recommend that the state ombudsman and the legal  
462 advocate seek administrative, legal, and other remedies to  
463 protect the health, safety, welfare, and rights of ~~the~~  
464 residents.



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

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

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

475 (4) Each district ~~local council~~ shall be composed of  
476 ombudsmen ~~members~~ whose primary residences are ~~residence is~~  
477 located within the boundaries of the district ~~local council's~~  
478 jurisdiction.

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

483 1. ~~At least one medical or osteopathic physician whose~~  
484 ~~practice includes or has included a substantial number of~~  
485 ~~geriatric patients and who may practice in a long term care~~  
486 ~~facility;~~

487 2. ~~At least one registered nurse who has geriatric~~  
488 ~~experience;~~

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

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

491 5. ~~At least six nursing home residents or representative~~  
492 ~~consumer advocates for nursing home residents;~~

493 6. ~~At least three residents of assisted living facilities~~

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494 ~~or adult family care homes or three representative consumer~~  
 495 ~~advocates for alternative long-term care facility residents;~~

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

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

498 (b) The following individuals may not be appointed as  
 499 ombudsmen:

500 1. The owner or representative of a long-term care  
 501 facility.

502 2. A provider or representative of a provider of long-term  
 503 care service.

504 3. An employee of the agency.

505 4. An employee of the department, except for a  
 506 representative of the office.

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

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

509 ~~In no case shall the medical director of a long-term care~~  
 510 ~~facility or an employee of the agency, the department, the~~  
 511 ~~Department of Children and Family Services, or the Agency for~~  
 512 ~~Persons with Disabilities serve as a member or as an ex officio~~  
 513 ~~member of a council.~~

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

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

517 2. Successfully complete level 2 background screening  
 518 pursuant to s. 430.0402 and chapter 435 ~~The ombudsman shall~~  
 519 ~~review the individual's application and advise the secretary of~~  
 520 ~~his or her recommendation for approval or disapproval of the~~  
 521 ~~candidate's membership on the local council. If the secretary~~  
 522 ~~approves of the individual's membership, the individual shall be~~

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523 ~~appointed as a member of the local council.~~

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

533 (c) Upon appointment as an ombudsman, the individual may  
534 participate in district activities but may not represent the  
535 office or conduct any authorized program duties until the  
536 individual has completed the initial training specified in s.  
537 400.0091(1) and has been certified by the state ombudsman.

538 (d) The state ombudsman, for good cause shown, such as  
539 development of a conflict of interest, failure to adhere to the  
540 policies and procedures established by the office, or  
541 demonstrated inability to carry out the responsibilities of the  
542 office, may rescind the appointment of an individual as an  
543 ombudsman. After the appointment is rescinded, the individual  
544 may not conduct any duties as an ombudsman and may not represent  
545 the office or the state ombudsman program ~~A local council may~~  
546 ~~recommend the removal of one or more of its members by~~  
547 ~~submitting to the ombudsman a resolution adopted by a two-thirds~~  
548 ~~vote of the members of the council stating the name of the~~  
549 ~~member or members recommended for removal and the reasons for~~  
550 ~~the recommendation. If such a recommendation is adopted by a~~  
551 ~~local council, the local council chair or district coordinator~~

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552 ~~shall immediately report the council's recommendation to the~~  
553 ~~ombudsman. The ombudsman shall review the recommendation of the~~  
554 ~~local council and advise the secretary of his or her~~  
555 ~~recommendation regarding removal of the council member or~~  
556 ~~members.~~

557 ~~(6) (a) Each local council shall elect a chair for a term of~~  
558 ~~1 year. There shall be no limitation on the number of terms that~~  
559 ~~an approved member of a local council may serve as chair.~~

560 ~~(b) The chair shall select a vice chair from among the~~  
561 ~~members of the council. The vice chair shall preside over the~~  
562 ~~council in the absence of the chair.~~

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

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

576 ~~(7) Each local council shall meet upon the call of its~~  
577 ~~chair or upon the call of the ombudsman. Each local council~~  
578 ~~shall meet at least once a month but may meet more frequently if~~  
579 ~~necessary.~~

580 ~~(6) (8) An ombudsman may not ~~A member of a local council~~~~

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581 ~~shall receive no compensation but shall, with approval from the~~  
 582 state ~~ombudsman, be reimbursed for travel expenses both within~~  
 583 ~~and outside the jurisdiction of the local council in accordance~~  
 584 ~~with the provisions of s. 112.061.~~

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

592 Section 7. Section 400.0070, Florida Statutes, is amended  
 593 to read:

594 400.0070 Conflicts of interest.-

595 ~~(1) A representative of the office may~~ The ombudsman shall  
 596 not:

597 (a) Have a direct involvement in the licensing or  
 598 certification of, or an ownership or investment interest in, a  
 599 long-term care facility or a provider of a long-term care  
 600 service.

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

603 (c) Receive, or have a right to receive, directly or  
 604 indirectly, remuneration, in cash or in kind, under a  
 605 compensation agreement with the owner or operator of a long-term  
 606 care facility.

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

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

612 (a) Situations that constitute an individual ~~a person~~  
613 having a conflict of interest which ~~that~~ could materially affect  
614 the objectivity or capacity of the individual ~~a person~~ to serve  
615 as a representative on an ombudsman council, ~~or as an employee~~  
616 ~~of the office, while carrying out the purposes of the State~~  
617 ~~Long Term Care Ombudsman Program as specified in this part.~~

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

621 Section 8. Section 400.0071, Florida Statutes, is amended  
622 to read:

623 400.0071 State ~~Long Term Care~~ ombudsman program complaint  
624 procedures.—The department, in consultation with the state  
625 ombudsman, shall adopt rules implementing state and local  
626 complaint procedures. The rules must include procedures for  
627 receiving, investigating, identifying, and resolving complaints  
628 concerning the health, safety, welfare, and rights of residents;

629 ~~(1) Receiving complaints against a long term care facility~~  
630 ~~or an employee of a long term care facility.~~

631 ~~(2) Conducting investigations of a long term care facility~~  
632 ~~or an employee of a long term care facility subsequent to~~  
633 ~~receiving a complaint.~~

634 ~~(3) Conducting onsite administrative assessments of long-~~  
635 ~~term care facilities.~~

636 Section 9. Section 400.0073, Florida Statutes, is amended  
637 to read:

638 400.0073 Complaint ~~State and local ombudsman council~~

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639 investigations.-

640 (1) A representative of the office ~~local council~~ shall  
641 identify and investigate, ~~within a reasonable time after a~~  
642 ~~complaint is made,~~ any complaint made by or on behalf of a  
643 resident relating to actions or omissions by providers or  
644 representatives of providers of long-term care services, other  
645 public agencies, guardians, or representative payees which may  
646 adversely affect the health, safety, welfare, or rights of  
647 residents, ~~a representative of a resident, or any other credible~~  
648 ~~source based on an action or omission by an administrator, an~~  
649 ~~employee, or a representative of a long term care facility which~~  
650 ~~might be:~~

651 (a) ~~Contrary to law;~~  
652 (b) ~~Unreasonable, unfair, oppressive, or unnecessarily~~  
653 ~~discriminatory, even though in accordance with law;~~  
654 (c) ~~Based on a mistake of fact;~~  
655 (d) ~~Based on improper or irrelevant grounds;~~  
656 (e) ~~Unaccompanied by an adequate statement of reasons;~~  
657 (f) ~~Performed in an inefficient manner; or~~  
658 (g) ~~Otherwise adversely affecting the health, safety,~~  
659 ~~welfare, or rights of a resident.~~

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

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

665 (2)(4) If a representative of the office ~~the ombudsman or~~  
666 ~~any state or local council member~~ is not allowed to enter a  
667 long-term care facility, the administrator of the facility shall

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668 be considered to have interfered with a representative of the  
669 office, ~~the state council, or the local council~~ in the  
670 performance of official duties as described in s. 400.0083(1)  
671 and to have violated ~~committed a violation of~~ this part. The  
672 representative of the office ~~ombudsman~~ shall report a facility's  
673 refusal to allow entry to the facility to the state ombudsman or  
674 his or her designee, who shall report the incident to the  
675 agency, and the agency shall record the report and take it into  
676 consideration when determining actions allowable under s.  
677 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
678 429.71.

679 Section 10. Section 400.0074, Florida Statutes, is amended  
680 to read:

681 400.0074 ~~Local ombudsman council~~ Onsite administrative  
682 assessments.—

683 (1) A representative of the office shall ~~In addition to any~~  
684 ~~specific investigation conducted pursuant to a complaint, the~~  
685 ~~local council shall~~ conduct, at least annually, an onsite  
686 administrative assessment of each nursing home, assisted living  
687 facility, and adult family-care home ~~within its jurisdiction.~~  
688 This administrative assessment must be resident-centered and  
689 must shall focus on factors affecting the rights, health,  
690 safety, and welfare of the residents. ~~Each local council is~~  
691 ~~encouraged to conduct a similar onsite administrative assessment~~  
692 ~~of each additional long-term care facility within its~~  
693 ~~jurisdiction.~~

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

696 (a) To the extent possible and reasonable, the



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697 administrative assessment may ~~assessments shall~~ not duplicate  
698 the efforts of ~~the agency~~ surveys and inspections conducted by  
699 state agencies of long-term care facilities ~~under part II of~~  
700 ~~this chapter and parts I and II of chapter 429.~~

701 (b) An administrative assessment shall be conducted at a  
702 time and for a duration necessary to produce the information  
703 required to complete the assessment ~~carry out the duties of the~~  
704 ~~local council.~~

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

708 (d) A representative of the office ~~local council member~~  
709 ~~physically~~ present for the administrative assessment must ~~shall~~  
710 identify himself or herself to the administrator ~~and cite the~~  
711 ~~specific statutory authority for his or her assessment of the~~  
712 ~~facility~~ or his or her designee.

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

715 (f) A representative of the office ~~local council member~~ may  
716 not enter a single-family residential unit within a long-term  
717 care facility during an administrative assessment without the  
718 permission of the resident or the representative of the  
719 resident.

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

723 (3) ~~Regardless of jurisdiction, the ombudsman may authorize~~  
724 ~~a state or local council member to assist another local council~~  
725 ~~to perform the administrative assessments described in this~~

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726 ~~section.~~

727 ~~(4)~~ An onsite administrative assessment may not be  
728 accomplished by forcible entry. However, if a representative of  
729 the office ombudsman ~~or a state or local council member~~ is not  
730 allowed to enter a long-term care facility, the administrator of  
731 the facility shall be considered to have interfered with a  
732 representative of the office, ~~the state council, or the local~~  
733 ~~council~~ in the performance of official duties as described in s.  
734 400.0083(1) and to have committed a violation of this part. The  
735 representative of the office ombudsman shall report the refusal  
736 by a facility to allow entry to the state ombudsman or his or  
737 her designee, who shall then report the incident to the agency,  
738 and the agency shall record the report and take it into  
739 consideration when determining actions allowable under s.  
740 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
741 429.71.

742 (4) The department, in consultation with the state  
743 ombudsman, may adopt rules implementing procedures for  
744 conducting onsite administrative assessments of long-term care  
745 facilities.

746 Section 11. Section 400.0075, Florida Statutes, is amended  
747 to read:

748 400.0075 Complaint notification and resolution procedures.—

749 (1) (a) Any complaint ~~or problem~~ verified by a  
750 representative of the office ~~an ombudsman council~~ as a result of  
751 an investigation may ~~or onsite administrative assessment, which~~  
752 ~~complaint or problem is determined to require remedial action by~~  
753 ~~the local council,~~ shall be identified and brought to the  
754 attention of the long-term care facility administrator subject

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755 ~~to the confidentiality provisions of s. 400.0077 in writing.~~  
756 Upon receipt of the information ~~such document~~, the  
757 administrator, with the concurrence of the representative of the  
758 office ~~local council chair~~, shall establish target dates for  
759 taking appropriate remedial action. If, by the target date, the  
760 remedial action is not completed or forthcoming, the  
761 representative may extend the target date if there is reason to  
762 believe such action would facilitate the resolution of the  
763 complaint, or the representative may refer the complaint to the  
764 district manager ~~local council chair may, after obtaining~~  
765 ~~approval from the ombudsman and a majority of the members of the~~  
766 ~~local council:~~

767 1. ~~Extend the target date if the chair has reason to~~  
768 ~~believe such action would facilitate the resolution of the~~  
769 ~~complaint.~~

770 2. ~~In accordance with s. 400.0077, publicize the complaint,~~  
771 ~~the recommendations of the council, and the response of the~~  
772 ~~long term care facility.~~

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

774 (b) If an ombudsman determines ~~the local council chair~~  
775 ~~believes~~ that the health, safety, welfare, or rights of a ~~the~~  
776 resident are in imminent danger, the ombudsman must immediately  
777 notify the district manager. ~~The district manager chair shall~~  
778 ~~notify the ombudsman or legal advocate, who, after verifying~~  
779 ~~that such imminent danger exists, must notify the appropriate~~  
780 state agencies, including law enforcement agencies, the state  
781 ombudsman, and the legal advocate to ensure the protection of  
782 ~~shall seek immediate legal or administrative remedies to protect~~  
783 the resident.

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784 (c) If the state ombudsman or legal advocate has reason to  
 785 believe that the long-term care facility or an employee of the  
 786 facility has committed a criminal act, the state ombudsman or  
 787 legal advocate shall provide the local law enforcement agency  
 788 with the relevant information to initiate an investigation of  
 789 the case.

790 (2) ~~(a)~~ Upon referral from a district ~~local council~~, the  
 791 state ombudsman or his or her designee ~~council~~ shall assume the  
 792 responsibility for the disposition of the complaint. If a long-  
 793 term care facility fails to take action to resolve or remedy the  
 794 ~~on a complaint by the state council~~, the state ombudsman ~~council~~  
 795 may, ~~after obtaining approval from the ombudsman and a majority~~  
 796 ~~of the state council members~~:

797 ~~(a)1.~~ In accordance with s. 400.0077, publicize the  
 798 complaint, the recommendations of the representatives of the  
 799 office ~~local or state council~~, and the response of the long-term  
 800 care facility.

801 ~~(b)2.~~ Recommend to the department and the agency a series  
 802 of facility reviews pursuant to s. 400.19, s. 429.34, or s.  
 803 429.67 to ensure correction and nonrecurrence of the conditions  
 804 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a  
 805 long-term care facility.

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

809 ~~(d)4.~~ Recommend to the department and the agency that  
 810 procedures be initiated for action against ~~revocation of~~ the  
 811 long-term care facility's license in accordance with chapter  
 812 120.

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813 ~~(b) If the state council chair believes that the health,~~  
814 ~~safety, welfare, or rights of the resident are in imminent~~  
815 ~~danger, the chair shall notify the ombudsman or legal advocate,~~  
816 ~~who, after verifying that such imminent danger exists, shall~~  
817 ~~seek immediate legal or administrative remedies to protect the~~  
818 ~~resident.~~

819 (3)(e) If the state ombudsman, after consultation with the  
820 legal advocate, has reason to believe that the long-term care  
821 facility or an employee of the facility has committed a criminal  
822 act, the office ombudsman shall provide the local law  
823 enforcement agency with the relevant information to initiate an  
824 investigation of the case.

825 Section 12. Section 400.0078, Florida Statutes, is amended  
826 to read:

827 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman  
828 program services.-

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

833 ~~(2) Every resident or representative of a resident shall~~  
834 ~~receive,~~ Upon admission to a long-term care facility, each  
835 resident or representative of a resident must receive  
836 information regarding:

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

839 (b) The statewide toll-free telephone number and e-mail  
840 address for receiving complaints. ~~and~~

841 (c) Information that retaliatory action cannot be taken

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842 against a resident for presenting grievances or for exercising  
843 any other resident rights.

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

846

847 Residents or their representatives must be furnished additional  
848 copies of this information upon request.

849 Section 13. Section 400.0079, Florida Statutes, is amended  
850 to read:

851 400.0079 Immunity.—

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

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

862 Section 14. Section 400.0081, Florida Statutes, is amended  
863 to read:

864 400.0081 Access to facilities, residents, and records.—

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

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

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

874 1. The representative of the office has the permission of  
875 the resident or the legal representative of the resident; or

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

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

880 1. A legal representative or guardian of the resident  
881 refuses to give permission;

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

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

887 (d) Access to the administrative records, policies, and  
888 documents to which residents or the general public has ~~have~~  
889 access.

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

893 (2) The department, in consultation with the state  
894 ombudsman ~~and the state council~~, may adopt rules to establish  
895 procedures to ensure access to facilities, residents, and  
896 records as described in this section.

897 Section 15. Section 400.0083, Florida Statutes, is amended  
898 to read:

899 400.0083 Interference; retaliation; penalties.—

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

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

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

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

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

916 Section 16. Section 400.0087, Florida Statutes, is amended  
917 to read:

918 400.0087 Department oversight; funding.—

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

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

926 (b) The department may divert from the federal ombudsman  
927 appropriation an amount equal to the department's administrative  
928 cost ratio to cover the costs associated with administering the



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929 state ombudsman program. The remaining allotment from the Older  
930 Americans Act program shall be expended on direct ombudsman  
931 activities.

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

935 (3) The department is responsible for ensuring that the  
936 office:

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

939 (b) Provides information to public and private agencies,  
940 legislators, and others.

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

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

947 (4) The department shall also:

948 (a) Receive and disburse state and federal funds for  
949 purposes that the state ombudsman has formulated in accordance  
950 with the Older Americans Act.

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

954 Section 17. Section 400.0089, Florida Statutes, is amended  
955 to read:

956 400.0089 Complaint data reports.—The office shall maintain  
957 a statewide uniform reporting system to collect and analyze data

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958 relating to complaints and conditions in long-term care  
959 facilities and to residents for the purpose of identifying and  
960 resolving complaints ~~significant problems~~. The office shall  
961 publish quarterly and make readily available information  
962 pertaining to the number and types of complaints received by the  
963 state ~~Long-Term-Care~~ ombudsman program and shall include such  
964 information in the annual report required under s. 400.0065.

965 Section 18. Section 400.0091, Florida Statutes, is amended  
966 to read:

967 400.0091 Training.—The state ombudsman shall ensure that  
968 appropriate training is provided to all representatives  
969 ~~employees~~ of the office ~~and to the members of the state and~~  
970 ~~local councils~~.

971 (1) All representatives ~~state and local council members and~~  
972 ~~employees~~ of the office shall be given a minimum of 20 hours of  
973 training upon employment with the office or appointment as an  
974 ombudsman. ~~Ten approval as a state or local council member and~~  
975 ~~10~~ hours of continuing education is required annually  
976 thereafter.

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

- 980 (a) Resident confidentiality.
- 981 (b) Guardianships and powers of attorney.
- 982 (c) Medication administration.
- 983 (d) Care and medication of residents with dementia and  
984 Alzheimer's disease.
- 985 (e) Accounting for residents' funds.
- 986 (f) Discharge rights and responsibilities.

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987 (g) Cultural sensitivity.

988 (h) Any other topic related to residency within a long-term  
 989 care facility ~~recommended by the secretary.~~

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

999 Section 19. Subsection (4) of section 20.41, Florida  
 1000 Statutes, is amended to read:

1001 20.41 Department of Elderly Affairs.—There is created a  
 1002 Department of Elderly Affairs.

1003 (4) The department shall administer the Office of State  
 1004 Long-Term Care Ombudsman Council, created by s. 400.0063  
 1005 ~~400.0067, and the local long-term care ombudsman councils,~~  
 1006 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the  
 1007 federal Older Americans Act of 1965, ensure that ~~both~~ the state  
 1008 office operates ~~and local long-term care ombudsman councils~~  
 1009 ~~operate~~ in compliance with the Older Americans Act.

1010 Section 20. Subsections (10) through (19) of section  
 1011 400.021, Florida Statutes, are amended to read:

1012 400.021 Definitions.—When used in this part, unless the  
 1013 context otherwise requires, the term:

1014 ~~(10) "Local ombudsman council" means a local long-term care~~  
 1015 ~~ombudsman council established pursuant to s. 400.0069, located~~

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1016 ~~within the Older Americans Act planning and service areas.~~

1017 (10)~~(11)~~ "Nursing home bed" means an accommodation which is  
1018 ready for immediate occupancy, or is capable of being made ready  
1019 for occupancy within 48 hours, excluding provision of staffing;  
1020 and which conforms to minimum space requirements, including the  
1021 availability of appropriate equipment and furnishings within the  
1022 48 hours, as specified by rule of the agency, for the provision  
1023 of services specified in this part to a single resident.

1024 (11)~~(12)~~ "Nursing home facility" means any facility which  
1025 provides nursing services as defined in part I of chapter 464  
1026 and which is licensed according to this part.

1027 (12)~~(13)~~ "Nursing service" means such services or acts as  
1028 may be rendered, directly or indirectly, to and in behalf of a  
1029 person by individuals as defined in s. 464.003.

1030 (13) "Office" has the same meaning as in s. 400.0060.

1031 (14) "Planning and service area" means the geographic area  
1032 in which the Older Americans Act programs are administered and  
1033 services are delivered by the Department of Elderly Affairs.

1034 (15) "Representative of the office" has the same meaning as  
1035 in s. 400.0060.

1036 (16)~~(15)~~ "Respite care" means admission to a nursing home  
1037 for the purpose of providing a short period of rest or relief or  
1038 emergency alternative care for the primary caregiver of an  
1039 individual receiving care at home who, without home-based care,  
1040 would otherwise require institutional care.

1041 (17)~~(16)~~ "Resident care plan" means a written plan  
1042 developed, maintained, and reviewed not less than quarterly by a  
1043 registered nurse, with participation from other facility staff  
1044 and the resident or his or her designee or legal representative,

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1045 which includes a comprehensive assessment of the needs of an  
 1046 individual resident; the type and frequency of services required  
 1047 to provide the necessary care for the resident to attain or  
 1048 maintain the highest practicable physical, mental, and  
 1049 psychosocial well-being; a listing of services provided within  
 1050 or outside the facility to meet those needs; and an explanation  
 1051 of service goals.

1052 (18)~~(17)~~ "Resident designee" means a person, other than the  
 1053 owner, administrator, or employee of the facility, designated in  
 1054 writing by a resident or a resident's guardian, if the resident  
 1055 is adjudicated incompetent, to be the resident's representative  
 1056 for a specific, limited purpose.

1057 (19)~~(18)~~ "State ombudsman program council" has the same  
 1058 meaning as in s. 400.0060 ~~means the State Long-Term Care~~  
 1059 ~~Ombudsman Council established pursuant to s. 400.0067.~~

1060 (20)~~(19)~~ "Therapeutic spa services" means bathing, nail,  
 1061 and hair care services and other similar services related to  
 1062 personal hygiene.

1063 Section 21. Paragraph (c) of subsection (1) and subsections  
 1064 (2) and (3) of section 400.022, Florida Statutes, are amended to  
 1065 read:

1066 400.022 Residents' rights.—

1067 (1) All licensees of nursing home facilities shall adopt  
 1068 and make public a statement of the rights and responsibilities  
 1069 of the residents of such facilities and shall treat such  
 1070 residents in accordance with the provisions of that statement.  
 1071 The statement shall assure each resident the following:

1072 (c) Any entity or individual that provides health, social,  
 1073 legal, or other services to a resident has the right to have

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1074 reasonable access to the resident. The resident has the right to  
1075 deny or withdraw consent to access at any time by any entity or  
1076 individual. Notwithstanding the visiting policy of the facility,  
1077 the following individuals must be permitted immediate access to  
1078 the resident:

1079 1. Any representative of the federal or state government,  
1080 including, but not limited to, representatives of the Department  
1081 of Children and Families ~~Family Services~~, the Department of  
1082 Health, the Agency for Health Care Administration, the Office of  
1083 the Attorney General, and the Department of Elderly Affairs; any  
1084 law enforcement officer; any representative ~~members~~ of the  
1085 office ~~state or local ombudsman council~~; and the resident's  
1086 individual physician.

1087 2. Subject to the resident's right to deny or withdraw  
1088 consent, immediate family or other relatives of the resident.  
1089

1090 The facility must allow representatives of the office ~~state~~  
1091 ~~Long Term Care ombudsman Council~~ to examine a resident's  
1092 clinical records with the permission of the resident or the  
1093 resident's legal representative and consistent with state law.

1094 (2) The licensee for each nursing home shall orally inform  
1095 the resident of the resident's rights and provide a copy of the  
1096 statement required by subsection (1) to each resident or the  
1097 resident's legal representative at or before the resident's  
1098 admission to a facility. The licensee shall provide a copy of  
1099 the resident's rights to each staff member of the facility. Each  
1100 such licensee shall prepare a written plan and provide  
1101 appropriate staff training to implement ~~the provisions of~~ this  
1102 section. The written statement of rights must include a

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1103 statement that a resident may file a complaint with the agency  
 1104 or state local ombudsman program council. The statement must be  
 1105 in boldfaced type and ~~shall~~ include the ~~name, address, and~~  
 1106 telephone number and e-mail address of the state numbers of the  
 1107 ~~local~~ ombudsman program council and the telephone number of the  
 1108 central abuse hotline where complaints may be lodged.

1109 (3) Any violation of the resident's rights set forth in  
 1110 this section constitutes ~~shall constitute~~ grounds for action by  
 1111 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or  
 1112 part II of chapter 408. In order to determine whether the  
 1113 licensee is adequately protecting residents' rights, the  
 1114 licensure inspection of the facility must ~~shall~~ include private  
 1115 informal conversations with a sample of residents to discuss  
 1116 residents' experiences within the facility with respect to  
 1117 rights specified in this section and general compliance with  
 1118 standards, and consultation with the state ombudsman program  
 1119 ~~council in the local planning and service area of the Department~~  
 1120 ~~of Elderly Affairs in which the nursing home is located.~~

1121 Section 22. Subsections (8), (9), and (11) through (14) of  
 1122 section 400.0255, Florida Statutes, are amended to read:

1123 400.0255 Resident transfer or discharge; requirements and  
 1124 procedures; hearings.-

1125 (8) The notice required by subsection (7) must be in  
 1126 writing and must contain all information required by state and  
 1127 federal law, rules, or regulations applicable to Medicaid or  
 1128 Medicare cases. The agency shall develop a standard document to  
 1129 be used by all facilities licensed under this part for purposes  
 1130 of notifying residents of a discharge or transfer. Such document  
 1131 must include a means for a resident to request the office local

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1132 ~~long term care ombudsman council~~ to review the notice and  
1133 request information about or assistance with initiating a fair  
1134 hearing with the department's Office of Appeals Hearings. In  
1135 addition to any other pertinent information included, the form  
1136 shall specify the reason allowed under federal or state law that  
1137 the resident is being discharged or transferred, with an  
1138 explanation to support this action. Further, the form must ~~shall~~  
1139 state the effective date of the discharge or transfer and the  
1140 location to which the resident is being discharged or  
1141 transferred. The form must ~~shall~~ clearly describe the resident's  
1142 appeal rights and the procedures for filing an appeal, including  
1143 the right to request the office ~~local ombudsman council~~ to  
1144 review the notice of discharge or transfer. A copy of the notice  
1145 must be placed in the resident's clinical record, and a copy  
1146 must be transmitted to the resident's legal guardian or  
1147 representative and to the office ~~local ombudsman council~~ within  
1148 5 business days after signature by the resident or resident  
1149 designee.

1150 (9) A resident may request that the office ~~local ombudsman~~  
1151 ~~council~~ review any notice of discharge or transfer given to the  
1152 resident. When requested by a resident to review a notice of  
1153 discharge or transfer, the office ~~local ombudsman council~~ shall  
1154 do so within 7 days after receipt of the request. The nursing  
1155 home administrator, or the administrator's designee, must  
1156 forward the request for review contained in the notice to the  
1157 office ~~local ombudsman council~~ within 24 hours after such  
1158 request is submitted. Failure to forward the request within 24  
1159 hours after the request is submitted shall toll the running of  
1160 the 30-day advance notice period until the request has been



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1161 forwarded.

1162 (11) Notwithstanding paragraph (10) (b), an emergency  
1163 discharge or transfer may be implemented as necessary pursuant  
1164 to state or federal law during the ~~period of~~ time after the  
1165 notice is given and before the time a hearing decision is  
1166 rendered. Notice of an emergency discharge or transfer to the  
1167 resident, the resident's legal guardian or representative, and  
1168 the office ~~local ombudsman council~~ if requested pursuant to  
1169 subsection (9) must be by telephone or in person. This notice  
1170 shall be given before the transfer, if possible, or as soon  
1171 thereafter as practicable. A representative of the office ~~local~~  
1172 ~~ombudsman council~~ conducting a review under this subsection  
1173 shall do so within 24 hours after receipt of the request. The  
1174 resident's file must be documented to show who was contacted,  
1175 whether the contact was by telephone or in person, and the date  
1176 and time of the contact. If the notice is not given in writing,  
1177 written notice meeting the requirements of subsection (8) must  
1178 be given the next working day.

1179 (12) After receipt of any notice required under this  
1180 section, the office ~~local ombudsman council~~ may request a  
1181 private informal conversation with a resident to whom the notice  
1182 is directed, and, if known, a family member or the resident's  
1183 legal guardian or designee, to ensure that the facility is  
1184 proceeding with the discharge or transfer in accordance with ~~the~~  
1185 ~~requirements of~~ this section. If requested, the office ~~local~~  
1186 ~~ombudsman council~~ shall assist the resident with filing an  
1187 appeal of the proposed discharge or transfer.

1188 (13) The following persons must be present at all hearings  
1189 authorized under this section:

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1190 (a) The resident, or the resident's legal representative or  
1191 designee.

1192 (b) The facility administrator, or the facility's legal  
1193 representative or designee.

1194

1195 A representative of the office ~~local long-term care ombudsman~~  
1196 ~~council~~ may be present at all hearings authorized by this  
1197 section.

1198 (14) In any hearing under this section, the following  
1199 information concerning the parties shall be confidential and  
1200 exempt from ~~the provisions of~~ s. 119.07(1):

1201 (a) Names and addresses.

1202 (b) Medical services provided.

1203 (c) Social and economic conditions or circumstances.

1204 (d) Evaluation of personal information.

1205 (e) Medical data, including diagnosis and past history of  
1206 disease or disability.

1207 (f) Any information received verifying income eligibility  
1208 and amount of medical assistance payments. Income information  
1209 received from the Social Security Administration or the Internal  
1210 Revenue Service must be safeguarded according to the  
1211 requirements of the agency that furnished the data.

1212

1213 The exemption created by this subsection does not prohibit  
1214 access to such information by a representative of the office  
1215 ~~local long-term care ombudsman council~~ upon request, by a  
1216 reviewing court if such information is required to be part of  
1217 the record upon subsequent review, or as specified in s. 24(a),  
1218 Art. I of the State Constitution.

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1219 Section 23. Subsection (2) of section 400.1413, Florida  
1220 Statutes, is amended to read:

1221 400.1413 Volunteers in nursing homes.—

1222 (2) This section does not affect the activities of the  
1223 ~~state or local long term care ombudsman program councils~~  
1224 authorized under part I.

1225 Section 24. Paragraph (d) of subsection (5) of section  
1226 400.162, Florida Statutes, is amended to read:

1227 400.162 Property and personal affairs of residents.—

1228 (5)

1229 (d) If, at any time during the period for which a license  
1230 is issued, a licensee that has not purchased a surety bond or  
1231 entered into a self-insurance agreement, as provided in  
1232 paragraphs (b) and (c), is requested to provide safekeeping for  
1233 the personal funds of a resident, the licensee shall notify the  
1234 agency of the request and make application for a surety bond or  
1235 for participation in a self-insurance agreement within 7 days  
1236 after ~~of~~ the request, exclusive of weekends and holidays. Copies  
1237 of the application, along with written documentation of related  
1238 correspondence with an insurance agency or group, shall be  
1239 maintained by the licensee for review by the agency and the  
1240 office ~~state Nursing Home and Long-Term Care Facility ombudsman~~  
1241 ~~Council~~.

1242 Section 25. Subsections (1) and (4) of section 400.19,  
1243 Florida Statutes, are amended to read:

1244 400.19 Right of entry and inspection.—

1245 (1) In accordance with part II of chapter 408, the agency  
1246 and any duly designated officer or employee thereof or a  
1247 representative member of the office ~~state Long-Term Care~~

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1248 ~~ombudsman Council or the local long-term care ombudsman council~~  
1249 shall have the right to enter upon and into the premises of any  
1250 facility licensed pursuant to this part, or any distinct nursing  
1251 home unit of a hospital licensed under chapter 395 or any  
1252 freestanding facility licensed under chapter 395 which ~~that~~  
1253 provides extended care or other long-term care services, at any  
1254 reasonable time in order to determine the state of compliance  
1255 with ~~the provisions of~~ this part, part II of chapter 408, and  
1256 applicable rules in force pursuant thereto. The agency shall,  
1257 within 60 days after receipt of a complaint made by a resident  
1258 or resident's representative, complete its investigation and  
1259 provide to the complainant its findings and resolution.

1260 (4) The agency shall conduct unannounced onsite facility  
1261 reviews following written verification of licensee noncompliance  
1262 in instances in which the office ~~a long-term care ombudsman~~  
1263 ~~council~~, pursuant to ss. 400.0071 and 400.0075, has received a  
1264 complaint and has documented deficiencies in resident care or in  
1265 the physical plant of the facility that threaten the health,  
1266 safety, or security of residents, or when the agency documents  
1267 through inspection that conditions in a facility present a  
1268 direct or indirect threat to the health, safety, or security of  
1269 residents. However, the agency shall conduct unannounced onsite  
1270 reviews every 3 months of each facility while the facility has a  
1271 conditional license. Deficiencies related to physical plant do  
1272 not require followup reviews after the agency has determined  
1273 that correction of the deficiency has been accomplished and that  
1274 the correction is of the nature that continued compliance can be  
1275 reasonably expected.

1276 Section 26. Subsection (1) of section 400.191, Florida

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1277 Statutes, is amended to read:

1278       400.191 Availability, distribution, and posting of reports  
1279 and records.—

1280       (1) The agency shall provide information to the public  
1281 about all of the licensed nursing home facilities operating in  
1282 the state. The agency shall, within 60 days after a licensure  
1283 inspection visit or within 30 days after any interim visit to a  
1284 facility, send copies of the inspection reports to the office  
1285 ~~local long term care ombudsman council~~, the agency's local  
1286 office, and a public library or the county seat for the county  
1287 in which the facility is located. The agency may provide  
1288 electronic access to inspection reports as a substitute for  
1289 sending copies.

1290       Section 27. Subsection (6) and paragraph (c) of subsection  
1291 (7) of section 400.23, Florida Statutes, are amended to read:

1292       400.23 Rules; evaluation and deficiencies; licensure  
1293 status.—

1294       (6) Before ~~Prior to~~ conducting a survey of the facility,  
1295 the survey team shall obtain a copy of the office's ~~local long-~~  
1296 ~~term care ombudsman council~~ report on the facility. Problems  
1297 noted in the report shall be incorporated into and followed up  
1298 through the agency's inspection process. This procedure does not  
1299 preclude the office ~~local long term care ombudsman council~~ from  
1300 requesting the agency to conduct a followup visit to the  
1301 facility.

1302       (7) The agency shall, at least every 15 months, evaluate  
1303 all nursing home facilities and make a determination as to the  
1304 degree of compliance by each licensee with the established rules  
1305 adopted under this part as a basis for assigning a licensure

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1306 status to that facility. The agency shall base its evaluation on  
1307 the most recent inspection report, taking into consideration  
1308 findings from other official reports, surveys, interviews,  
1309 investigations, and inspections. In addition to license  
1310 categories authorized under part II of chapter 408, the agency  
1311 shall assign a licensure status of standard or conditional to  
1312 each nursing home.

1313 (c) In evaluating the overall quality of care and services  
1314 and determining whether the facility will receive a conditional  
1315 or standard license, the agency shall consider the needs and  
1316 limitations of residents in the facility and the results of  
1317 interviews and surveys of a representative sampling of  
1318 residents, families of residents, representatives of the office  
1319 ~~ombudsman council members in the planning and service area in~~  
1320 ~~which the facility is located~~, guardians of residents, and staff  
1321 of the nursing home facility.

1322 Section 28. Paragraph (a) of subsection (3), paragraph (f)  
1323 of subsection (5), and subsection (6) of section 400.235,  
1324 Florida Statutes, are amended to read:

1325 400.235 Nursing home quality and licensure status; Gold  
1326 Seal Program.—

1327 (3) (a) The Gold Seal Program shall be developed and  
1328 implemented by the Governor's Panel on Excellence in Long-Term  
1329 Care which shall operate under the authority of the Executive  
1330 Office of the Governor. The panel shall be composed of three  
1331 persons appointed by the Governor, to include a consumer  
1332 advocate for senior citizens and two persons with expertise in  
1333 the fields of quality management, service delivery excellence,  
1334 or public sector accountability; three persons appointed by the

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1335 Secretary of Elderly Affairs, to include an active member of a  
1336 nursing facility family and resident care council and a member  
1337 of the University Consortium on Aging; a representative of the  
1338 Office of State Long-Term Care Ombudsman; one person appointed  
1339 by the Florida Life Care Residents Association; one person  
1340 appointed by the State Surgeon General; two persons appointed by  
1341 the Secretary of Health Care Administration; one person  
1342 appointed by the Florida Association of Homes for the Aging; and  
1343 one person appointed by the Florida Health Care Association.  
1344 Vacancies on the panel shall be filled in the same manner as the  
1345 original appointments.

1346 (5) Facilities must meet the following additional criteria  
1347 for recognition as a Gold Seal Program facility:

1348 (f) Evidence that verified ~~an outstanding record regarding~~  
1349 ~~the number and types of substantiated~~ complaints reported to the  
1350 Office of State Long-Term Care Ombudsman Council within the 30  
1351 months preceding application for the program have been resolved  
1352 or, if they have not been resolved, that the facility has made a  
1353 good faith effort to resolve the complaints.

1354  
1355 A facility assigned a conditional licensure status may not  
1356 qualify for consideration for the Gold Seal Program until after  
1357 it has operated for 30 months with no class I or class II  
1358 deficiencies and has completed a regularly scheduled relicensure  
1359 survey.

1360 (6) The agency, nursing facility industry organizations,  
1361 consumers, Office of State Long-Term Care Ombudsman Council, and  
1362 members of the community may recommend to the Governor  
1363 facilities that meet the established criteria for consideration

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1364 for and award of the Gold Seal. The panel shall review nominees  
1365 and make a recommendation to the Governor for final approval and  
1366 award. The decision of the Governor is final and is not subject  
1367 to appeal.

1368 Section 29. Present subsections (18) through (28) of  
1369 section 415.102, Florida Statutes, are redesignated as  
1370 subsections (19) through (29), respectively, and a new  
1371 subsection (18) is added to that section, to read:

1372 415.102 Definitions of terms used in ss. 415.101-415.113.-  
1373 As used in ss. 415.101-415.113, the term:

1374 (18) "Office" has the same meaning as in s. 400.0060.

1375 Section 30. Paragraph (a) of subsection (1) of section  
1376 415.1034, Florida Statutes, is amended to read:

1377 415.1034 Mandatory reporting of abuse, neglect, or  
1378 exploitation of vulnerable adults; mandatory reports of death.-

1379 (1) MANDATORY REPORTING.-

1380 (a) Any person, including, but not limited to, any:

1381 1. Physician, osteopathic physician, medical examiner,  
1382 chiropractic physician, nurse, paramedic, emergency medical  
1383 technician, or hospital personnel engaged in the admission,  
1384 examination, care, or treatment of vulnerable adults;

1385 2. Health professional or mental health professional other  
1386 than one listed in subparagraph 1.;

1387 3. Practitioner who relies solely on spiritual means for  
1388 healing;

1389 4. Nursing home staff; assisted living facility staff;  
1390 adult day care center staff; adult family-care home staff;  
1391 social worker; or other professional adult care, residential, or  
1392 institutional staff;



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1393           5. State, county, or municipal criminal justice employee or  
1394 law enforcement officer;

1395           6. ~~An~~ Employee of the Department of Business and  
1396 Professional Regulation conducting inspections of public lodging  
1397 establishments under s. 509.032;

1398           7. Florida advocacy council member or representative of the  
1399 Office of State Long-Term Care Ombudsman ~~council member~~; or

1400           8. Bank, savings and loan, or credit union officer,  
1401 trustee, or employee,

1402

1403 who knows, or has reasonable cause to suspect, that a vulnerable  
1404 adult has been or is being abused, neglected, or exploited shall  
1405 immediately report such knowledge or suspicion to the central  
1406 abuse hotline.

1407           Section 31. Subsection (1) of section 415.104, Florida  
1408 Statutes, is amended to read:

1409           415.104 Protective investigations of cases of abuse,  
1410 neglect, or exploitation of vulnerable adults; transmittal of  
1411 records to state attorney.—

1412           (1) The department shall, upon receipt of a report alleging  
1413 abuse, neglect, or exploitation of a vulnerable adult, begin  
1414 within 24 hours a protective investigation of the facts alleged  
1415 therein. If a caregiver refuses to allow the department to begin  
1416 a protective investigation or interferes with the conduct of  
1417 such an investigation, the appropriate law enforcement agency  
1418 shall be contacted for assistance. If, during the course of the  
1419 investigation, the department has reason to believe that the  
1420 abuse, neglect, or exploitation is perpetrated by a second  
1421 party, the appropriate law enforcement agency and state attorney

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1422 shall be orally notified. The department and the law enforcement  
1423 agency shall cooperate to allow the criminal investigation to  
1424 proceed concurrently with, and not be hindered by, the  
1425 protective investigation. The department shall make a  
1426 preliminary written report to the law enforcement agencies  
1427 within 5 working days after the oral report. The department  
1428 shall, within 24 hours after receipt of the report, notify the  
1429 appropriate Florida local advocacy council, or the office long-  
1430 ~~term care ombudsman council~~, when appropriate, that an alleged  
1431 abuse, neglect, or exploitation perpetrated by a second party  
1432 has occurred. Notice to the Florida local advocacy council or  
1433 the office long-term care ombudsman council may be accomplished  
1434 orally or in writing and shall include the name and location of  
1435 the vulnerable adult alleged to have been abused, neglected, or  
1436 exploited and the nature of the report.

1437 Section 32. Subsection (8) of section 415.1055, Florida  
1438 Statutes, is amended to read:

1439 415.1055 Notification to administrative entities.—

1440 (8) At the conclusion of a protective investigation at a  
1441 facility, the department shall notify ~~either~~ the Florida local  
1442 advocacy council or the office long-term care ombudsman council  
1443 of the results of the investigation. This notification must be  
1444 in writing.

1445 Section 33. Subsection (2) of section 415.106, Florida  
1446 Statutes, is amended to read:

1447 415.106 Cooperation by the department and criminal justice  
1448 and other agencies.—

1449 (2) To ensure coordination, communication, and cooperation  
1450 with the investigation of abuse, neglect, or exploitation of

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1451 vulnerable adults, the department shall develop and maintain  
1452 interprogram agreements or operational procedures among  
1453 appropriate departmental programs and the Office of State Long-  
1454 Term Care Ombudsman Council, the Florida Statewide Advocacy  
1455 Council, and other agencies that provide services to vulnerable  
1456 adults. These agreements or procedures must cover such subjects  
1457 as the appropriate roles and responsibilities of the department  
1458 in identifying and responding to reports of abuse, neglect, or  
1459 exploitation of vulnerable adults; the provision of services;  
1460 and related coordinated activities.

1461 Section 34. Paragraph (g) of subsection (3) of section  
1462 415.107, Florida Statutes, is amended to read:

1463 415.107 Confidentiality of reports and records.—

1464 (3) Access to all records, excluding the name of the  
1465 reporter which shall be released only as provided in subsection  
1466 (6), shall be granted only to the following persons, officials,  
1467 and agencies:

1468 (g) Any appropriate official of the Florida advocacy  
1469 council or the office ~~long-term care ombudsman council~~  
1470 investigating a report of known or suspected abuse, neglect, or  
1471 exploitation of a vulnerable adult.

1472 Section 35. Present subsections (16) through (26) of  
1473 section 429.02, Florida Statutes, are redesignated as  
1474 subsections (17) through (27), respectively, present subsections  
1475 (11) and (20) are amended, and a new subsection (16) is added to  
1476 that section, to read:

1477 429.02 Definitions.—When used in this part, the term:

1478 (11) "Extended congregate care" means acts beyond those  
1479 authorized in subsection (17) ~~(16)~~ that may be performed

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1480 pursuant to part I of chapter 464 by persons licensed thereunder  
1481 while carrying out their professional duties, and other  
1482 supportive services which may be specified by rule. The purpose  
1483 of such services is to enable residents to age in place in a  
1484 residential environment despite mental or physical limitations  
1485 that might otherwise disqualify them from residency in a  
1486 facility licensed under this part.

1487 (16) "Office" has the same meaning as in s. 400.0060.

1488 (21)~~(20)~~ "Resident's representative or designee" means a  
1489 person other than the owner, or an agent or employee of the  
1490 facility, designated in writing by the resident, if legally  
1491 competent, to receive notice of changes in the contract executed  
1492 pursuant to s. 429.24; to receive notice of and to participate  
1493 in meetings between the resident and the facility owner,  
1494 administrator, or staff concerning the rights of the resident;  
1495 to assist the resident in contacting the office ombudsman  
1496 ~~council~~ if the resident has a complaint against the facility; or  
1497 to bring legal action on behalf of the resident pursuant to s.  
1498 429.29.

1499 Section 36. Paragraph (b) of subsection (3) of section  
1500 429.07, Florida Statutes, is amended to read:

1501 429.07 License required; fee.—

1502 (3) In addition to the requirements of s. 408.806, each  
1503 license granted by the agency must state the type of care for  
1504 which the license is granted. Licenses shall be issued for one  
1505 or more of the following categories of care: standard, extended  
1506 congregate care, limited nursing services, or limited mental  
1507 health.

1508 (b) An extended congregate care license shall be issued to

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1509 facilities providing, directly or through contract, services  
1510 beyond those authorized in paragraph (a), including services  
1511 performed by persons licensed under part I of chapter 464 and  
1512 supportive services, as defined by rule, to persons who would  
1513 otherwise be disqualified from continued residence in a facility  
1514 licensed under this part.

1515       1. In order for extended congregate care services to be  
1516 provided, the agency must first determine that all requirements  
1517 established in law and rule are met and must specifically  
1518 designate, on the facility's license, that such services may be  
1519 provided and whether the designation applies to all or part of  
1520 the facility. Such designation may be made at the time of  
1521 initial licensure or relicensure, or upon request in writing by  
1522 a licensee under this part and part II of chapter 408. The  
1523 notification of approval or the denial of the request shall be  
1524 made in accordance with part II of chapter 408. Existing  
1525 facilities qualifying to provide extended congregate care  
1526 services must have maintained a standard license and may not  
1527 have been subject to administrative sanctions during the  
1528 previous 2 years, or since initial licensure if the facility has  
1529 been licensed for less than 2 years, for any of the following  
1530 reasons:

- 1531       a. A class I or class II violation;
- 1532       b. Three or more repeat or recurring class III violations  
1533 of identical or similar resident care standards from which a  
1534 pattern of noncompliance is found by the agency;
- 1535       c. Three or more class III violations that were not  
1536 corrected in accordance with the corrective action plan approved  
1537 by the agency;

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1538 d. Violation of resident care standards which results in  
1539 requiring the facility to employ the services of a consultant  
1540 pharmacist or consultant dietitian;

1541 e. Denial, suspension, or revocation of a license for  
1542 another facility licensed under this part in which the applicant  
1543 for an extended congregate care license has at least 25 percent  
1544 ownership interest; or

1545 f. Imposition of a moratorium pursuant to this part or part  
1546 II of chapter 408 or initiation of injunctive proceedings.

1547 2. A facility that is licensed to provide extended  
1548 congregate care services shall maintain a written progress  
1549 report on each person who receives services which describes the  
1550 type, amount, duration, scope, and outcome of services that are  
1551 rendered and the general status of the resident's health. A  
1552 registered nurse, or appropriate designee, representing the  
1553 agency shall visit the facility at least quarterly to monitor  
1554 residents who are receiving extended congregate care services  
1555 and to determine whether ~~if~~ the facility is in compliance with  
1556 this part, part II of chapter 408, and relevant rules. One of  
1557 the visits may be in conjunction with the regular survey. The  
1558 monitoring visits may be provided through contractual  
1559 arrangements with appropriate community agencies. A registered  
1560 nurse shall serve as part of the team that inspects the  
1561 facility. The agency may waive one of the required yearly  
1562 monitoring visits for a facility that has been licensed for at  
1563 least 24 months to provide extended congregate care services~~,~~  
1564 if, during the inspection, the registered nurse determines that  
1565 extended congregate care services are being provided  
1566 appropriately~~,~~ and if the facility has no class I or class II

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1567 violations and no uncorrected class III violations. The agency  
1568 must first consult with the office ~~long-term care ombudsman~~  
1569 ~~council~~ for the area in which the facility is located to  
1570 determine whether ~~if~~ any complaints have been made and  
1571 substantiated about the quality of services or care. The agency  
1572 may not waive one of the required yearly monitoring visits if  
1573 complaints have been made and substantiated.

1574 3. A facility that is licensed to provide extended  
1575 congregate care services must:

1576 a. Demonstrate the capability to meet unanticipated  
1577 resident service needs.

1578 b. Offer a physical environment that promotes a homelike  
1579 setting, provides for resident privacy, promotes resident  
1580 independence, and allows sufficient congregate space as defined  
1581 by rule.

1582 c. Have sufficient staff available, taking into account the  
1583 physical plant and firesafety features of the building, to  
1584 assist with the evacuation of residents in an emergency.

1585 d. Adopt and follow policies and procedures that maximize  
1586 resident independence, dignity, choice, and decisionmaking to  
1587 permit residents to age in place, so that moves due to changes  
1588 in functional status are minimized or avoided.

1589 e. Allow residents or, if applicable, a resident's  
1590 representative, designee, surrogate, guardian, or attorney in  
1591 fact to make a variety of personal choices, participate in  
1592 developing service plans, and share responsibility in  
1593 decisionmaking.

1594 f. Implement the concept of managed risk.

1595 g. Provide, directly or through contract, the services of a

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1596 person licensed under part I of chapter 464.

1597 h. In addition to the training mandated in s. 429.52,  
1598 provide specialized training as defined by rule for facility  
1599 staff.

1600 4. A facility that is licensed to provide extended  
1601 congregate care services is exempt from the criteria for  
1602 continued residency set forth in rules adopted under s. 429.41.  
1603 A licensed facility must adopt its own requirements within  
1604 guidelines for continued residency set forth by rule. However,  
1605 the facility may not serve residents who require 24-hour nursing  
1606 supervision. A licensed facility that provides extended  
1607 congregate care services must also provide each resident with a  
1608 written copy of facility policies governing admission and  
1609 retention.

1610 5. The primary purpose of extended congregate care services  
1611 is to allow residents, as they become more impaired, the option  
1612 of remaining in a familiar setting from which they would  
1613 otherwise be disqualified for continued residency. A facility  
1614 licensed to provide extended congregate care services may also  
1615 admit an individual who exceeds the admission criteria for a  
1616 facility with a standard license, if the individual is  
1617 determined appropriate for admission to the extended congregate  
1618 care facility.

1619 6. Before the admission of an individual to a facility  
1620 licensed to provide extended congregate care services, the  
1621 individual must undergo a medical examination as provided in s.  
1622 429.26(4) and the facility must develop a preliminary service  
1623 plan for the individual.

1624 7. When a facility can no longer provide or arrange for



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1625 services in accordance with the resident's service plan and  
1626 needs and the facility's policy, the facility shall make  
1627 arrangements for relocating the person in accordance with s.  
1628 429.28(1)(k).

1629 8. Failure to provide extended congregate care services may  
1630 result in denial of extended congregate care license renewal.

1631 Section 37. Subsection (9) of section 429.19, Florida  
1632 Statutes, is amended to read:

1633 429.19 Violations; imposition of administrative fines;  
1634 grounds.—

1635 (9) The agency shall develop and disseminate an annual list  
1636 of all facilities sanctioned or fined for violations of state  
1637 standards, the number and class of violations involved, the  
1638 penalties imposed, and the current status of cases. The list  
1639 shall be disseminated, at no charge, to the Department of  
1640 Elderly Affairs, the Department of Health, the Department of  
1641 Children and Families ~~Family Services~~, the Agency for Persons  
1642 with Disabilities, the area agencies on aging, the Florida  
1643 Statewide Advocacy Council, and the office ~~state and local~~  
1644 ~~ombudsman councils~~. The Department of Children and Families  
1645 ~~Family Services~~ shall disseminate the list to service providers  
1646 under contract to the department who are responsible for  
1647 referring persons to a facility for residency. The agency may  
1648 charge a fee commensurate with the cost of printing and postage  
1649 to other interested parties requesting a copy of this list. This  
1650 information may be provided electronically or through the  
1651 agency's Internet site.

1652 Section 38. Subsection (8) of section 429.26, Florida  
1653 Statutes, is amended to read:

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1654 429.26 Appropriateness of placements; examinations of  
1655 residents.—

1656 (8) The Department of Children and Families ~~Family Services~~  
1657 may require an examination for supplemental security income and  
1658 optional state supplementation recipients residing in facilities  
1659 at any time and shall provide the examination whenever a  
1660 resident's condition requires it. Any facility administrator;  
1661 personnel of the agency, the department, or the Department of  
1662 Children and Families ~~Family Services~~; or representative of the  
1663 Office of the State Long-Term Care Ombudsman ~~long-term care~~  
1664 ~~ombudsman council member~~ who believes a resident needs to be  
1665 evaluated shall notify the resident's case manager, who shall  
1666 take appropriate action. A report of the examination findings  
1667 shall be provided to the resident's case manager and the  
1668 facility administrator to help the administrator meet his or her  
1669 responsibilities under subsection (1).

1670 Section 39. Subsection (2) and paragraph (b) of subsection  
1671 (3) of section 429.28, Florida Statutes, are amended to read:

1672 429.28 Resident bill of rights.—

1673 (2) The administrator of a facility shall ensure that a  
1674 written notice of the rights, obligations, and prohibitions set  
1675 forth in this part is posted in a prominent place in each  
1676 facility and read or explained to residents who cannot read.  
1677 This notice must ~~shall~~ include the statewide toll-free telephone  
1678 number and e-mail address of the state ombudsman program and the  
1679 telephone number of the ~~name, address, and telephone numbers of~~  
1680 ~~the local ombudsman council~~ and central abuse hotline and, when  
1681 applicable, the Advocacy Center for Persons with Disabilities,  
1682 Inc., and the Florida local advocacy council, where complaints

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1683 may be lodged. The facility must ensure a resident's access to a  
1684 telephone to call the state local ombudsman program council, the  
1685 central abuse hotline, the Advocacy Center for Persons with  
1686 Disabilities, Inc., and the Florida local advocacy council.

1687 (3)

1688 (b) In order to determine whether the facility is  
1689 adequately protecting residents' rights, the biennial survey  
1690 shall include private informal conversations with a sample of  
1691 residents and consultation with the state ombudsman program  
1692 ~~council~~ in the planning and service area in which the facility  
1693 is located to discuss residents' experiences within the  
1694 facility.

1695 Section 40. Section 429.34, Florida Statutes, is amended to  
1696 read:

1697 429.34 Right of entry and inspection.—In addition to the  
1698 requirements of s. 408.811, a ~~any~~ duly designated officer or  
1699 employee of the department, the Department of Children and  
1700 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the  
1701 Office of the Attorney General, the state or local fire marshal,  
1702 or a representative member of the Office of the State Long-Term  
1703 Care Ombudsman ~~may state or local long-term care ombudsman~~  
1704 ~~council shall have the right to~~ enter unannounced upon and into  
1705 the premises of any facility licensed under ~~pursuant to~~ this  
1706 part in order to determine the state of compliance with ~~the~~  
1707 ~~provisions of~~ this part, part II of chapter 408, and applicable  
1708 rules. Data collected by the office ~~state or local long-term~~  
1709 ~~care ombudsman councils~~ or the state or local advocacy councils  
1710 may be used by the agency in investigations involving violations  
1711 of regulatory standards.

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1712 Section 41. Subsection (2) of section 429.35, Florida  
 1713 Statutes, is amended to read:

1714 429.35 Maintenance of records; reports.—

1715 (2) Within 60 days after the date of the biennial  
 1716 inspection visit required under s. 408.811 or within 30 days  
 1717 after the date of any interim visit, the agency shall forward  
 1718 the results of the inspection to the office ~~local ombudsman~~  
 1719 ~~council in whose planning and service area, as defined in part~~  
 1720 ~~II of chapter 400, the facility is located;~~ to at least one  
 1721 public library or, in the absence of a public library, the  
 1722 county seat in the county in which the inspected assisted living  
 1723 facility is located; and, when appropriate, to the district  
 1724 Adult Services and Mental Health Program Offices.

1725 Section 42. Subsection (6) of section 429.67, Florida  
 1726 Statutes, is amended to read:

1727 429.67 Licensure.—

1728 (6) In addition to the requirements of s. 408.811, access  
 1729 to a licensed adult family-care home must be provided at  
 1730 reasonable times for the appropriate officials of the  
 1731 department, the Department of Health, the Department of Children  
 1732 and Families ~~Family Services~~, the agency, and the State Fire  
 1733 Marshal, who are responsible for the development and maintenance  
 1734 of fire, health, sanitary, and safety standards, to inspect the  
 1735 facility to assure compliance with these standards. In addition,  
 1736 access to a licensed adult family-care home must be provided at  
 1737 reasonable times to representatives of the Office of State ~~for~~  
 1738 ~~the local~~ Long-Term Care Ombudsman ~~council~~.

1739 Section 43. Subsection (2) of section 429.85, Florida  
 1740 Statutes, is amended to read:

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1741 429.85 Residents' bill of rights.-

1742 (2) The provider shall ensure that residents and their  
1743 legal representatives are made aware of the rights, obligations,  
1744 and prohibitions set forth in this part. Residents must also be  
1745 given the statewide toll-free telephone number and e-mail  
1746 address of the state ombudsman program and the telephone number  
1747 of names, addresses, and telephone numbers of the local  
1748 ombudsman council and the central abuse hotline where they may  
1749 lodge complaints.

1750 Section 44. Subsection (17) of section 744.444, Florida  
1751 Statutes, is amended to read:

1752 744.444 Power of guardian without court approval.-Without  
1753 obtaining court approval, a plenary guardian of the property, or  
1754 a limited guardian of the property within the powers granted by  
1755 the order appointing the guardian or an approved annual or  
1756 amended guardianship report, may:

1757 (17) Provide confidential information about a ward which  
1758 ~~that~~ is related to an investigation arising under part I of  
1759 chapter 400 to a representative of the Office of the State Long-  
1760 Term Care Ombudsman ~~local or state ombudsman council member~~  
1761 conducting such an investigation. Any such ombudsman shall have  
1762 a duty to maintain the confidentiality of such information.

1763 Section 45. This act shall take effect July 1, 2014.