

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Health & Human Services  
 2 Committee

3 Representative Roberson, K. offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 400.0060 Definitions.—When used in this part, unless the  
 10 context clearly dictates otherwise, the term:

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

16 (2) "Agency" means the Agency for Health Care  
 17 Administration.

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

19 (4) "District" means a geographical area designated by the  
20 state ombudsman in which individuals certified as ombudsmen  
21 carry out the duties of the state ombudsman program. A district  
22 may have more than one local unit of ombudsmen. ~~"Local council"~~  
23 ~~means a local long-term care ombudsman council designated by the~~  
24 ~~ombudsman pursuant to s. 400.0069. Local councils are also known~~  
25 ~~as district long-term care ombudsman councils or district~~  
26 ~~councils.~~

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

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

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

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

42 (9) ~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age  
43 or older who resides in a long-term care facility.

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44 (10)~~(9)~~ "Secretary" means the Secretary of Elderly  
45 Affairs.

46 (11)~~(10)~~ "State council" means the State Long-Term Care  
47 Ombudsman Council created by s. 400.0067.

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

51 (13) "State ombudsman program" means the program operating  
52 under the direction of the office.

53 Section 2. Section 400.0061, Florida Statutes, is amended  
54 to read:

55 400.0061 Legislative findings and intent; long-term care  
56 facilities.—

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

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70 often more effective advocates for the rights of others than  
71 governmental agencies. The Legislature further finds that in  
72 order to be eligible to receive an allotment of funds authorized  
73 and appropriated under the federal Older Americans Act, the  
74 state must establish and operate an Office of State Long-Term  
75 Care Ombudsman, to be headed by the state ~~Long-Term Care~~  
76 ombudsman, and carry out a state long-term care ombudsman  
77 program.

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

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96 the enforcement of laws, rules, and regulations that safeguard  
97 the health, safety, and welfare of residents.

98 Section 3. Section 400.0063, Florida Statutes, is amended  
99 to read:

100 400.0063 Establishment of Office of State Long-Term Care  
101 Ombudsman; designation of ombudsman and legal advocate.—

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

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

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

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

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

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

125 2. Assisting the state council and representatives of the  
126 office ~~local councils~~ in carrying out their responsibilities  
127 under this part.

128 3. Pursuing administrative, legal, and other appropriate  
129 remedies on behalf of residents.

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

136 Section 4. Section 400.0065, Florida Statutes, is amended  
137 to read:

138 400.0065 Office of State Long-Term Care Ombudsman; duties  
139 and responsibilities.—

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

142 (a) Identify, investigate, and resolve complaints made by  
143 or on behalf of residents of long-term care facilities relating  
144 to actions or omissions by providers or representatives of  
145 providers of long-term care services, other public or private

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146 agencies, guardians, or representative payees that may adversely  
147 affect the health, safety, welfare, or rights of the residents.

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

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

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

157 (e) Represent the interests of residents before  
158 governmental agencies and seek administrative, legal, and other  
159 remedies to protect the health, safety, welfare, and rights of  
160 the residents.

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

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

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170 (h) Provide technical support for the development of  
171 resident and family councils to protect the well-being and  
172 rights of residents.

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

175 (a) Establish and coordinate districts ~~local councils~~  
176 throughout the state.

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

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

193 (d) Contract for services necessary to carry out the  
194 activities of the office.



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

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

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

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

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

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221 ~~Assistant Secretary for Aging, the Governor, the President of~~  
222 ~~the Senate, the Speaker of the House of Representatives, the~~  
223 ~~Secretary of Children and Family Services, and the Secretary of~~  
224 ~~Health Care Administration.~~ The report must ~~shall~~, at a minimum:

225 1. Contain and analyze data collected concerning  
226 complaints about and conditions in long-term care facilities and  
227 the disposition of such complaints.

228 2. Evaluate the problems experienced by residents.

229 3. Analyze the successes of the state ombudsman program  
230 during the preceding year, including an assessment of how  
231 successfully the office ~~program~~ has carried out its  
232 responsibilities under the Older Americans Act.

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

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

244 6. Contain any relevant recommendations from  
245 representatives of the office ~~local councils~~ regarding program  
246 functions and activities.

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247 Section 5. Section 400.0067, Florida Statutes, is amended  
248 to read:

249 400.0067 State Long-Term Care Ombudsman Council; duties;  
250 membership.—

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

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

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

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

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

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

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

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273 (f) Assist the state ombudsman in preparing the annual  
274 report described in s. 400.0065.

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

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

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

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

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

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299 (4) (a) ~~(e)~~ 1. All state council members shall serve 3-year  
300 terms.

301 2. A member of the state council may not serve more than  
302 two consecutive terms.

303 (b) 3. A district manager, in consultation with the  
304 district ombudsmen, local council may recommend replacement  
305 removal of its selected ombudsman ~~elected representative~~ from  
306 the state council ~~by a majority vote~~. If the district manager,  
307 in consultation with the district ombudsmen, selects a  
308 replacement ombudsman, the district manager ~~council votes to~~  
309 ~~remove its representative, the local council chair~~ shall  
310 ~~immediately~~ notify the state ombudsman. ~~The secretary shall~~  
311 ~~advise the Governor of the local council's vote upon receiving~~  
312 ~~notice from the ombudsman.~~

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

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

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

322 2. The chair shall select a vice chair from among the  
323 members. The vice chair shall preside over the state council in  
324 the absence of the chair.

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

330           4. A chair may be immediately removed from office before  
331 ~~prior to~~ the expiration of his or her term by a vote of two-  
332 thirds of all state council members present at any meeting at  
333 which a quorum is present. If a chair is removed from office  
334 before ~~prior to~~ the expiration of his or her term, a replacement  
335 chair shall be chosen during the same meeting in the same manner  
336 as described in this paragraph, and the term of the replacement  
337 chair shall begin immediately. The replacement chair shall serve  
338 for the remainder of the term and is eligible to serve two  
339 subsequent consecutive terms.

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

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

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

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

354 Section 6. Section 400.0069, Florida Statutes, is amended  
355 to read:

356 400.0069 ~~Local~~ Long-term care ombudsman districts  
357 ~~councils~~; duties; appointment ~~membership~~.

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

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

372 (c) Each district must convene a public meeting every  
373 quarter.

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

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

379 (b) Discover, investigate, and determine the existence of  
380 abuse, ~~or~~ neglect, or exploitation using in any long-term care  
381 ~~facility and to use~~ the procedures provided for in ss. 415.101-  
382 415.113 when applicable.

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

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

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

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



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

404 ~~(h)-(g)~~ Carry out other activities that the state ombudsman  
405 determines to be appropriate.

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

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

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

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

424 2. ~~At least one registered nurse who has geriatric~~  
425 ~~experience;~~

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

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

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428 ~~5. At least six nursing home residents or representative~~  
429 ~~consumer advocates for nursing home residents;~~

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

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

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

435 (b) The following individuals may not be appointed as  
436 ombudsmen:

437 1. The owner or representative of a long-term care  
438 facility.

439 2. A provider or representative of a provider of long-term  
440 care service.

441 3. An employee of the agency.

442 4. An employee of the department, except for a  
443 representative of the office.

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

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

446 ~~In no case shall the medical director of a long-term care~~  
447 ~~facility or an employee of the agency, the department, the~~  
448 ~~Department of Children and Family Services, or the Agency for~~  
449 ~~Persons with Disabilities serve as a member or as an ex officio~~  
450 ~~member of a council.~~

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

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

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

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

472 (c) Upon appointment as an ombudsman, the individual may  
473 participate in district activities but may not represent the  
474 office or conduct any authorized program duties until the  
475 individual has completed the initial training specified in s.  
476 400.0091(1) and has been certified by the state ombudsman.

477 (d) The state ombudsman, for good cause shown, such as  
478 development of a conflict of interest, failure to adhere to the

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

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

499 ~~(b) The chair shall select a vice chair from among the~~  
500 ~~members of the council. The vice chair shall preside over the~~  
501 ~~council in the absence of the chair.~~

502 ~~(c) The chair may create additional executive positions as~~  
503 ~~necessary to carry out the duties of the local council. Any~~  
504 ~~person appointed to an executive position shall serve at the~~

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505 ~~pleasure of the chair, and his or her term shall expire on the~~  
506 ~~same day as the term of the chair.~~

507 ~~(d) A chair may be immediately removed from office prior~~  
508 ~~to the expiration of his or her term by a vote of two thirds of~~  
509 ~~the members of the local council. If any chair is removed from~~  
510 ~~office prior to the expiration of his or her term, a replacement~~  
511 ~~chair shall be elected during the same meeting, and the term of~~  
512 ~~the replacement chair shall begin immediately. The replacement~~  
513 ~~chair shall serve for the remainder of the term of the person he~~  
514 ~~or she replaced.~~

515 ~~(7) Each local council shall meet upon the call of its~~  
516 ~~chair or upon the call of the ombudsman. Each local council~~  
517 ~~shall meet at least once a month but may meet more frequently if~~  
518 ~~necessary.~~

519 ~~(6)(8) An ombudsman may not~~ An ombudsman may not ~~A member of a local council~~  
520 ~~shall receive no compensation but shall, with approval from the~~  
521 ~~state ombudsman, be reimbursed for travel expenses both within~~  
522 ~~and outside the jurisdiction of the local council in accordance~~  
523 ~~with the provisions of s. 112.061.~~

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

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531 Section 7. Section 400.0070, Florida Statutes, is amended  
532 to read:

533 400.0070 Conflicts of interest.—

534 (1) A representative of the office may ~~The ombudsman shall~~  
535 not:

536 (a) Have a direct involvement in the licensing or  
537 certification of, or an ownership or investment interest in, a  
538 long-term care facility or a provider of a long-term care  
539 service.

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

542 (c) Receive, or have a right to receive, directly or  
543 indirectly, remuneration, in cash or in kind, under a  
544 compensation agreement with the owner or operator of a long-term  
545 care facility.

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

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

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

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

560 Section 8. Section 400.0071, Florida Statutes, is amended  
561 to read:

562 400.0071 State ~~Long Term Care~~ ombudsman program complaint  
563 procedures.—The department, in consultation with the state  
564 ombudsman, shall adopt rules implementing state and local  
565 complaint procedures. The rules must include procedures for  
566 receiving, investigating, identifying, and resolving complaints  
567 concerning the health, safety, welfare, and rights of residents;

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

570 ~~(2) Conducting investigations of a long term care facility~~  
571 ~~or an employee of a long term care facility subsequent to~~  
572 ~~receiving a complaint.~~

573 ~~(3) Conducting onsite administrative assessments of long~~  
574 ~~term care facilities.~~

575 Section 9. Section 400.0073, Florida Statutes, is amended  
576 to read:

577 400.0073 Complaint ~~State and local ombudsman council~~  
578 investigations.—

579 (1) A representative of the office ~~local council~~ shall  
580 identify and investigate, ~~within a reasonable time after a~~  
581 ~~complaint is made~~, any complaint made by or on behalf of a  
582 ~~resident, a representative of a resident, or any other credible~~

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583 ~~source based on an action or omission by an administrator, an~~  
584 ~~employee, or a representative of a long-term care facility~~ which  
585 might be:

- 586 (a) Contrary to law;
- 587 (b) Unreasonable, unfair, oppressive, or unnecessarily  
588 discriminatory, even though in accordance with law;
- 589 (c) Based on a mistake of fact;
- 590 (d) Based on improper or irrelevant grounds;
- 591 (e) Unaccompanied by an adequate statement of reasons;
- 592 (f) Performed in an inefficient manner; or
- 593 (g) Otherwise adversely affecting the health, safety,  
594 welfare, or rights of a resident.

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

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

600 (2)(4) If a representative of the office ~~the ombudsman or~~  
601 ~~any state or local council member~~ is not allowed to enter a  
602 long-term care facility, the administrator of the facility shall  
603 be considered to have interfered with a representative of the  
604 office, ~~the state council, or the local council~~ in the  
605 performance of official duties as described in s. 400.0083(1)  
606 and to have violated ~~committed a violation of~~ this part. The  
607 representative of the office ~~ombudsman~~ shall report a facility's  
608 refusal to allow entry to the facility to the state ombudsman or



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609 his or her designee, who shall report the incident to the  
610 agency, and the agency shall record the report and take it into  
611 consideration when determining actions allowable under s.  
612 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
613 429.71.

614 Section 10. Section 400.0074, Florida Statutes, is amended  
615 to read:

616 400.0074 ~~Local ombudsman council~~ Onsite administrative  
617 assessments.-

618 (1) A representative of the office shall ~~In addition to~~  
619 ~~any specific investigation conducted pursuant to a complaint,~~  
620 ~~the local council shall~~ conduct, at least annually, an onsite  
621 administrative assessment of each nursing home, assisted living  
622 facility, and adult family-care home ~~within its jurisdiction.~~  
623 This administrative assessment must be resident-centered and  
624 must ~~shall~~ focus on factors affecting the rights, health,  
625 safety, and welfare of the residents. ~~Each local council is~~  
626 ~~encouraged to conduct a similar onsite administrative assessment~~  
627 ~~of each additional long-term care facility within its~~  
628 ~~jurisdiction.~~

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

631 (a) To the extent possible and reasonable, the  
632 administrative assessment may ~~assessments shall~~ not duplicate  
633 the efforts of ~~the agency~~ surveys and inspections conducted by

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634 ~~state agencies of long-term care facilities under part II of~~  
635 ~~this chapter and parts I and II of chapter 429.~~

636 (b) An administrative assessment shall be conducted at a  
637 time and for a duration necessary to produce the information  
638 required to complete the assessment ~~carry out the duties of the~~  
639 ~~local council.~~

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

643 (d) A representative of the office ~~local council member~~  
644 ~~physically~~ present for the administrative assessment must ~~shall~~  
645 identify himself or herself to the administrator ~~and cite the~~  
646 ~~specific statutory authority for his or her assessment of the~~  
647 ~~facility~~ or his or her designee.

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

650 (f) A representative of the office ~~local council member~~  
651 may not enter a single-family residential unit within a long-  
652 term care facility during an administrative assessment without  
653 the permission of the resident or the representative of the  
654 resident.

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

658 (3) ~~Regardless of jurisdiction, the ombudsman may~~  
659 ~~authorize a state or local council member to assist another~~

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660 ~~local council to perform the administrative assessments~~  
661 ~~described in this section.~~

662 ~~(4)~~ An onsite administrative assessment may not be  
663 accomplished by forcible entry. However, if a representative of  
664 the office ombudsman or a state or local council member is not  
665 allowed to enter a long-term care facility, the administrator of  
666 the facility shall be considered to have interfered with a  
667 representative of the office, ~~the state council, or the local~~  
668 ~~council~~ in the performance of official duties as described in s.  
669 400.0083(1) and to have committed a violation of this part. The  
670 representative of the office ombudsman shall report the refusal  
671 by a facility to allow entry to the state ombudsman or his or  
672 her designee, who shall then report the incident to the agency,  
673 and the agency shall record the report and take it into  
674 consideration when determining actions allowable under s.  
675 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
676 429.71.

677 (4) The department, in consultation with the state  
678 ombudsman, may adopt rules implementing procedures for  
679 conducting onsite administrative assessments of long-term care  
680 facilities.

681 Section 11. Section 400.0075, Florida Statutes, is amended  
682 to read:

683 400.0075 Complaint notification and resolution  
684 procedures.-

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685           (1) (a) Any complaint ~~or problem~~ verified by a  
686 representative of the office ~~an ombudsman council~~ as a result of  
687 an investigation may ~~or onsite administrative assessment, which~~  
688 ~~complaint or problem is determined to require remedial action by~~  
689 ~~the local council, shall~~ be identified and brought to the  
690 attention of the long-term care facility administrator subject  
691 to the confidentiality provisions of s. 400.0077 in writing.  
692 Upon receipt of the information ~~such document~~, the  
693 administrator, with the concurrence of the representative of the  
694 office ~~local council chair~~, shall establish target dates for  
695 taking appropriate remedial action. If, by the target date, the  
696 remedial action is not completed or forthcoming, the  
697 representative may extend the target date if there is reason to  
698 believe such action would facilitate the resolution of the  
699 complaint, or the representative may refer the complaint to the  
700 district manager ~~local council chair may, after obtaining~~  
701 ~~approval from the ombudsman and a majority of the members of the~~  
702 ~~local council:~~  
703           1. ~~Extend the target date if the chair has reason to~~  
704 ~~believe such action would facilitate the resolution of the~~  
705 ~~complaint.~~  
706           2. ~~In accordance with s. 400.0077, publicize the~~  
707 ~~complaint, the recommendations of the council, and the response~~  
708 ~~of the long-term care facility.~~  
709           3. ~~Refer the complaint to the state council.~~

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710 (b) If an ombudsman determines ~~the local council chair~~  
711 ~~believes~~ that the health, safety, welfare, or rights of a the  
712 resident are in imminent danger, the ombudsman must immediately  
713 notify the district manager. The district manager ~~chair shall~~  
714 ~~notify the ombudsman or legal advocate, who,~~ after verifying  
715 that such imminent danger exists, must notify the appropriate  
716 state agencies, including law enforcement agencies, the state  
717 ombudsman, and the legal advocate to ensure the protection of  
718 ~~shall seek immediate legal or administrative remedies to protect~~  
719 the resident.

720 (c) If the state ombudsman or legal advocate has reason to  
721 believe that the long-term care facility or an employee of the  
722 facility has committed a criminal act, the state ombudsman or  
723 legal advocate shall provide the local law enforcement agency  
724 with the relevant information to initiate an investigation of  
725 the case.

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

733 (a)1. In accordance with s. 400.0077, publicize the  
734 complaint, the recommendations of the representatives of the

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735 ~~office local or state council~~, and the response of the long-term  
736 care facility.

737 ~~(b)2.~~ Recommend to the department and the agency a series  
738 of facility reviews pursuant to s. 400.19, s. 429.34, or s.  
739 429.67 to ensure correction and nonrecurrence of the conditions  
740 that ~~gave~~ give rise to the complaint ~~complaints~~ against the a  
741 long-term care facility.

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

745 ~~(d)4.~~ Recommend to the department and the agency that  
746 procedures be initiated for action against ~~revocation~~ of the  
747 long-term care facility's license in accordance with chapter  
748 120.

749 ~~(b) If the state council chair believes that the health,~~  
750 ~~safety, welfare, or rights of the resident are in imminent~~  
751 ~~danger, the chair shall notify the ombudsman or legal advocate,~~  
752 ~~who, after verifying that such imminent danger exists, shall~~  
753 ~~seek immediate legal or administrative remedies to protect the~~  
754 ~~resident.~~

755 ~~(3)(e)~~ If the state ombudsman, after consultation with the  
756 legal advocate, has reason to believe that the long-term care  
757 facility or an employee of the facility has committed a criminal  
758 act, the office ombudsman shall provide the local law  
759 enforcement agency with the relevant information to initiate an  
760 investigation of the case.

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761 Section 12. Section 400.0078, Florida Statutes, is amended  
762 to read:

763 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman  
764 program services.-

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

769 (2) ~~Every resident or representative of a resident shall~~  
770 ~~receive,~~ Upon admission to a long-term care facility, each  
771 resident or representative of a resident must receive  
772 information regarding:

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

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

777 (c) Information that retaliatory action cannot be taken  
778 against a resident for presenting grievances or for exercising  
779 any other resident rights.

780 (d) Other relevant information regarding how to contact  
781 representatives of the office ~~program.~~

782  
783 Residents or their representatives must be furnished additional  
784 copies of this information upon request.

785 Section 13. Section 400.0079, Florida Statutes, is amended  
786 to read:

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787 400.0079 Immunity.—

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

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

798 Section 14. Section 400.0081, Florida Statutes, is amended  
799 to read:

800 400.0081 Access to facilities, residents, and records.—

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

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

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

810 1. The representative of the office has the permission of  
811 the resident or the legal representative of the resident; or



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

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

816           1. A legal representative or guardian of the resident  
817 refuses to give permission;

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

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

823           (d) Access to the administrative records, policies, and  
824 documents to which residents or the general public has ~~have~~  
825 access.

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

829           (2) The department, in consultation with the state  
830 ombudsman ~~and the state council~~, may adopt rules to establish  
831 procedures to ensure access to facilities, residents, and  
832 records as described in this section.

833           Section 15. Section 400.0083, Florida Statutes, is amended  
834 to read:

835           400.0083 Interference; retaliation; penalties.—

836           (1) A ~~It shall be unlawful for any person,~~ long-term care  
837 facility, or other entity may not ~~to~~ willfully interfere with a

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

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

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

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

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

852 Section 16. Section 400.0087, Florida Statutes, is amended  
853 to read:

854 400.0087 Department oversight; funding.—

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

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

862 (b) The department may divert from the federal ombudsman  
863 appropriation an amount equal to the department's administrative

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864 cost ratio to cover the costs associated with administering the  
865 state ombudsman program. The remaining allotment from the Older  
866 Americans Act program shall be expended on direct ombudsman  
867 activities.

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

871 (3) The department is responsible for ensuring that the  
872 office:

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

875 (b) Provides information to public and private agencies,  
876 legislators, and others.

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

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

883 (4) The department shall also:

884 (a) Receive and disburse state and federal funds for  
885 purposes that the state ombudsman has formulated in accordance  
886 with the Older Americans Act.

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

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890 Section 17. Section 400.0089, Florida Statutes, is amended  
891 to read:

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

901 Section 18. Section 400.0091, Florida Statutes, is amended  
902 to read:

903 400.0091 Training.—The state ombudsman shall ensure that  
904 appropriate training is provided to all representatives  
905 ~~employees of the office and to the members of the state and~~  
906 ~~local councils~~.

907 (1) All representatives ~~state and local council members~~  
908 ~~and employees~~ of the office shall be given a minimum of 20 hours  
909 of training upon employment with the office or appointment as an  
910 ombudsman. ~~Ten approval as a state or local council member and~~  
911 ~~10~~ hours of continuing education is required annually  
912 thereafter.

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

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- 916 (a) Resident confidentiality.
- 917 (b) Guardianships and powers of attorney.
- 918 (c) Medication administration.
- 919 (d) Care and medication of residents with dementia and  
920 Alzheimer's disease.
- 921 (e) Accounting for residents' funds.
- 922 (f) Discharge rights and responsibilities.
- 923 (g) Cultural sensitivity.
- 924 (h) Any other topic related to residency within a long-  
925 term care facility recommended by the secretary.
- 926 (3) An individual ~~No employee, officer, or representative~~  
927 ~~of the office or of the state or local councils,~~ other than the  
928 state ombudsman, may not hold himself or herself out as a  
929 representative of the office ~~State Long-Term Care Ombudsman~~  
930 ~~Program~~ or conduct any authorized program duty described in this  
931 part unless the individual ~~person~~ has received the training  
932 required by this section and has been certified by the state  
933 ombudsman as qualified to carry out ombudsman activities on  
934 behalf of the office ~~or the state or local councils.~~
- 935 Section 19. Subsection (4) of section 20.41, Florida  
936 Statutes, is amended to read:
- 937 20.41 Department of Elderly Affairs.—There is created a  
938 Department of Elderly Affairs.
- 939 (4) The department shall administer the Office of State  
940 Long-Term Care Ombudsman Council, created by s. 400.0063  
941 ~~400.0067, and the local long-term care ombudsman councils,~~

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942 created by ~~s. 400.0069~~ and shall, as required by s. 712 of the  
943 federal Older Americans Act of 1965, ensure that ~~both~~ the state  
944 office operates ~~and local long-term care ombudsman councils~~  
945 ~~operate~~ in compliance with the Older Americans Act.

946 Section 20. Subsections (10) through (19) of section  
947 400.021, Florida Statutes, are amended to read:

948 400.021 Definitions.—When used in this part, unless the  
949 context otherwise requires, the term:

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

954 (10)~~(11)~~ "Nursing home bed" means an accommodation which  
955 is ready for immediate occupancy, or is capable of being made  
956 ready for occupancy within 48 hours, excluding provision of  
957 staffing; and which conforms to minimum space requirements,  
958 including the availability of appropriate equipment and  
959 furnishings within the 48 hours, as specified by rule of the  
960 agency, for the provision of services specified in this part to  
961 a single resident.

962 (11)~~(12)~~ "Nursing home facility" means any facility which  
963 provides nursing services as defined in part I of chapter 464  
964 and which is licensed according to this part.

965 (12)~~(13)~~ "Nursing service" means such services or acts as  
966 may be rendered, directly or indirectly, to and in behalf of a  
967 person by individuals as defined in s. 464.003.

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

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

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

974 (16)~~(15)~~ "Respite care" means admission to a nursing home  
975 for the purpose of providing a short period of rest or relief or  
976 emergency alternative care for the primary caregiver of an  
977 individual receiving care at home who, without home-based care,  
978 would otherwise require institutional care.

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

990 (18)~~(17)~~ "Resident designee" means a person, other than  
991 the owner, administrator, or employee of the facility,  
992 designated in writing by a resident or a resident's guardian, if

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993 the resident is adjudicated incompetent, to be the resident's  
994 representative for a specific, limited purpose.

995 ~~(19)-(18) "State ombudsman program council" has the same~~  
996 ~~meaning as in s. 400.0060 means the State Long-Term Care~~  
997 ~~Ombudsman Council established pursuant to s. 400.0067.~~

998 ~~(20)-(19) "Therapeutic spa services" means bathing, nail,~~  
999 ~~and hair care services and other similar services related to~~  
1000 ~~personal hygiene.~~

1001 Section 21. Paragraph (c) of subsection (1) and  
1002 subsections (2) and (3) of section 400.022, Florida Statutes,  
1003 are amended to read:

1004 400.022 Residents' rights.—

1005 (1) All licensees of nursing home facilities shall adopt  
1006 and make public a statement of the rights and responsibilities  
1007 of the residents of such facilities and shall treat such  
1008 residents in accordance with the provisions of that statement.  
1009 The statement shall assure each resident the following:

1010 (c) Any entity or individual that provides health, social,  
1011 legal, or other services to a resident has the right to have  
1012 reasonable access to the resident. The resident has the right to  
1013 deny or withdraw consent to access at any time by any entity or  
1014 individual. Notwithstanding the visiting policy of the facility,  
1015 the following individuals must be permitted immediate access to  
1016 the resident:

1017 1. Any representative of the federal or state government,  
1018 including, but not limited to, representatives of the Department



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1019 of Children and Families ~~Family Services~~, the Department of  
1020 Health, the Agency for Health Care Administration, the Office of  
1021 the Attorney General, and the Department of Elderly Affairs; any  
1022 law enforcement officer; any representative ~~members~~ of the  
1023 office ~~state or local ombudsman council~~; and the resident's  
1024 individual physician.

1025 2. Subject to the resident's right to deny or withdraw  
1026 consent, immediate family or other relatives of the resident.

1027  
1028 The facility must allow representatives of the office ~~state~~  
1029 ~~Long-Term Care ombudsman Council~~ to examine a resident's  
1030 clinical records with the permission of the resident or the  
1031 resident's legal representative and consistent with state law.

1032 (2) The licensee for each nursing home shall orally inform  
1033 the resident of the resident's rights and provide a copy of the  
1034 statement required by subsection (1) to each resident or the  
1035 resident's legal representative at or before the resident's  
1036 admission to a facility. The licensee shall provide a copy of  
1037 the resident's rights to each staff member of the facility. Each  
1038 such licensee shall prepare a written plan and provide  
1039 appropriate staff training to implement ~~the provisions of this~~  
1040 section. The written statement of rights must include a  
1041 statement that a resident may file a complaint with the agency  
1042 or state ~~local~~ ombudsman program ~~council~~. The statement must be  
1043 in boldfaced type and ~~shall~~ include the ~~name, address, and~~  
1044 telephone number and e-mail address of the state ~~numbers of the~~

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1045 ~~local~~ ombudsman program council and the telephone number of the  
1046 central abuse hotline where complaints may be lodged.

1047 (3) Any violation of the resident's rights set forth in  
1048 this section constitutes ~~shall constitute~~ grounds for action by  
1049 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or  
1050 part II of chapter 408. In order to determine whether the  
1051 licensee is adequately protecting residents' rights, the  
1052 licensure inspection of the facility must ~~shall~~ include private  
1053 informal conversations with a sample of residents to discuss  
1054 residents' experiences within the facility with respect to  
1055 rights specified in this section and general compliance with  
1056 standards, and consultation with the state ombudsman program  
1057 ~~council in the local planning and service area of the Department~~  
1058 ~~of Elderly Affairs in which the nursing home is located.~~

1059 Section 22. Subsections (8), (9), and (11) through (14) of  
1060 section 400.0255, Florida Statutes, are amended to read:

1061 400.0255 Resident transfer or discharge; requirements and  
1062 procedures; hearings.—

1063 (8) The notice required by subsection (7) must be in  
1064 writing and must contain all information required by state and  
1065 federal law, rules, or regulations applicable to Medicaid or  
1066 Medicare cases. The agency shall develop a standard document to  
1067 be used by all facilities licensed under this part for purposes  
1068 of notifying residents of a discharge or transfer. Such document  
1069 must include a means for a resident to request the office local  
1070 ~~long-term care ombudsman council~~ to review the notice and

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1071 request information about or assistance with initiating a fair  
1072 hearing with the department's Office of Appeals Hearings. In  
1073 addition to any other pertinent information included, the form  
1074 shall specify the reason allowed under federal or state law that  
1075 the resident is being discharged or transferred, with an  
1076 explanation to support this action. Further, the form must ~~shall~~  
1077 state the effective date of the discharge or transfer and the  
1078 location to which the resident is being discharged or  
1079 transferred. The form must ~~shall~~ clearly describe the resident's  
1080 appeal rights and the procedures for filing an appeal, including  
1081 the right to request the office ~~local ombudsman council~~ to  
1082 review the notice of discharge or transfer. A copy of the notice  
1083 must be placed in the resident's clinical record, and a copy  
1084 must be transmitted to the resident's legal guardian or  
1085 representative and to the office ~~local ombudsman council~~ within  
1086 5 business days after signature by the resident or resident  
1087 designee.

1088 (9) A resident may request that the office ~~local ombudsman~~  
1089 ~~council~~ review any notice of discharge or transfer given to the  
1090 resident. When requested by a resident to review a notice of  
1091 discharge or transfer, the office ~~local ombudsman council~~ shall  
1092 do so within 7 days after receipt of the request. The nursing  
1093 home administrator, or the administrator's designee, must  
1094 forward the request for review contained in the notice to the  
1095 office ~~local ombudsman council~~ within 24 hours after such  
1096 request is submitted. Failure to forward the request within 24

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1097 hours after the request is submitted shall toll the running of  
1098 the 30-day advance notice period until the request has been  
1099 forwarded.

1100 (11) Notwithstanding paragraph (10) (b), an emergency  
1101 discharge or transfer may be implemented as necessary pursuant  
1102 to state or federal law during the ~~period of~~ time after the  
1103 notice is given and before the time a hearing decision is  
1104 rendered. Notice of an emergency discharge or transfer to the  
1105 resident, the resident's legal guardian or representative, and  
1106 the office ~~local ombudsman council~~ if requested pursuant to  
1107 subsection (9) must be by telephone or in person. This notice  
1108 shall be given before the transfer, if possible, or as soon  
1109 thereafter as practicable. A representative of the office ~~local~~  
1110 ~~ombudsman council~~ conducting a review under this subsection  
1111 shall do so within 24 hours after receipt of the request. The  
1112 resident's file must be documented to show who was contacted,  
1113 whether the contact was by telephone or in person, and the date  
1114 and time of the contact. If the notice is not given in writing,  
1115 written notice meeting the requirements of subsection (8) must  
1116 be given the next working day.

1117 (12) After receipt of any notice required under this  
1118 section, the office ~~local ombudsman council~~ may request a  
1119 private informal conversation with a resident to whom the notice  
1120 is directed, and, if known, a family member or the resident's  
1121 legal guardian or designee, to ensure that the facility is  
1122 proceeding with the discharge or transfer in accordance with ~~the~~

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1123 ~~requirements of~~ this section. If requested, the office local  
1124 ~~ombudsman council~~ shall assist the resident with filing an  
1125 appeal of the proposed discharge or transfer.

1126 (13) The following persons must be present at all hearings  
1127 authorized under this section:

1128 (a) The resident, or the resident's legal representative  
1129 or designee.

1130 (b) The facility administrator, or the facility's legal  
1131 representative or designee.

1132

1133 A representative of the office local long-term care ombudsman  
1134 ~~council~~ may be present at all hearings authorized by this  
1135 section.

1136 (14) In any hearing under this section, the following  
1137 information concerning the parties shall be confidential and  
1138 exempt from ~~the provisions of~~ s. 119.07(1):

1139 (a) Names and addresses.

1140 (b) Medical services provided.

1141 (c) Social and economic conditions or circumstances.

1142 (d) Evaluation of personal information.

1143 (e) Medical data, including diagnosis and past history of  
1144 disease or disability.

1145 (f) Any information received verifying income eligibility  
1146 and amount of medical assistance payments. Income information  
1147 received from the Social Security Administration or the Internal

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1148 Revenue Service must be safeguarded according to the  
1149 requirements of the agency that furnished the data.

1150

1151 The exemption created by this subsection does not prohibit  
1152 access to such information by a representative of the office  
1153 ~~local long term care ombudsman council~~ upon request, by a  
1154 reviewing court if such information is required to be part of  
1155 the record upon subsequent review, or as specified in s. 24(a),  
1156 Art. I of the State Constitution.

1157 Section 23. Subsection (2) of section 400.1413, Florida  
1158 Statutes, is amended to read:

1159 400.1413 Volunteers in nursing homes.—

1160 (2) This section does not affect the activities of the  
1161 ~~state or local long term care ombudsman~~ program ~~councils~~  
1162 authorized under part I.

1163 Section 24. Paragraph (d) of subsection (5) of section  
1164 400.162, Florida Statutes, is amended to read:

1165 400.162 Property and personal affairs of residents.—

1166 (5)

1167 (d) If, at any time during the period for which a license  
1168 is issued, a licensee that has not purchased a surety bond or  
1169 entered into a self-insurance agreement, as provided in  
1170 paragraphs (b) and (c), is requested to provide safekeeping for  
1171 the personal funds of a resident, the licensee shall notify the  
1172 agency of the request and make application for a surety bond or  
1173 for participation in a self-insurance agreement within 7 days

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1174 after ~~of~~ the request, exclusive of weekends and holidays. Copies  
1175 of the application, along with written documentation of related  
1176 correspondence with an insurance agency or group, shall be  
1177 maintained by the licensee for review by the agency and the  
1178 office state Nursing Home and Long-Term Care Facility ombudsman  
1179 Council.

1180 Section 25. Subsections (1) and (4) of section 400.19,  
1181 Florida Statutes, are amended to read:

1182 400.19 Right of entry and inspection.-

1183 (1) In accordance with part II of chapter 408, the agency  
1184 and any duly designated officer or employee thereof or a  
1185 representative member of the office state Long-Term Care  
1186 ombudsman Council ~~or the local long-term care ombudsman council~~  
1187 shall have the right to enter upon and into the premises of any  
1188 facility licensed pursuant to this part, or any distinct nursing  
1189 home unit of a hospital licensed under chapter 395 or any  
1190 freestanding facility licensed under chapter 395 which that  
1191 provides extended care or other long-term care services, at any  
1192 reasonable time in order to determine the state of compliance  
1193 with ~~the provisions of~~ this part, part II of chapter 408, and  
1194 applicable rules in force pursuant thereto. The agency shall,  
1195 within 60 days after receipt of a complaint made by a resident  
1196 or resident's representative, complete its investigation and  
1197 provide to the complainant its findings and resolution.

1198 (4) The agency shall conduct unannounced onsite facility  
1199 reviews following written verification of licensee noncompliance

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1200 in instances in which the office ~~a long-term care ombudsman~~  
1201 ~~council~~, pursuant to ss. 400.0071 and 400.0075, has received a  
1202 complaint and has documented deficiencies in resident care or in  
1203 the physical plant of the facility that threaten the health,  
1204 safety, or security of residents, or when the agency documents  
1205 through inspection that conditions in a facility present a  
1206 direct or indirect threat to the health, safety, or security of  
1207 residents. However, the agency shall conduct unannounced onsite  
1208 reviews every 3 months of each facility while the facility has a  
1209 conditional license. Deficiencies related to physical plant do  
1210 not require followup reviews after the agency has determined  
1211 that correction of the deficiency has been accomplished and that  
1212 the correction is of the nature that continued compliance can be  
1213 reasonably expected.

1214 Section 26. Subsection (1) of section 400.191, Florida  
1215 Statutes, is amended to read:

1216 400.191 Availability, distribution, and posting of reports  
1217 and records.—

1218 (1) The agency shall provide information to the public  
1219 about all of the licensed nursing home facilities operating in  
1220 the state. The agency shall, within 60 days after a licensure  
1221 inspection visit or within 30 days after any interim visit to a  
1222 facility, send copies of the inspection reports to the office  
1223 ~~local long-term care ombudsman council~~, the agency's local  
1224 office, and a public library or the county seat for the county  
1225 in which the facility is located. The agency may provide



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1226 | electronic access to inspection reports as a substitute for  
1227 | sending copies.

1228 |       Section 27. Subsection (6) and paragraph (c) of subsection  
1229 | (7) of section 400.23, Florida Statutes, are amended to read:

1230 |       400.23 Rules; evaluation and deficiencies; licensure  
1231 | status.—

1232 |       (6) Before ~~Prior to~~ conducting a survey of the facility,  
1233 | the survey team shall obtain a copy of the office's ~~local long-~~  
1234 | ~~term care ombudsman council~~ report on the facility. Problems  
1235 | noted in the report shall be incorporated into and followed up  
1236 | through the agency's inspection process. This procedure does not  
1237 | preclude the office ~~local long-term care ombudsman council~~ from  
1238 | requesting the agency to conduct a followup visit to the  
1239 | facility.

1240 |       (7) The agency shall, at least every 15 months, evaluate  
1241 | all nursing home facilities and make a determination as to the  
1242 | degree of compliance by each licensee with the established rules  
1243 | adopted under this part as a basis for assigning a licensure  
1244 | status to that facility. The agency shall base its evaluation on  
1245 | the most recent inspection report, taking into consideration  
1246 | findings from other official reports, surveys, interviews,  
1247 | investigations, and inspections. In addition to license  
1248 | categories authorized under part II of chapter 408, the agency  
1249 | shall assign a licensure status of standard or conditional to  
1250 | each nursing home.

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1251 (c) In evaluating the overall quality of care and services  
1252 and determining whether the facility will receive a conditional  
1253 or standard license, the agency shall consider the needs and  
1254 limitations of residents in the facility and the results of  
1255 interviews and surveys of a representative sampling of  
1256 residents, families of residents, representatives of the office  
1257 ~~ombudsman council members in the planning and service area in~~  
1258 ~~which the facility is located~~, guardians of residents, and staff  
1259 of the nursing home facility.

1260 Section 28. Paragraph (a) of subsection (3), paragraph (f)  
1261 of subsection (5), and subsection (6) of section 400.235,  
1262 Florida Statutes, are amended to read:

1263 400.235 Nursing home quality and licensure status; Gold  
1264 Seal Program.—

1265 (3) (a) The Gold Seal Program shall be developed and  
1266 implemented by the Governor's Panel on Excellence in Long-Term  
1267 Care which shall operate under the authority of the Executive  
1268 Office of the Governor. The panel shall be composed of three  
1269 persons appointed by the Governor, to include a consumer  
1270 advocate for senior citizens and two persons with expertise in  
1271 the fields of quality management, service delivery excellence,  
1272 or public sector accountability; three persons appointed by the  
1273 Secretary of Elderly Affairs, to include an active member of a  
1274 nursing facility family and resident care council and a member  
1275 of the University Consortium on Aging; a representative of the  
1276 Office of State Long-Term Care Ombudsman; one person appointed

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1277 by the Florida Life Care Residents Association; one person  
1278 appointed by the State Surgeon General; two persons appointed by  
1279 the Secretary of Health Care Administration; one person  
1280 appointed by the Florida Association of Homes for the Aging; and  
1281 one person appointed by the Florida Health Care Association.  
1282 Vacancies on the panel shall be filled in the same manner as the  
1283 original appointments.

1284 (5) Facilities must meet the following additional criteria  
1285 for recognition as a Gold Seal Program facility:

1286 (f) Evidence that verified an outstanding record regarding  
1287 the number and types of substantiated complaints reported to the  
1288 Office of State Long-Term Care Ombudsman Council within the 30  
1289 months preceding application for the program have been resolved  
1290 or, if not resolved, the facility has made a good faith effort  
1291 to resolve the complaints.

1292  
1293 A facility assigned a conditional licensure status may not  
1294 qualify for consideration for the Gold Seal Program until after  
1295 it has operated for 30 months with no class I or class II  
1296 deficiencies and has completed a regularly scheduled relicensure  
1297 survey.

1298 (6) The agency, nursing facility industry organizations,  
1299 consumers, Office of State Long-Term Care Ombudsman Council, and  
1300 members of the community may recommend to the Governor  
1301 facilities that meet the established criteria for consideration  
1302 for and award of the Gold Seal. The panel shall review nominees

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1303 and make a recommendation to the Governor for final approval and  
1304 award. The decision of the Governor is final and is not subject  
1305 to appeal.

1306 Section 29. Present subsections (18) through (28) of  
1307 section 415.102, Florida Statutes, are redesignated as  
1308 subsections (19) through (29), respectively, and a new  
1309 subsection (18) is added to that section, to read:

1310 415.102 Definitions of terms used in ss. 415.101-415.113.—  
1311 As used in ss. 415.101-415.113, the term:

1312 (18) "Office" has the same meaning as in s. 400.0060.

1313 Section 30. Paragraph (a) of subsection (1) of section  
1314 415.1034, Florida Statutes, is amended to read:

1315 415.1034 Mandatory reporting of abuse, neglect, or  
1316 exploitation of vulnerable adults; mandatory reports of death.—

1317 (1) MANDATORY REPORTING.—

1318 (a) Any person, including, but not limited to, any:

1319 1. Physician, osteopathic physician, medical examiner,  
1320 chiropractic physician, nurse, paramedic, emergency medical  
1321 technician, or hospital personnel engaged in the admission,  
1322 examination, care, or treatment of vulnerable adults;

1323 2. Health professional or mental health professional other  
1324 than one listed in subparagraph 1.;

1325 3. Practitioner who relies solely on spiritual means for  
1326 healing;

1327 4. Nursing home staff; assisted living facility staff;  
1328 adult day care center staff; adult family-care home staff;

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1329 social worker; or other professional adult care, residential, or  
1330 institutional staff;

1331 5. State, county, or municipal criminal justice employee  
1332 or law enforcement officer;

1333 6. ~~An~~ Employee of the Department of Business and  
1334 Professional Regulation conducting inspections of public lodging  
1335 establishments under s. 509.032;

1336 7. Florida advocacy council member or representative of  
1337 the Office of State Long-Term Care Ombudsman ~~council member~~; or

1338 8. Bank, savings and loan, or credit union officer,  
1339 trustee, or employee,

1340  
1341 who knows, or has reasonable cause to suspect, that a vulnerable  
1342 adult has been or is being abused, neglected, or exploited shall  
1343 immediately report such knowledge or suspicion to the central  
1344 abuse hotline.

1345 Section 31. Subsection (1) of section 415.104, Florida  
1346 Statutes, is amended to read:

1347 415.104 Protective investigations of cases of abuse,  
1348 neglect, or exploitation of vulnerable adults; transmittal of  
1349 records to state attorney.—

1350 (1) The department shall, upon receipt of a report  
1351 alleging abuse, neglect, or exploitation of a vulnerable adult,  
1352 begin within 24 hours a protective investigation of the facts  
1353 alleged therein. If a caregiver refuses to allow the department  
1354 to begin a protective investigation or interferes with the

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1355 conduct of such an investigation, the appropriate law  
1356 enforcement agency shall be contacted for assistance. If, during  
1357 the course of the investigation, the department has reason to  
1358 believe that the abuse, neglect, or exploitation is perpetrated  
1359 by a second party, the appropriate law enforcement agency and  
1360 state attorney shall be orally notified. The department and the  
1361 law enforcement agency shall cooperate to allow the criminal  
1362 investigation to proceed concurrently with, and not be hindered  
1363 by, the protective investigation. The department shall make a  
1364 preliminary written report to the law enforcement agencies  
1365 within 5 working days after the oral report. The department  
1366 shall, within 24 hours after receipt of the report, notify the  
1367 appropriate Florida local advocacy council, or the office long-  
1368 ~~term care ombudsman council~~, when appropriate, that an alleged  
1369 abuse, neglect, or exploitation perpetrated by a second party  
1370 has occurred. Notice to the Florida local advocacy council or  
1371 the office long-term care ombudsman council may be accomplished  
1372 orally or in writing and shall include the name and location of  
1373 the vulnerable adult alleged to have been abused, neglected, or  
1374 exploited and the nature of the report.

1375 Section 32. Subsection (8) of section 415.1055, Florida  
1376 Statutes, is amended to read:

1377 415.1055 Notification to administrative entities.—

1378 (8) At the conclusion of a protective investigation at a  
1379 facility, the department shall notify ~~either~~ the Florida local  
1380 advocacy council or the office long-term care ombudsman council

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1381 of the results of the investigation. This notification must be  
1382 in writing.

1383 Section 33. Subsection (2) of section 415.106, Florida  
1384 Statutes, is amended to read:

1385 415.106 Cooperation by the department and criminal justice  
1386 and other agencies.—

1387 (2) To ensure coordination, communication, and cooperation  
1388 with the investigation of abuse, neglect, or exploitation of  
1389 vulnerable adults, the department shall develop and maintain  
1390 interprogram agreements or operational procedures among  
1391 appropriate departmental programs and the Office of State Long-  
1392 Term Care Ombudsman Council, the Florida Statewide Advocacy  
1393 Council, and other agencies that provide services to vulnerable  
1394 adults. These agreements or procedures must cover such subjects  
1395 as the appropriate roles and responsibilities of the department  
1396 in identifying and responding to reports of abuse, neglect, or  
1397 exploitation of vulnerable adults; the provision of services;  
1398 and related coordinated activities.

1399 Section 34. Paragraph (g) of subsection (3) of section  
1400 415.107, Florida Statutes, is amended to read:

1401 415.107 Confidentiality of reports and records.—

1402 (3) Access to all records, excluding the name of the  
1403 reporter which shall be released only as provided in subsection  
1404 (6), shall be granted only to the following persons, officials,  
1405 and agencies:

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1406 (g) Any appropriate official of the Florida advocacy  
1407 council or the office ~~long-term care ombudsman council~~  
1408 investigating a report of known or suspected abuse, neglect, or  
1409 exploitation of a vulnerable adult.

1410 Section 35. Present subsections (16) through (26) of  
1411 section 429.02, Florida Statutes, are redesignated as  
1412 subsections (17) through (27), respectively, present subsections  
1413 (11) and (20) are amended, and a new subsection (16) is added to  
1414 that section, to read:

1415 429.02 Definitions.—When used in this part, the term:

1416 (11) "Extended congregate care" means acts beyond those  
1417 authorized in subsection (17) ~~(16)~~ that may be performed  
1418 pursuant to part I of chapter 464 by persons licensed thereunder  
1419 while carrying out their professional duties, and other  
1420 supportive services which may be specified by rule. The purpose  
1421 of such services is to enable residents to age in place in a  
1422 residential environment despite mental or physical limitations  
1423 that might otherwise disqualify them from residency in a  
1424 facility licensed under this part.

1425 (16) "Office" has the same meaning as in s. 400.0060.

1426 (21)~~(20)~~ "Resident's representative or designee" means a  
1427 person other than the owner, or an agent or employee of the  
1428 facility, designated in writing by the resident, if legally  
1429 competent, to receive notice of changes in the contract executed  
1430 pursuant to s. 429.24; to receive notice of and to participate  
1431 in meetings between the resident and the facility owner,



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1432 administrator, or staff concerning the rights of the resident;  
1433 to assist the resident in contacting the office ombudsman  
1434 ~~council~~ if the resident has a complaint against the facility; or  
1435 to bring legal action on behalf of the resident pursuant to s.  
1436 429.29.

1437 Section 36. Paragraph (b) of subsection (3) of section  
1438 429.07, Florida Statutes, is amended to read:

1439 429.07 License required; fee.—

1440 (3) In addition to the requirements of s. 408.806, each  
1441 license granted by the agency must state the type of care for  
1442 which the license is granted. Licenses shall be issued for one  
1443 or more of the following categories of care: standard, extended  
1444 congregate care, limited nursing services, or limited mental  
1445 health.

1446 (b) An extended congregate care license shall be issued to  
1447 facilities providing, directly or through contract, services  
1448 beyond those authorized in paragraph (a), including services  
1449 performed by persons licensed under part I of chapter 464 and  
1450 supportive services, as defined by rule, to persons who would  
1451 otherwise be disqualified from continued residence in a facility  
1452 licensed under this part.

1453 1. In order for extended congregate care services to be  
1454 provided, the agency must first determine that all requirements  
1455 established in law and rule are met and must specifically  
1456 designate, on the facility's license, that such services may be  
1457 provided and whether the designation applies to all or part of

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1458 the facility. Such designation may be made at the time of  
1459 initial licensure or relicensure, or upon request in writing by  
1460 a licensee under this part and part II of chapter 408. The  
1461 notification of approval or the denial of the request shall be  
1462 made in accordance with part II of chapter 408. Existing  
1463 facilities qualifying to provide extended congregate care  
1464 services must have maintained a standard license and may not  
1465 have been subject to administrative sanctions during the  
1466 previous 2 years, or since initial licensure if the facility has  
1467 been licensed for less than 2 years, for any of the following  
1468 reasons:

- 1469 a. A class I or class II violation;
- 1470 b. Three or more repeat or recurring class III violations  
1471 of identical or similar resident care standards from which a  
1472 pattern of noncompliance is found by the agency;
- 1473 c. Three or more class III violations that were not  
1474 corrected in accordance with the corrective action plan approved  
1475 by the agency;
- 1476 d. Violation of resident care standards which results in  
1477 requiring the facility to employ the services of a consultant  
1478 pharmacist or consultant dietitian;
- 1479 e. Denial, suspension, or revocation of a license for  
1480 another facility licensed under this part in which the applicant  
1481 for an extended congregate care license has at least 25 percent  
1482 ownership interest; or

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1483 f. Imposition of a moratorium pursuant to this part or  
1484 part II of chapter 408 or initiation of injunctive proceedings.

1485 2. A facility that is licensed to provide extended  
1486 congregate care services shall maintain a written progress  
1487 report on each person who receives services which describes the  
1488 type, amount, duration, scope, and outcome of services that are  
1489 rendered and the general status of the resident's health. A  
1490 registered nurse, or appropriate designee, representing the  
1491 agency shall visit the facility at least quarterly to monitor  
1492 residents who are receiving extended congregate care services  
1493 and to determine whether ~~if~~ the facility is in compliance with  
1494 this part, part II of chapter 408, and relevant rules. One of  
1495 the visits may be in conjunction with the regular survey. The  
1496 monitoring visits may be provided through contractual  
1497 arrangements with appropriate community agencies. A registered  
1498 nurse shall serve as part of the team that inspects the  
1499 facility. The agency may waive one of the required yearly  
1500 monitoring visits for a facility that has been licensed for at  
1501 least 24 months to provide extended congregate care services,  
1502 if, during the inspection, the registered nurse determines that  
1503 extended congregate care services are being provided  
1504 appropriately, and if the facility has no class I or class II  
1505 violations and no uncorrected class III violations. The agency  
1506 must first consult with the office ~~long-term care ombudsman~~  
1507 ~~council~~ for the area in which the facility is located to  
1508 determine whether ~~if~~ any complaints have been made and

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1509 substantiated about the quality of services or care. The agency  
1510 may not waive one of the required yearly monitoring visits if  
1511 complaints have been made and substantiated.

1512 3. A facility that is licensed to provide extended  
1513 congregate care services must:

1514 a. Demonstrate the capability to meet unanticipated  
1515 resident service needs.

1516 b. Offer a physical environment that promotes a homelike  
1517 setting, provides for resident privacy, promotes resident  
1518 independence, and allows sufficient congregate space as defined  
1519 by rule.

1520 c. Have sufficient staff available, taking into account  
1521 the physical plant and firesafety features of the building, to  
1522 assist with the evacuation of residents in an emergency.

1523 d. Adopt and follow policies and procedures that maximize  
1524 resident independence, dignity, choice, and decisionmaking to  
1525 permit residents to age in place, so that moves due to changes  
1526 in functional status are minimized or avoided.

1527 e. Allow residents or, if applicable, a resident's  
1528 representative, designee, surrogate, guardian, or attorney in  
1529 fact to make a variety of personal choices, participate in  
1530 developing service plans, and share responsibility in  
1531 decisionmaking.

1532 f. Implement the concept of managed risk.

1533 g. Provide, directly or through contract, the services of  
1534 a person licensed under part I of chapter 464.

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1535 h. In addition to the training mandated in s. 429.52,  
1536 provide specialized training as defined by rule for facility  
1537 staff.

1538 4. A facility that is licensed to provide extended  
1539 congregate care services is exempt from the criteria for  
1540 continued residency set forth in rules adopted under s. 429.41.  
1541 A licensed facility must adopt its own requirements within  
1542 guidelines for continued residency set forth by rule. However,  
1543 the facility may not serve residents who require 24-hour nursing  
1544 supervision. A licensed facility that provides extended  
1545 congregate care services must also provide each resident with a  
1546 written copy of facility policies governing admission and  
1547 retention.

1548 5. The primary purpose of extended congregate care  
1549 services is to allow residents, as they become more impaired,  
1550 the option of remaining in a familiar setting from which they  
1551 would otherwise be disqualified for continued residency. A  
1552 facility licensed to provide extended congregate care services  
1553 may also admit an individual who exceeds the admission criteria  
1554 for a facility with a standard license, if the individual is  
1555 determined appropriate for admission to the extended congregate  
1556 care facility.

1557 6. Before the admission of an individual to a facility  
1558 licensed to provide extended congregate care services, the  
1559 individual must undergo a medical examination as provided in s.

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1560 429.26(4) and the facility must develop a preliminary service  
1561 plan for the individual.

1562 7. When a facility can no longer provide or arrange for  
1563 services in accordance with the resident's service plan and  
1564 needs and the facility's policy, the facility shall make  
1565 arrangements for relocating the person in accordance with s.  
1566 429.28(1)(k).

1567 8. Failure to provide extended congregate care services  
1568 may result in denial of extended congregate care license  
1569 renewal.

1570 Section 37. Subsection (9) of section 429.19, Florida  
1571 Statutes, is amended to read:

1572 429.19 Violations; imposition of administrative fines;  
1573 grounds.—

1574 (9) The agency shall develop and disseminate an annual  
1575 list of all facilities sanctioned or fined for violations of  
1576 state standards, the number and class of violations involved,  
1577 the penalties imposed, and the current status of cases. The list  
1578 shall be disseminated, at no charge, to the Department of  
1579 Elderly Affairs, the Department of Health, the Department of  
1580 Children and Families ~~Family Services~~, the Agency for Persons  
1581 with Disabilities, the area agencies on aging, the Florida  
1582 Statewide Advocacy Council, and the office ~~state and local~~  
1583 ~~ombudsman councils~~. The Department of Children and Families  
1584 ~~Family Services~~ shall disseminate the list to service providers  
1585 under contract to the department who are responsible for

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1586 referring persons to a facility for residency. The agency may  
1587 charge a fee commensurate with the cost of printing and postage  
1588 to other interested parties requesting a copy of this list. This  
1589 information may be provided electronically or through the  
1590 agency's Internet site.

1591 Section 38. Subsection (8) of section 429.26, Florida  
1592 Statutes, is amended to read:

1593 429.26 Appropriateness of placements; examinations of  
1594 residents.—

1595 (8) The Department of Children and Families ~~Family~~  
1596 ~~Services~~ may require an examination for supplemental security  
1597 income and optional state supplementation recipients residing in  
1598 facilities at any time and shall provide the examination  
1599 whenever a resident's condition requires it. Any facility  
1600 administrator; personnel of the agency, the department, or the  
1601 Department of Children and Families ~~Family Services~~; or  
1602 representative of the Office of the State Long-Term Care  
1603 Ombudsman ~~long-term care ombudsman council member~~ who believes a  
1604 resident needs to be evaluated shall notify the resident's case  
1605 manager, who shall take appropriate action. A report of the  
1606 examination findings shall be provided to the resident's case  
1607 manager and the facility administrator to help the administrator  
1608 meet his or her responsibilities under subsection (1).

1609 Section 39. Subsection (2) and paragraph (b) of subsection  
1610 (3) of section 429.28, Florida Statutes, are amended to read:

1611 429.28 Resident bill of rights.—

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1612 (2) The administrator of a facility shall ensure that a  
1613 written notice of the rights, obligations, and prohibitions set  
1614 forth in this part is posted in a prominent place in each  
1615 facility and read or explained to residents who cannot read.  
1616 This notice must ~~shall~~ include the statewide toll-free telephone  
1617 number and e-mail address of the state ombudsman program and the  
1618 telephone number of the name, address, and telephone numbers of  
1619 ~~the local ombudsman council~~ and central abuse hotline and, when  
1620 applicable, the Advocacy Center for Persons with Disabilities,  
1621 Inc., and the Florida local advocacy council, where complaints  
1622 may be lodged. The facility must ensure a resident's access to a  
1623 telephone to call the state local ombudsman program council, the  
1624 central abuse hotline, the Advocacy Center for Persons with  
1625 Disabilities, Inc., and the Florida local advocacy council.

1626 (3)

1627 (b) In order to determine whether the facility is  
1628 adequately protecting residents' rights, the biennial survey  
1629 shall include private informal conversations with a sample of  
1630 residents and consultation with the state ombudsman program  
1631 ~~council~~ in the planning and service area in which the facility  
1632 is located to discuss residents' experiences within the  
1633 facility.

1634 Section 40. Section 429.34, Florida Statutes, is amended  
1635 to read:

1636 429.34 Right of entry and inspection.—In addition to the  
1637 requirements of s. 408.811, a ~~any~~ duly designated officer or



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1638 employee of the department, the Department of Children and  
1639 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the  
1640 Office of the Attorney General, the state or local fire marshal,  
1641 or a representative member of the Office of the State Long-Term  
1642 Care Ombudsman ~~may state or local long-term care ombudsman~~  
1643 ~~council shall have the right to~~ enter unannounced upon and into  
1644 the premises of any facility licensed under ~~pursuant to~~ this  
1645 part in order to determine the state of compliance with ~~the~~  
1646 ~~provisions of~~ this part, part II of chapter 408, and applicable  
1647 rules. Data collected by the office ~~state or local long-term~~  
1648 ~~care ombudsman councils~~ or the state or local advocacy councils  
1649 may be used by the agency in investigations involving violations  
1650 of regulatory standards.

1651 Section 41. Subsection (2) of section 429.35, Florida  
1652 Statutes, is amended to read:

1653 429.35 Maintenance of records; reports.—

1654 (2) Within 60 days after the date of the biennial  
1655 inspection visit required under s. 408.811 or within 30 days  
1656 after the date of any interim visit, the agency shall forward  
1657 the results of the inspection to the office ~~local ombudsman~~  
1658 ~~council in whose planning and service area, as defined in part~~  
1659 ~~II of chapter 400, the facility is located;~~ to at least one  
1660 public library or, in the absence of a public library, the  
1661 county seat in the county in which the inspected assisted living  
1662 facility is located; and, when appropriate, to the district  
1663 Adult Services and Mental Health Program Offices.

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1664 Section 42. Subsection (6) of section 429.67, Florida  
1665 Statutes, is amended to read:

1666 429.67 Licensure.—

1667 (6) In addition to the requirements of s. 408.811, access  
1668 to a licensed adult family-care home must be provided at  
1669 reasonable times for the appropriate officials of the  
1670 department, the Department of Health, the Department of Children  
1671 and Families ~~Family Services~~, the agency, and the State Fire  
1672 Marshal, who are responsible for the development and maintenance  
1673 of fire, health, sanitary, and safety standards, to inspect the  
1674 facility to assure compliance with these standards. In addition,  
1675 access to a licensed adult family-care home must be provided at  
1676 reasonable times to representatives of the Office of State ~~for~~  
1677 ~~the local~~ Long-Term Care Ombudsman ~~council~~.

1678 Section 43. Subsection (2) of section 429.85, Florida  
1679 Statutes, is amended to read:

1680 429.85 Residents' bill of rights.—

1681 (2) The provider shall ensure that residents and their  
1682 legal representatives are made aware of the rights, obligations,  
1683 and prohibitions set forth in this part. Residents must also be  
1684 given the statewide toll-free telephone number and e-mail  
1685 address of the state ombudsman program and the telephone number  
1686 of names, addresses, and telephone numbers of the local  
1687 ~~ombudsman council~~ and the central abuse hotline where they may  
1688 lodge complaints.

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1689 Section 44. Subsection (17) of section 744.444, Florida  
1690 Statutes, is amended to read:

1691 744.444 Power of guardian without court approval.—Without  
1692 obtaining court approval, a plenary guardian of the property, or  
1693 a limited guardian of the property within the powers granted by  
1694 the order appointing the guardian or an approved annual or  
1695 amended guardianship report, may:

1696 (17) Provide confidential information about a ward which  
1697 ~~that~~ is related to an investigation arising under part I of  
1698 chapter 400 to a representative of the Office of the State Long-  
1699 Term Care Ombudsman ~~local or state ombudsman council member~~  
1700 conducting such an investigation. Any such ombudsman shall have  
1701 a duty to maintain the confidentiality of such information.

1702 Section 45. This act shall take effect July 1, 2014.  
1703  
1704  
1705

1706 -----  
1707 **T I T L E A M E N D M E N T**

1708 Remove everything before the enacting clause and insert:  
1709 An act relating to the state ombudsman program; amending s.  
1710 400.0060, F.S.; revising and providing definitions; amending s.  
1711 400.0061, F.S.; revising legislative intent with respect to  
1712 citizen ombudsmen; deleting references to ombudsman councils and  
1713 transferring their responsibilities to representatives of the  
1714 Office of State Long-Term Care Ombudsman; amending s. 400.0063,

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 91 (2014)

Amendment No.

1715 F.S.; revising duties of the office; amending s. 400.0065, F.S.;  
1716 revising the purpose of the office; revising the duties and  
1717 authority of the state ombudsman; requiring the state ombudsman  
1718 to submit an annual report to the Governor, the Legislature, and  
1719 specified agencies and entities; amending s. 400.0067, F.S.;  
1720 revising duties and membership of the State Long-Term Care  
1721 Ombudsman Council; amending s. 400.0069, F.S.; requiring the  
1722 state ombudsman to designate and direct program districts;  
1723 providing duties of representatives of the office in the  
1724 districts; revising the appointments of and qualifications for  
1725 district ombudsmen; prohibiting certain individuals from serving  
1726 as ombudsmen; deleting provisions that provide for an election  
1727 of a chair of a local council and the meeting times for the  
1728 local council; amending s. 400.0070, F.S.; providing conditions  
1729 under which a representative of the office could be found to  
1730 have a conflict of interest; requiring the Department of Elderly  
1731 Affairs, in consultation with the state ombudsman, to define by  
1732 rule what constitutes a conflict of interest; amending s.  
1733 400.0071, F.S.; requiring the Department of Elderly Affairs to  
1734 consult with the state ombudsman to adopt rules pertaining to  
1735 complaint procedures; amending s. 400.0073, F.S.; providing  
1736 procedures for investigation of complaints; amending s.  
1737 400.0074, F.S.; revising procedures for conducting onsite  
1738 administrative assessments; authorizing the department to adopt  
1739 rules; amending s. 400.0075, F.S.; revising complaint  
1740 notification and resolution procedures; amending s. 400.0078,

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Bill No. HB 91 (2014)

Amendment No.

1741 F.S.; providing for a resident or representative of a resident  
1742 to receive additional information regarding resident rights;  
1743 amending s. 400.0079, F.S.; providing immunity from liability  
1744 for a representative of the office under certain circumstances;  
1745 amending s. 400.0081, F.S.; requiring long-term care facilities  
1746 to provide representatives of the office with access to  
1747 facilities, residents, and records for certain purposes;  
1748 amending s. 400.0083, F.S.; conforming provisions to changes  
1749 made by the act; amending s. 400.0087, F.S.; providing for the  
1750 office to coordinate ombudsman services with Disability Rights  
1751 Florida; amending s. 400.0089, F.S.; conforming provisions to  
1752 changes made by the act; amending s. 400.0091, F.S.; revising  
1753 training requirements for representatives of the office and  
1754 ombudsmen; amending ss. 20.41, 400.021, 400.022, 400.0255,  
1755 400.1413, 400.162, 400.19, 400.191, 400.23, 400.235, 415.102,  
1756 415.1034, 415.104, 415.1055, 415.106, 415.107, 429.02, 429.07,  
1757 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, 429.85, and  
1758 744.444, F.S.; conforming provisions to changes made by the act;  
1759 providing an effective date.

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