

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WITHDRAWN	—	(Y/N)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
7 insert:
8

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

11 400.0060 Definitions.—When used in this part, unless the
12 context clearly dictates otherwise, the term:

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

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18 (2) "Agency" means the Agency for Health Care
19 Administration.

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

21 (4) "District" means a geographical area designated by the
22 state ombudsman in which individuals certified as ombudsmen
23 carry out the duties of the State Long-Term Care Ombudsman
24 Program. A district may have one or more local councils.

25 (5)~~(4)~~ "Local council" means a local long-term care
26 ombudsman council designated by the ombudsman pursuant to s.
27 400.0069. Local councils are also known as district long-term
28 care ombudsman councils or district councils.

29 (6)~~(5)~~ "Long-term care facility" means a nursing home
30 facility, assisted living facility, adult family-care home,
31 board and care facility, or any other similarly licensed ~~similar~~
32 residential adult care facility.

33 (7)~~(6)~~ "Office" means the Office of the State Long-Term
34 Care Ombudsman Program created by s. 400.0063.

35 (8)~~(7)~~ "Ombudsman" means an individual who has been
36 certified by the state ombudsman as meeting the requirements of
37 ss. 400.0069, 400.0070, and 400.0091 ~~the individual appointed by~~
38 ~~the Secretary of Elderly Affairs to head the Office of State~~
39 ~~Long-Term Care Ombudsman.~~

40 (9) "Representative of the State Long-Term Care Ombudsman
41 Program" means the state ombudsman, an employee of the state or
42 district office certified as an ombudsman or an individual

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43 certified as an ombudsman serving on the state or a local
44 council.

45 ~~(10)(8)~~ "Resident" means an individual 18 ~~60~~ years of age
46 or older who resides in a long-term care facility.

47 ~~(11)(9)~~ "Secretary" means the Secretary of Elderly
48 Affairs.

49 ~~(12)(10)~~ "State council" means the State Long-Term Care
50 Ombudsman Council created by s. 400.0067.

51 (13) "State ombudsman" means the State Long-Term Care
52 Ombudsman, who is the individual appointed by the Secretary of
53 Elderly Affairs to head the State Long-Term Care Ombudsman
54 Program.

55 (14) "State ombudsman program" means the State Long-Term
56 Care Ombudsman Program operating under the direction of the
57 State Long Term Care Ombudsman.

58 Section 2. Section 400.0061, Florida Statutes, is amended
59 to read:

60 400.0061 Legislative findings and intent; long-term care
61 facilities.—

62 (1) The Legislature finds that conditions in long-term
63 care facilities in this state are such that the rights, health,
64 safety, and welfare of residents are not fully ensured by rules
65 of the Department of Elderly Affairs or the Agency for Health
66 Care Administration or by the good faith of owners or operators
67 of long-term care facilities. Furthermore, there is a need for a
68 formal mechanism whereby a long-term care facility resident, a

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69 representative of a long-term care facility resident, or any
70 other concerned citizen may make a complaint against the
71 facility or its employees, or against other persons who are in a
72 position to restrict, interfere with, or threaten the rights,
73 health, safety, or welfare of a long-term care facility
74 resident. The Legislature finds that concerned citizens are
75 often more effective advocates for the rights of others than
76 governmental agencies. The Legislature further finds that in
77 order to be eligible to receive an allotment of funds authorized
78 and appropriated under the federal Older Americans Act, the
79 state must establish and operate an Office of State Long-Term
80 Care Ombudsman, to be headed by the State Long-Term Care
81 Ombudsman, and carry out a long-term care ombudsman program.

82 (2) It is the intent of the Legislature, therefore, to use
83 ~~utilize~~ voluntary citizen ombudsman councils under the
84 leadership of the State Long-Term Care Ombudsman ~~ombudsman~~, and,
85 through them, to operate a state ~~an~~ ombudsman program, which
86 shall, without interference by any executive agency, undertake
87 to discover, investigate, and determine the presence of
88 conditions or individuals that ~~which~~ constitute a threat to the
89 rights, health, safety, or welfare of the residents of long-term
90 care facilities. To ensure that the effectiveness and efficiency
91 of such investigations are not impeded by advance notice or
92 delay, the Legislature intends that the representatives of the
93 State Long-Term Care Ombudsman Program ~~ombudsman and ombudsman~~
94 ~~councils and their designated representatives~~ not be required to

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105 obtain warrants in order to enter into or conduct investigations
106 or onsite administrative assessments of long-term care
107 facilities. It is the further intent of the Legislature that the
108 environment in long-term care facilities be conducive to the
109 dignity and independence of residents and that investigations by
110 representatives of the State Long-Term Care Ombudsman Program
111 ~~ombudsman councils~~ shall further the enforcement of laws, rules,
112 and regulations that safeguard the health, safety, and welfare
113 of residents.

114 Section 3. Section 400.0063, Florida Statutes, is amended
115 to read:

116 400.0063 Establishment of the Office ~~of~~ State Long-Term
117 Care Ombudsman Program; designation of ombudsman and legal
118 advocate.—

119 (1) There is created the an Office ~~of~~ State Long-Term Care
120 Ombudsman Program in the Department of Elderly Affairs.

121 (2) (a) The ~~Office of~~ State Long-Term Care Ombudsman
122 Program shall be headed by the State Long-Term Care Ombudsman,
123 who shall serve on a full-time basis and shall personally, or
124 through representatives of the state ombudsman program office,
125 carry out its ~~the~~ purposes and functions ~~of the office~~ in
126 accordance with state and federal law.

127 (b) The state ombudsman shall be appointed by and shall
128 serve at the pleasure of the Secretary of Elderly Affairs. The
129 secretary shall appoint a person who has expertise and

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120 | experience in the fields of long-term care and advocacy to serve
121 | as state ombudsman.

122 | (3) (a) There is created in the office the position of
123 | legal advocate, who shall be selected by and serve at the
124 | pleasure of the state ombudsman and shall be a member in good
125 | standing of The Florida Bar.

126 | (b) The duties of the legal advocate shall include, but
127 | not be limited to:

128 | 1. Assisting the state ombudsman in carrying out the
129 | duties of the office with respect to the abuse, neglect,
130 | exploitation or violation of rights of residents of long-term
131 | care facilities.

132 | 2. Assisting the representatives of the State Long-Term
133 | Care Ombudsman Program ~~state and local councils~~ in carrying out
134 | their responsibilities under this part.

135 | 3. Pursuing administrative, legal, and other appropriate
136 | remedies on behalf of residents.

137 | 4. Serving as legal counsel to the representatives of the
138 | State Long-Term Care Ombudsman Program ~~in state and local~~
139 | ~~councils, or individual members thereof, against whom~~ any suit
140 | or other legal action that is initiated in connection with the
141 | performance of the official duties of the representatives of the
142 | State Long-Term Care Ombudsman Program ~~councils or an individual~~
143 | ~~member.~~

144 | Section 4. Section 400.0065, Florida Statutes, is amended
145 | to read:

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146 400.0065 State Long-Term Care Ombudsman Program; duties
147 and responsibilities.-

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

150 (a) Identify, investigate, and resolve complaints made by
151 or on behalf of residents of long-term care facilities relating
152 to actions or omissions by providers or representatives of
153 providers of long-term care services, other public or private
154 agencies, guardians, or representative payees that may adversely
155 affect the health, safety, welfare, or rights of the residents.

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

158 (c) Inform residents, their representatives, and other
159 citizens about obtaining the services of the State Long-Term
160 Care Ombudsman Program and its representatives.

161 (d) Ensure that residents have regular and timely access
162 to the services provided through the State Long-Term Care
163 Program office and that residents and complainants receive
164 timely responses from representatives of the State Long-Term
165 Care Program office to their complaints.

166 (e) Represent the interests of residents before
167 governmental agencies and seek administrative, legal, and other
168 remedies to protect the health, safety, welfare, and rights of
169 the residents.

170 (f) Administer the state and local councils.

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171 (g) Analyze, comment on, and monitor the development and
172 implementation of federal, state, and local laws, rules, and
173 regulations, and other governmental policies and actions, that
174 pertain to the health, safety, welfare, and rights of the
175 residents, with respect to the adequacy of long-term care
176 facilities and services in the state, and recommend any changes
177 in such laws, rules, regulations, policies, and actions as the
178 office determines to be appropriate and necessary.

179 (h) Provide technical support for the development of
180 resident and family councils to protect the well-being and
181 rights of residents.

182 (2) The State Long-Term Care Ombudsman has ~~shall have~~ the
183 duty and authority to:

184 (a) Establish and coordinate districts and local councils
185 throughout the state.

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

188 (c) Within the limits of appropriated federal and state
189 funding, employ such personnel ~~as are~~ necessary to perform
190 adequately the functions of the office and provide or contract
191 for legal services to assist the representatives of the State
192 Long-Term Care Ombudsman Program ~~state and local councils~~ in the
193 performance of their duties. Staff positions established for the
194 purpose of coordinating the activities of each local council and
195 assisting its members may be filled by the ombudsman after
196 approval by the secretary. Notwithstanding any other provision

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197 of this part, upon certification by the ombudsman that the staff
198 member hired to fill any such position has completed the initial
199 training required under s. 400.0091, such person shall be
200 considered a representative of the State Long-Term Care
201 Ombudsman Program for purposes of this part.

202 (d) Contract for services necessary to carry out the
203 activities of the office.

204 (e) Apply for, receive, and accept grants, gifts, or other
205 payments, including, but not limited to, real property, personal
206 property, and services from a governmental entity or other
207 public or private entity or person, and make arrangements for
208 the use of such grants, gifts, or payments.

209 (f) Coordinate, to the greatest extent possible, state and
210 local ombudsman services with the protection and advocacy
211 systems for individuals with developmental disabilities and
212 mental illnesses and with legal assistance programs for the poor
213 through adoption of memoranda of understanding and other means.

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

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

220 (h) ~~(i)~~ Prepare an annual report describing the activities
221 carried out by the office, the state council, the districts and
222 the local councils in the year for which the report is prepared.

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223 The state ombudsman shall submit the report to the secretary,
224 the United States Assistant Secretary for Aging, the Governor,
225 the President of the Senate, the Speaker of the House of
226 Representatives, the Secretary of Children and Families, and the
227 Secretary of the Agency for Health Care Administration at least
228 30 days before the convening of the regular session of the
229 Legislature. ~~The secretary shall in turn submit the report to~~
230 ~~the United States Assistant Secretary for Aging, the Governor,~~
231 ~~the President of the Senate, the Speaker of the House of~~
232 ~~Representatives, the Secretary of Children and Families, and the~~
233 ~~Secretary of Health Care Administration.~~ The report must shall,
234 at a minimum:

235 1. Contain and analyze data collected concerning
236 complaints about and conditions in long-term care facilities and
237 the disposition of such complaints.

238 2. Evaluate the problems experienced by residents.

239 3. Analyze the successes of the State Long-Term Care
240 Ombudsman Program ~~ombudsman program~~ during the preceding year,
241 including an assessment of how successfully the program has
242 carried out its responsibilities under the Older Americans Act.

243 4. Provide recommendations for policy, regulatory, and
244 statutory changes designed to solve identified problems; resolve
245 residents' complaints; improve residents' lives and quality of
246 care; protect residents' rights, health, safety, and welfare;
247 and remove any barriers to the optimal operation of the State
248 Long-Term Care Ombudsman Program.

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249 5. Contain recommendations from the State Long-Term Care
250 Ombudsman Council regarding program functions and activities and
251 recommendations for policy, regulatory, and statutory changes
252 designed to protect residents' rights, health, safety, and
253 welfare.

254 6. Contain any relevant recommendations from the
255 representatives of the State Long-Term Care Ombudsman Program
256 ~~local councils~~ regarding program functions and activities.

257 Section 5. Section 400.0067, Florida Statutes, is amended
258 to read:

259 400.0067 State Long-Term Care Ombudsman Council; duties;
260 membership.—

261 (1) There is created within the ~~Office of~~ State Long-Term
262 Care Ombudsman Program, the State Long-Term Care Ombudsman
263 Council.

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

265 (a) Serve as an advisory body to assist the state
266 ombudsman in reaching a consensus among districts and local
267 councils on issues affecting residents and impacting the optimal
268 operation of the program.

269 (b) Serve as an appellate body in receiving from the
270 districts or local councils complaints not resolved at the
271 district or local level. Any individual member or members of the
272 state council may enter any long-term care facility involved in
273 an appeal, pursuant to the conditions specified in s.
274 400.0074(2).

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

279 (d) Assist the ombudsman in eliciting, receiving,
280 responding to, and resolving complaints made by or on behalf of
281 residents.

282 (e) Elicit and coordinate state, district, local, and
283 voluntary organizational assistance for the purpose of improving
284 the care received by residents.

285 (f) Assist the state ombudsman in preparing the annual
286 report described in s. 400.0065.

287 (3) The State Long-Term Care Ombudsman Council consists
288 ~~shall be composed~~ of one active certified ombudsman from each
289 local council in a district ~~member elected by each local council~~
290 plus three at-large members ~~appointed by the Governor~~.

291 (a) Each local council in a district must select ~~shall~~
292 ~~elect by majority vote~~ a representative of its choice to serve
293 ~~from among the council members to represent the interests of the~~
294 ~~local council~~ on the state council. ~~A local council chair may~~
295 ~~not serve as the representative of the local council on the~~
296 ~~state council~~.

297 (b)1. The state ombudsman ~~secretary, after consulting with~~
298 ~~the ombudsman~~, shall submit to the secretary ~~Governor~~ a list of
299 individuals ~~persons~~ recommended for appointment to the at-large
300 positions on the state council. The list may ~~shall~~ not include

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301 the name of any individual ~~person~~ who is currently serving in a
302 district ~~on a local council~~.

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

305 ~~3. If the Governor does not appoint an at-large member to~~
306 ~~fill a vacant position within 60 days after the list is~~
307 ~~submitted, the secretary, after consulting with the ombudsman,~~
308 ~~shall appoint an at-large member to fill that vacant position.~~

309 (4) (a) (e) 1. All state council members shall serve 3-year
310 terms.

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

313 3. A local council may recommend replacement ~~removal~~ of
314 its selected ~~elected~~ representative from the state council ~~by a~~
315 ~~majority vote~~. If the council votes to replace ~~remove~~ its
316 representative, the local council chair shall immediately notify
317 the state ombudsman. ~~The secretary shall advise the Governor of~~
318 ~~the local council's vote upon receiving notice from the~~
319 ~~ombudsman.~~

320 4. The position of any member missing three state council
321 meetings within a 1-year period without cause may be declared
322 vacant by the state ombudsman. The findings of the state
323 ombudsman regarding cause shall be final and binding.

324 (b) 5. Any vacancy on the state council shall be filled in
325 the same manner as the original appointment.

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326 (c)~~(d)~~1. The state council shall elect a chair to serve
327 for a term of 1 year. A chair may not serve more than two
328 consecutive terms.

329 2. The chair shall select a vice chair from among the
330 members. The vice chair shall preside over the state council in
331 the absence of the chair.

332 3. The chair may create additional executive positions as
333 necessary to carry out the duties of the state council. Any
334 person appointed to an executive position shall serve at the
335 pleasure of the chair, and his or her term shall expire on the
336 same day as the term of the chair.

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

347 (d)~~(e)~~1. The state council shall meet upon the call of the
348 chair or upon the call of the state ombudsman. The state council
349 shall meet at least quarterly but may meet more frequently as
350 needed.

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

354 3. The state council may not vote on or otherwise make any
355 decisions resulting in a recommendation that will directly
356 impact the state council, the district, or any local council,
357 outside of a publicly noticed meeting at which a quorum is
358 present.

359 ~~(e)(f)~~ Members may not shall receive ~~no~~ compensation for
360 attendance at state council meetings but shall, with approval
361 from the state ombudsman, be reimbursed for per diem and travel
362 expenses as provided in s. 112.061.

363 Section 6. Section 400.0069, Florida Statutes, is amended
364 to read:

365 400.0069 Long-term care ombudsman districts; local long-
366 term care ombudsman councils; duties; appointment membership.-

367 (1) (a) The state ombudsman shall designate districts and
368 each district shall designate local long-term care ombudsman
369 councils to carry out the duties of the State Long-Term Care
370 Ombudsman Program within local communities. Each district local
371 council shall function under the direction of the state
372 ombudsman.

373 (b) The state ombudsman shall ensure that there is at
374 least one employee of the department certified as a long-term
375 care ombudsman and a least one local council operating in each
376 district of the department's planning and service areas. The

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377 state ombudsman may create additional local councils as
378 necessary to ensure that residents throughout the state have
379 adequate access to State Long-Term Care Ombudsman Program
380 services. ~~The ombudsman, after approval from the secretary,~~
381 ~~shall designate the jurisdictional boundaries of each local~~
382 ~~council.~~

383 (c) Each district shall convene a public meeting every
384 quarter or as needed.

385 (2) The duties of the representatives of the State Long-
386 Term Care Ombudsman Program local councils are to:

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

390 (b) Discover, investigate, and determine the existence of
391 abuse, ~~or~~ neglect, or exploitation in any long-term care
392 facility and to use the procedures provided for in ss. 415.101-
393 415.113 when applicable.

394 (c) Identify ~~Elicit, receive,~~ investigate, ~~respond to,~~ and
395 resolve complaints made by or on behalf of residents relating to
396 actions or omissions by providers of long-term care services,
397 other public agencies, guardians, or representative payees which
398 may adversely affect the health, safety, welfare, or rights of
399 residents.

400 (d) Review and, if necessary, comment on all existing or
401 proposed rules, regulations, and other governmental policies and
402 actions relating to long-term care facilities that may

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403 potentially have an effect on the ~~rights~~, health, safety,
404 welfare, and rights ~~welfare~~ of residents.

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

409 (f) Recommend that the state ombudsman and the legal
410 advocate seek administrative, legal, and other remedies to
411 protect the health, safety, welfare, and rights of ~~the~~
412 residents.

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

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

417 (3) In order to carry out the duties specified in
418 subsection (2), a representative of the State Long-Term Care
419 Ombudsman Program or a member of a local council is authorized
420 to enter any long-term care facility without notice or first
421 obtaining a warrant; however, ~~subject to the provisions of s.~~
422 400.0074(2) may apply regarding notice of a followup
423 administrative assessment.

424 (4) Each district and local council shall be composed of
425 ombudsmen ~~members~~ whose primary residences are ~~residence is~~
426 located within the boundaries of the district ~~local council's~~
427 jurisdiction.

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428 (a) Upon good cause shown and with the consent of the
429 ombudsman, the state ombudsman may appoint an ombudsman to
430 another district. The ombudsman shall strive to ensure that each
431 local council include the following persons as members:

432 1. At least one medical or osteopathic physician whose
433 practice includes or has included a substantial number of
434 geriatric patients and who may practice in a long-term care
435 facility;

436 2. At least one registered nurse who has geriatric
437 experience;

438 3. At least one licensed pharmacist;

439 4. At least one registered dietitian;

440 5. At least six nursing home residents or representative
441 consumer advocates for nursing home residents;

442 6. At least three residents of assisted living facilities
443 or adult family-care homes or three representative consumer
444 advocates for alternative long-term care facility residents;

445 7. At least one attorney; and

446 8. At least one professional social worker.

447 (b) The following individuals may not be appointed as
448 ombudsmen:

449 1. The owner or representative of a long-term care
450 facility.

451 2. A provider or representative of a provider of long-term
452 care service.

453 3. An employee of the agency.

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454 4. An employee of the department, except for staff
455 certified as ombudsmen in the district offices.

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

457 6. An employee of the Agency for Persons with
458 Disabilities.

459 ~~(b) In no case shall the medical director of a long-term~~
460 ~~care facility or an employee of the agency, the department, the~~
461 ~~Department of Children and Families, or the Agency for Persons~~
462 ~~with Disabilities serve as a member or as an ex officio member~~
463 ~~of a council.~~

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

466 1. Individuals wishing to join a local council shall
467 submit an application to the state ombudsman or his or her
468 designee. The ombudsman shall review the individual's
469 application and advise the secretary of his or her
470 recommendation for approval or disapproval of the candidate's
471 membership on the local council. If the secretary approves of
472 the individual's membership, the individual shall be appointed
473 as a member of the local council.

474 2. Successfully complete a level 2 background screening
475 pursuant to s. 430.0402 and chapter 435.

476 (b) The state ombudsman shall approve or deny the
477 appointment of the individual as an ombudsman ~~secretary may~~
478 ~~rescind the ombudsman's approval of a member on a local council~~
479 ~~at any time. If the state ombudsman~~ ~~secretary~~ rescinds the

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480 approval of a member on a local council, the state ombudsman
481 shall ensure that the individual is immediately removed from the
482 local council on which he or she serves and the individual may
483 no longer represent the State Long-Term Care Ombudsman Program
484 until the state ombudsman secretary provides his or her
485 approval.

486 (c) Upon appointment as an ombudsman, the individual may
487 participate in district activities but may not represent the
488 program or conduct any authorized program duties until the
489 individual has completed the initial training specified in s.
490 400.0091(1) and has been certified by the state ombudsman.

491 (d) The state ombudsman may rescind the appointment of an
492 individual as an ombudsman for good cause shown, such as
493 development of a conflict of interest, failure to adhere to the
494 policies and procedures established by the State Long Term Care
495 Program, or demonstrative inability to carry out the
496 responsibilities of the State Long Term Care Program. After the
497 appointment is rescinded, the individual may not conduct any
498 duties as an ombudsman and may not represent the State Long-Term
499 Care Ombudsman Program.

500 (e)-(e) A local council may recommend the removal of one or
501 more of its members by submitting to the state ombudsman a
502 resolution adopted by a two-thirds vote of the members of the
503 council stating the name of the member or members recommended
504 for removal and the reasons for the recommendation. If such a
505 recommendation is adopted by a local council, the local council

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506 chair or district manager ~~coordinator~~ shall immediately report
507 the council's recommendation to the state ombudsman. The state
508 ombudsman shall review the recommendation of the local council
509 and advise the district manager and local council chair
510 ~~secretary~~ of his or her decision ~~recommendation~~ regarding
511 removal of the council member or members.

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

515 (b) The chair shall select a vice chair from among the
516 members of the council. The vice chair shall preside over the
517 council in the absence of the chair.

518 (c) The chair may create additional executive positions as
519 necessary to carry out the duties of the local council. Any
520 person appointed to an executive position shall serve at the
521 pleasure of the chair, and his or her term shall expire on the
522 same day as the term of the chair.

523 (d) A chair may be immediately removed from office prior
524 to the expiration of his or her term by a vote of two-thirds of
525 the members of the local council. If any chair is removed from
526 office before ~~prior to~~ the expiration of his or her term, a
527 replacement chair shall be elected during the same meeting, and
528 the term of the replacement chair shall begin immediately. The
529 replacement chair shall serve for the remainder of the term of
530 the person he or she replaced.

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531 (7) Each local council shall meet upon the call of its
532 chair or upon the call of the ombudsman. Each local council
533 shall meet at least once a month but may meet more frequently if
534 necessary.

535 (8) An ombudsman may not ~~A member of a local council shall~~
536 receive ~~no~~ compensation but shall, with approval from the state
537 ombudsman, be reimbursed for travel expenses ~~both within and~~
538 ~~outside the jurisdiction of the local council~~ in accordance with
539 the provisions of s. 112.061.

540 (9) A representative of the State Long-Term Care Ombudsman
541 Program may ~~The local councils are authorized to~~ call upon
542 appropriate state agencies ~~of state government~~ for such
543 professional assistance as ~~may be~~ needed in the discharge of his
544 or her ~~their~~ duties, and such. ~~All state agencies shall~~
545 cooperate ~~with the local councils~~ in providing requested
546 information and agency representation ~~at council meetings~~.

547 Section 7. Section 400.0070, Florida Statutes, is amended
548 to read:

549 400.0070 Conflicts of interest.—

550 (1) A representative of the State Long-Term Care Ombudsman
551 Program may ~~The ombudsman shall~~ not:

552 (a) Have a direct involvement in the licensing or
553 certification of, or an ownership or investment interest in, a
554 long-term care facility or a provider of a long-term care
555 service.

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

558 (c) Receive, or have a right to receive, directly or
559 indirectly, remuneration, in cash or in kind, under a
560 compensation agreement with the owner or operator of a long-term
561 care facility.

562 (2) Each representative of the State Long-Term Care
563 Ombudsman Program ~~employee of the office, each state council~~
564 ~~member, and each local council member~~ shall certify that he or
565 she does not have a ~~has no~~ conflict of interest.

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

568 (a) Situations that constitute a ~~person having a~~ conflict
569 of interest which ~~that~~ could materially affect the objectivity
570 or capacity of an individual ~~a person~~ to serve as a
571 representative of the State Long-Term Care Ombudsman Program
572 while carrying out the purposes of the State Long-Term Care
573 Program as specified in this part ~~on an ombudsman council, or as~~
574 ~~an employee of the office, while carrying out the purposes of~~
575 ~~the State Long-Term Care Ombudsman Program as specified in this~~
576 ~~part.~~

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

580 Section 8. Section 400.0071, Florida Statutes, is amended
581 to read:

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582 400.0071 State Long-Term Care Ombudsman Program complaint
583 procedures.—The department, in consultation with the state
584 ombudsman, shall adopt rules implementing state and local
585 complaint procedures. The rules must include procedures for
586 receiving, investigating, identifying, and resolving complaints
587 concerning the health, safety, welfare, and rights of
588 residents.÷

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

591 ~~(2) Conducting investigations of a long-term care facility~~
592 ~~or an employee of a long-term care facility subsequent to~~
593 ~~receiving a complaint.~~

594 ~~(3) Conducting onsite administrative assessments of long-~~
595 ~~term care facilities.~~

596 Section 9. Section 400.0073, Florida Statutes, is amended
597 to read:

598 400.0073 State and local ombudsman council
599 investigations.—

600 (1) A representative of the State Long-Term Care Ombudsman
601 Program local council shall identify and investigate, within a
602 reasonable time after a complaint is made, by or on behalf any
603 ~~complaint~~ of a resident relating to actions or omissions by
604 providers or representatives of providers of long-term care
605 services, other public agencies, guardians, or representative
606 payees which may adversely affect the health, safety, welfare,
607 or rights of residents. ~~, a representative of a resident, or any~~

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608 ~~other credible source based on an action or omission by an~~
609 ~~administrator, an employee, or a representative of a long-term~~
610 ~~care facility which might be:~~

611 ~~(a) Contrary to law;~~

612 ~~(b) Unreasonable, unfair, oppressive, or unnecessarily~~
613 ~~discriminatory, even though in accordance with law;~~

614 ~~(c) Based on a mistake of fact;~~

615 ~~(d) Based on improper or irrelevant grounds;~~

616 ~~(e) Unaccompanied by an adequate statement of reasons;~~

617 ~~(f) Performed in an inefficient manner; or~~

618 ~~(g) Otherwise adversely affecting the health, safety,~~
619 ~~welfare, or rights of a resident.~~

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

622 ~~(2)(3)~~ Subsequent to an appeal from a local council, the
623 state council may investigate any complaint received by the
624 local council involving a long-term care facility or a resident.

625 ~~(3)(4)~~ If a representative of the State Long-Term Care
626 Ombudsman Program ~~the ombudsman or any state or local council~~
627 ~~member~~ is not allowed to enter a long-term care facility, the
628 administrator of the facility shall be considered to have
629 interfered with a representative of the State Long-Term Care
630 Ombudsman Program ~~office, the state council, or the local~~
631 ~~council~~ in the performance of official duties as described in s.
632 400.0083(1) and to have violated ~~committed a violation of~~ this
633 part. The representative of the State Long-Term Care Ombudsman

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634 Program ombudsman shall report a facility's refusal to allow
635 entry to the state ombudsman or his or her designee, who shall
636 report the incident to the agency, and the agency shall record
637 the report and take it into consideration when determining
638 actions allowable under s. 400.102, s. 400.121, s. 429.14, s.
639 429.19, s. 429.69, or s. 429.71.

640 Section 10. Section 400.0074, Florida Statutes, is amended
641 to read:

642 400.0074 Local ombudsman council onsite administrative
643 assessments.-

644 (1) A representative of the State Long-Term Care Ombudsman
645 Program shall ~~In addition to any specific investigation~~
646 ~~conducted pursuant to a complaint, the local council shall~~
647 conduct, at least annually, an onsite administrative assessment
648 of each nursing home, assisted living facility, and adult
649 family-care home ~~within its jurisdiction~~. This administrative
650 assessment must be resident-centered and must ~~shall~~ focus on
651 factors affecting the rights, health, safety, and welfare of the
652 residents. Each local council is encouraged to conduct a similar
653 onsite administrative assessment of each additional long-term
654 care facility within its jurisdiction.

655 (2) An onsite administrative assessment conducted by a
656 local council shall be subject to the following conditions:

657 (a) To the extent possible and reasonable, the
658 administrative assessment may ~~assessments shall~~ not duplicate
659 the efforts of ~~the agency~~ surveys and inspections of long-term

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660 care facilities conducted by state agencies ~~under part II of~~
661 ~~this chapter and parts I and II of chapter 429.~~

662 (b) An administrative assessment shall be conducted at a
663 time and for a duration necessary to produce the information
664 required to complete the assessment ~~carry out the duties of the~~
665 ~~local council.~~

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

669 (d) A representative of the State Long-Term Care Ombudsman
670 Program ~~local council member~~ physically present for the
671 administrative assessment must ~~shall~~ identify himself or herself
672 to the administrator ~~and cite the specific statutory authority~~
673 ~~for his or her assessment~~ of the facility or his or her
674 designee.

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

677 (f) A representative of the State Long-Term Care Ombudsman
678 Program ~~local council member~~ may not enter a single-family
679 residential unit within a long-term care facility during an
680 administrative assessment without the permission of the resident
681 or the representative of the resident.

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

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685 (3) Regardless of jurisdiction, the state ombudsman may
686 authorize a state or local council member to assist another
687 local council to perform the administrative assessments
688 described in this section.

689 (4) An onsite administrative assessment may not be
690 accomplished by forcible entry. However, if a representative of
691 the State Long-Term Care Ombudsman Program ~~the ombudsman or a~~
692 ~~state or local council member~~ is not allowed to enter a long-
693 term care facility, the administrator of the facility shall be
694 considered to have interfered with a representative of the State
695 Long-Term Care Ombudsman Program ~~office, the state council, or~~
696 ~~the local council~~ in the performance of official duties as
697 described in s. 400.0083(1) and to have committed a violation of
698 this part. The representative of the State Long-Term Care
699 Ombudsman Program ~~ombudsman~~ shall report the refusal by a
700 facility to allow entry to the state ombudsman or his or her
701 designee, who shall report the incident to the agency, and the
702 agency shall record the report and take it into consideration
703 when determining actions allowable under s. 400.102, s. 400.121,
704 s. 429.14, s. 429.19, s. 429.69, or s. 429.71.

705 (5) The department, in consultation with the state
706 ombudsman, may adopt rules implementing procedures for
707 conducting onsite administrative assessments of long-term care
708 facilities.

709 Section 11. Section 400.0075, Florida Statutes, is amended
710 to read:

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711 400.0075 Complaint notification and resolution

712 procedures.-

713 (1) (a) Any complaint ~~or problem~~ verified by a
714 representative of the State Long-Term Care Ombudsman Program an
715 ~~ombudsman council~~ as a result of an investigation which is
716 determined by the local council to require remedial action may
717 ~~or onsite administrative assessment, which complaint or problem~~
718 ~~is determined to require remedial action by the local council,~~
719 shall be identified and brought to the attention of the long-
720 term care facility administrator subject to the confidentiality
721 provisions of s. 400.0077 in writing. Upon receipt of the
722 information such document, the administrator, with the
723 concurrence of the representative of the State Long-Term Care
724 Ombudsman Program local council chair, shall establish target
725 dates for taking appropriate remedial action. If, by the target
726 date, the remedial action is not completed or forthcoming, the
727 representative of the State Long-Term Care Ombudsman Program may
728 extend the target date if there is reason to believe such action
729 would facilitate the resolution of the complaint, or the
730 representative of the State Long-Term Care Ombudsman Program may
731 refer the complaint to the district manager who may refer the
732 complaint to the state council. ~~local council chair may, after~~
733 ~~obtaining approval from the ombudsman and a majority of the~~
734 ~~members of the local council:~~

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735 ~~1. Extend the target date if the chair has reason to~~
736 ~~believe such action would facilitate the resolution of the~~
737 ~~complaint.~~

738 ~~2. In accordance with s. 400.0077, publicize the~~
739 ~~complaint, the recommendations of the council, and the response~~
740 ~~of the long-term care facility.~~

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

742 (b) If the representative of the State Long-Term Care
743 Ombudsman Program determines ~~local council chair believes~~ that
744 the health, safety, welfare, or rights of a ~~the~~ resident are in
745 imminent danger, the representative of the State Long-Term Care
746 Ombudsman Program must immediately ~~the chair shall~~ notify the
747 district manager and local council chair. ~~ombudsman or legal~~
748 ~~advocate, who,~~ The district manager or local council chair,
749 after verifying that such imminent danger exists, must notify
750 the appropriate state agencies, including law enforcement
751 agencies, the state ombudsman, and the legal advocate to ensure
752 the protection of ~~shall seek immediate legal or administrative~~
753 ~~remedies to protect~~ the resident.

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

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760 (2) ~~(a)~~ Upon referral from a district or local council, the
761 state ombudsman or his or her designee council shall assume the
762 responsibility for the disposition of the complaint. If a long-
763 term care facility fails to take action to resolve or remedy the
764 ~~on a complaint by the state council~~, the state ombudsman council
765 may, ~~after obtaining approval from the ombudsman and a majority~~
766 ~~of the state council members~~:

767 ~~(a)1.~~ In accordance with s. 400.0077, publicize the
768 complaint, the recommendations of the local or state council,
769 and the response of the long-term care facility.

770 ~~(b)2.~~ Recommend to the department and the agency a series
771 of facility reviews pursuant to s. 400.19, s. 429.34, or s.
772 429.67 to ensure correction and nonrecurrence of the conditions
773 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a
774 long-term care facility.

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

778 ~~(d)4.~~ Recommend to the department and the agency that
779 procedures be initiated for action against ~~revocation of~~ the
780 long-term care facility's license in accordance with chapter
781 120.

782 ~~(b) If the state council chair believes that the health,~~
783 ~~safety, welfare, or rights of the resident are in imminent~~
784 ~~danger, the chair shall notify the ombudsman or legal advocate,~~
785 ~~who, after verifying that such imminent danger exists, shall~~

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786 ~~seek immediate legal or administrative remedies to protect the~~
787 ~~resident.~~

788 (3)(e) If the state ombudsman, after consultation with the
789 legal advocate, has reason to believe that the long-term care
790 facility or an employee of the facility has committed a criminal
791 act, the state ombudsman shall provide the local law enforcement
792 agency with the relevant information to initiate an
793 investigation of the case.

794 Section 12. Section 400.0078, Florida Statutes, is amended
795 to read:

796 400.0078 Citizen access to State Long-Term Care Ombudsman
797 Program services.—

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

802 ~~(2) Every resident or representative of a resident shall~~
803 ~~receive,~~ Upon admission to a long-term care facility, each
804 resident or representative of a resident must receive
805 information regarding:

806 (a) The purpose of the State Long-Term Care Ombudsman
807 Program;i

808 (b) The statewide toll-free telephone number and e-mail
809 address for receiving complaints;i, ~~and~~

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810 (c) Information that retaliatory action cannot be taken
811 against a resident for presenting grievances or for exercising
812 any other resident rights.

813 (d) Other relevant information regarding how to contact
814 representatives of the State Long Term Care Ombudsman Program
815 the program.

816

817 Residents or their representatives must be furnished
818 additional copies of this information upon request.

819 Section 13. Section 400.0079, Florida Statutes, is amended
820 to read:

821 400.0079 Immunity.—

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

826 (2) Representatives of the State Long-Term Care Ombudsman
827 Program are ~~The ombudsman or any person authorized by the~~
828 ~~ombudsman to act on behalf of the office, as well as all members~~
829 ~~of the state and local councils, shall be~~ immune from any
830 liability, civil or criminal, that otherwise might be incurred
831 or imposed during the good faith performance of official duties.

832 Section 14. Section 400.0081, Florida Statutes, is amended
833 to read:

834 400.0081 Access to facilities, residents, and records.—

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835 (1) A long-term care facility shall provide
836 representatives of the State Long-Term Care Program with the
837 ~~office, the state council and its members, and the local~~
838 ~~councils and their members~~ access to:

839 (a) ~~Any portion of~~ The long-term care facility and its
840 residents ~~any resident as necessary to investigate or resolve a~~
841 ~~complaint.~~

842 (b) Where appropriate, medical and social records of a
843 resident for review ~~as necessary to investigate or resolve a~~
844 ~~complaint,~~ if:

845 1. The representative of the State Long-Term Care
846 Ombudsman Program ~~office~~ has the permission of the resident or
847 the legal representative of the resident; or

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

850 (c) Medical and social records of a ~~the~~ resident as
851 necessary to investigate ~~or resolve~~ a complaint, if:

852 1. A legal representative or guardian of the resident
853 refuses to give permission;

854 2. The representative of the State Long-Term Care
855 Ombudsman Program ~~office~~ has reasonable cause to believe that
856 the legal representative or guardian is not acting in the best
857 interests of the resident; and

858 3. The representative of the State Long-Term Care
859 Ombudsman Program ~~state or local council member~~ obtains the
860 approval of the state ombudsman.

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861 (d) Access to ~~The~~ administrative records, policies, and
862 documents to which residents or the general public have access.

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

866 (2) The department, in consultation with the state
867 ombudsman ~~and the state council~~, may adopt rules to establish
868 procedures to ensure access to facilities, residents, and
869 records as described in this section.

870 Section 15. Section 400.0083, Florida Statutes, is amended
871 to read:

872 400.0083 Interference; retaliation; penalties.-

873 (1) A ~~It shall be unlawful for any~~ person, long-term care
874 facility, or other entity may not ~~to~~ willfully interfere with a
875 representative of the State Long-Term Care Ombudsman Program
876 ~~office, the state council, or a local council~~ in the performance
877 of official duties.

878 (2) A ~~It shall be unlawful for any~~ person, long-term care
879 facility, or other entity may not ~~to~~ knowingly or willfully take
880 action or retaliate against any resident, employee, or other
881 person for filing a complaint with, providing information to, or
882 otherwise cooperating with any representative of the State Long
883 Term-Care Ombudsman Program ~~office, the state council, or a~~
884 ~~local council~~.

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

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887 (a) ~~Is shall be~~ liable for damages and equitable relief as
888 determined by law.

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

891 Section 16. Section 400.0087, Florida Statutes, is amended
892 to read:

893 400.0087 Department oversight; funding.—

894 (1) The department shall meet the costs associated with
895 the State Long-Term Care Ombudsman Program from funds
896 appropriated to it.

897 (a) The department shall include the costs associated with
898 support of the State Long-Term Care Ombudsman Program when
899 developing its budget requests for consideration by the Governor
900 and submittal to the Legislature.

901 (b) The department may divert from the federal ombudsman
902 appropriation an amount equal to the department's administrative
903 cost ratio to cover the costs associated with administering the
904 State Long-Term Care Ombudsman Program. The remaining allotment
905 from the Older Americans Act program shall be expended on direct
906 ombudsman activities.

907 (2) The department shall monitor the State Long-Term Care
908 Ombudsman Program ~~office~~, the state council, and the local
909 councils to ensure that each is carrying out the duties
910 delegated to it by state and federal law.

911 (3) The department is responsible for ensuring that the
912 State Long-Term Care Ombudsman Program ~~office~~:

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

915 (b) Provides information to public and private agencies,
916 legislators, and others, subject to the confidentiality
917 provisions of s. 400.0077.

918 (c) Provides appropriate training to representatives of
919 the State Long-Term Care Ombudsman Office ~~or of the state or~~
920 ~~local councils.~~

921 (d) Coordinates ombudsman services with Disability Rights
922 Florida, the Advocacy Center for Persons with Disabilities and
923 with providers of legal services to residents of long-term care
924 facilities in compliance with state and federal laws.

925 (4) The department shall also:

926 (a) Receive and disburse state and federal funds for
927 purposes that the state ombudsman has formulated in accordance
928 with the Older Americans Act.

929 (b) Whenever necessary, act as liaison between agencies
930 and branches of the federal and state governments and the State
931 Long-Term Care Ombudsman Program.

932 Section 17. Section 400.0089, Florida Statutes, is amended
933 to read:

934 400.0089 Complaint data reports.—The State Long-Term Care
935 Ombudsman Program ~~office~~ shall maintain a statewide uniform
936 reporting system to collect and analyze data relating to
937 complaints and conditions in long-term care facilities and to
938 residents for the purpose of identifying and resolving

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939 ~~complaints significant problems. The office shall publish~~
940 ~~quarterly and make readily available~~ Information pertaining to
941 the number and types of complaints received by the State Long-
942 Term Care Ombudsman Program shall be published quarterly and
943 made readily available and shall include such information in the
944 annual report required under s. 400.0065.

945 Section 18. Section 400.0091, Florida Statutes, is amended
946 to read:

947 400.0091 Training.—The state ombudsman shall ensure that
948 appropriate training is provided to all representatives of the
949 State Long-Term Care Ombudsman Program ~~employees of the office~~
950 ~~and to the members of the state and local councils.~~

951 (1) All representatives of the State Long-Term Care
952 Ombudsman Program ~~state and local council members and employees~~
953 ~~of the office~~ shall be given a minimum of 20 hours of training
954 upon employment with the State Long-Term Care Ombudsman Program
955 ~~office~~ or appointment as an ombudsman. Ten approval as a state
956 ~~or local council member and 10~~ hours of training in the form of
957 continuing education is required annually thereafter.

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

- 961 (a) Resident confidentiality.
962 (b) Guardianships and powers of attorney.
963 (c) Medication administration.

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964 (d) Care and medication of residents with dementia and
965 Alzheimer's disease.

966 (e) Accounting for residents' funds.

967 (f) Discharge rights and responsibilities.

968 (g) Cultural sensitivity.

969 (h) Any other topic related to residency in a long-term
970 care facility recommended by the secretary.

971 (3) An individual ~~No employee, officer, or representative~~
972 ~~of the office or of the state or local councils,~~ other than the
973 state ombudsman, may not hold himself or herself out as a
974 representative of the State Long-Term Care Ombudsman Program or
975 conduct any authorized program duty described in this part
976 unless the individual person has received the training required
977 by this section and has been certified by the state ombudsman as
978 qualified to carry out ombudsman activities on behalf of the
979 office or the state or local councils.

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

982 20.41 Department of Elderly Affairs.—There is created a
983 Department of Elderly Affairs.

984 (4) The department shall administer the State Long-Term
985 Care Ombudsman Program Council, created by s. 400.0063 ~~400.0067,~~
986 ~~and the local long-term care ombudsman councils, created by s.~~
987 ~~400.0069~~ and shall, as required by s. 712 of the federal Older
988 Americans Act of 1965, ensure that ~~both~~ the State Long Term Care
989 Ombudsman Program operates ~~state and local long-term care~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 293 (2015)

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990 ~~ombudsman councils operate~~ in compliance with the Older
991 Americans Act.

992 Section 20. Subsections (14) through (19) of section
993 400.021, Florida Statutes, are amended to read:

994 400.021 Definitions.—When used in this part, unless the
995 context otherwise requires, the term:

996 (14) "Office" has the same meaning as in s. 400.0060.

997 ~~(15)-(14)~~ "Planning and service area" means the geographic
998 area in which the Older Americans Act programs are administered
999 and services are delivered by the Department of Elderly Affairs.

1000 (16) "Representative of the State Long Term Care Ombudsman
1001 Program" has the same meaning as in s. 400.0060.

1002 ~~(17)-(15)~~ "Respite care" means admission to a nursing home
1003 for the purpose of providing a short period of rest or relief or
1004 emergency alternative care for the primary caregiver of an
1005 individual receiving care at home who, without home-based care,
1006 would otherwise require institutional care.

1007 ~~(18)-(16)~~ "Resident care plan" means a written plan
1008 developed, maintained, and reviewed not less than quarterly by a
1009 registered nurse, with participation from other facility staff
1010 and the resident or his or her designee or legal representative,
1011 which includes a comprehensive assessment of the needs of an
1012 individual resident; the type and frequency of services required
1013 to provide the necessary care for the resident to attain or
1014 maintain the highest practicable physical, mental, and
1015 psychosocial well-being; a listing of services provided within

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1016 or outside the facility to meet those needs; and an explanation
1017 of service goals.

1018 ~~(19)-(17)~~ "Resident designee" means a person, other than
1019 the owner, administrator, or employee of the facility,
1020 designated in writing by a resident or a resident's guardian, if
1021 the resident is adjudicated incompetent, to be the resident's
1022 representative for a specific, limited purpose.

1023 ~~(20)-(18)~~ "State Long Term Care Ombudsman Program ~~ombudsman~~
1024 ~~council~~" has the same meaning as in s. 400.0060 ~~means the State~~
1025 ~~Long Term Care Ombudsman Council established pursuant to s.~~
1026 ~~400.0067.~~

1027 ~~(21)-(19)~~ "Therapeutic spa services" means bathing, nail,
1028 and hair care services and other similar services related to
1029 personal hygiene.

1030 Section 21. Paragraph (c) of subsection (1) and
1031 subsections (2), and (3) of section 400.022, Florida Statutes,
1032 are amended to read:

1033 400.022 Residents' rights.—

1034 (1) All licensees of nursing home facilities shall adopt
1035 and make public a statement of the rights and responsibilities
1036 of the residents of such facilities and shall treat such
1037 residents in accordance with the provisions of that statement.
1038 The statement shall assure each resident the following:

1039 (c) Any entity or individual that provides health,
1040 social, legal, or other services to a resident has the right to
1041 have reasonable access to the resident. The resident has the

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1042 right to deny or withdraw consent to access at any time by any
1043 entity or individual. Notwithstanding the visiting policy of the
1044 facility, the following individuals must be permitted immediate
1045 access to the resident:

1046 1. Any representative of the federal or state government,
1047 including, but not limited to, representatives of the Department
1048 of Children and Families, the Department of Health, the Agency
1049 for Health Care Administration, the Office of the Attorney
1050 General, and the Department of Elderly Affairs; any law
1051 enforcement officer; any representative of the State Long Term
1052 Care Ombudsman Program ~~members of the state or local ombudsman~~
1053 ~~council~~; and the resident's individual physician.

1054 2. Subject to the resident's right to deny or withdraw
1055 consent, immediate family or other relatives of the resident.
1056

1057 The facility must allow representatives of the State Long-Term
1058 Care Ombudsman Program ~~Council~~ to examine a resident's clinical
1059 records with the permission of the resident or the resident's
1060 legal representative and consistent with state law.

1061 (2) The licensee for each nursing home shall orally
1062 inform the resident of the resident's rights and provide a copy
1063 of the statement required by subsection (1) to each resident or
1064 the resident's legal representative at or before the resident's
1065 admission to a facility. The licensee shall provide a copy of
1066 the resident's rights to each staff member of the facility. Each
1067 such licensee shall prepare a written plan and provide

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1068 appropriate staff training to implement the provisions of this
1069 section. The written statement of rights must include a
1070 statement that a resident may file a complaint with the agency
1071 or state or local ombudsman council. The statement must be in
1072 boldfaced type and ~~shall~~ include the ~~name, address, and~~
1073 telephone number and e-mail address of the State Long Term Care
1074 Ombudsman Program, the numbers of the local ombudsman council
1075 and the Elder Abuse Hotline operated by the Department of
1076 Children and Families ~~central abuse hotline where complaints may~~
1077 ~~be lodged.~~

1078 (3) Any violation of the resident's rights set forth in
1079 this section constitutes ~~shall constitute~~ grounds for action by
1080 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or
1081 part II of chapter 408. In order to determine whether the
1082 licensee is adequately protecting residents' rights, the
1083 licensure inspection of the facility must ~~shall~~ include private
1084 informal conversations with a sample of residents to discuss
1085 residents' experiences within the facility with respect to
1086 rights specified in this section and general compliance with
1087 standards, and consultation with the State Long-Term Care
1088 Ombudsman Program ~~ombudsman council in the local planning and~~
1089 ~~service area of the Department of Elderly Affairs in which the~~
1090 ~~nursing home is located.~~

1091 Section 22. Subsections (8), (9), and (11) through (14) of
1092 section 400.0255, Florida Statutes, are amended to read:

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1093 400.0255 Resident transfer or discharge; requirements and
1094 procedures; hearings.-

1095 (8) The notice required by subsection (7) must be in
1096 writing and must contain all information required by state and
1097 federal law, rules, or regulations applicable to Medicaid or
1098 Medicare cases. The agency shall develop a standard document to
1099 be used by all facilities licensed under this part for purposes
1100 of notifying residents of a discharge or transfer. Such document
1101 must include a means for a resident to request the local long-
1102 term care ombudsman council to review the notice and request
1103 information about or assistance with initiating a fair hearing
1104 with the department's Office of Appeals Hearings. In addition to
1105 any other pertinent information included, the form shall specify
1106 the reason allowed under federal or state law that the resident
1107 is being discharged or transferred, with an explanation to
1108 support this action. Further, the form must ~~shall~~ state the
1109 effective date of the discharge or transfer and the location to
1110 which the resident is being discharged or transferred. The form
1111 must ~~shall~~ clearly describe the resident's appeal rights and the
1112 procedures for filing an appeal, including the right to request
1113 the local ombudsman council ~~to~~ review the notice of discharge or
1114 transfer. A copy of the notice must be placed in the resident's
1115 clinical record, and a copy must be transmitted to the
1116 resident's legal guardian or representative and to the local
1117 ombudsman council within 5 business days after signature by the
1118 resident or resident designee.

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1119 (9) A resident may request that the State Long-Term Care
1120 Ombudsman Program or local ombudsman council review any notice
1121 of discharge or transfer given to the resident. When requested
1122 by a resident to review a notice of discharge or transfer, the
1123 local ombudsman council shall do so within 7 days after receipt
1124 of the request. The nursing home administrator, or the
1125 administrator's designee, must forward the request for review
1126 contained in the notice to the State Long-Term Care Ombudsman
1127 Program or local ombudsman council within 24 hours after such
1128 request is submitted. Failure to forward the request within 24
1129 hours after the request is submitted shall toll the running of
1130 the 30-day advance notice period until the request has been
1131 forwarded.

1132 (11) Notwithstanding paragraph (10) (b), an emergency
1133 discharge or transfer may be implemented as necessary pursuant
1134 to state or federal law during the ~~period of~~ time after the
1135 notice is given and before the time a hearing decision is
1136 rendered. Notice of an emergency discharge or transfer to the
1137 resident, the resident's legal guardian or representative, and
1138 the State Long-Term Care Ombudsman Program or the local
1139 ombudsman council if requested pursuant to subsection (9) must
1140 be by telephone or in person. This notice shall be given before
1141 the transfer, if possible, or as soon thereafter as practicable.
1142 The State Long-Term Care Ombudsman Program or a A local
1143 ombudsman council conducting a review under this subsection
1144 shall do so within 24 hours after receipt of the request. The

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1145 resident's file must be documented to show who was contacted,
1146 whether the contact was by telephone or in person, and the date
1147 and time of the contact. If the notice is not given in writing,
1148 written notice meeting the requirements of subsection (8) must
1149 be given the next working day.

1150 (12) After receipt of any notice required under this
1151 section, the State Long-Term Care Ombudsman Program or local
1152 ombudsman council may request a private informal conversation
1153 with a resident to whom the notice is directed, and, if known, a
1154 family member or the resident's legal guardian or designee, to
1155 ensure that the facility is proceeding with the discharge or
1156 transfer in accordance with ~~the requirements of~~ this section. If
1157 requested, the State Long-Term Care Ombudsman Program or the
1158 local ombudsman council shall assist the resident with filing an
1159 appeal of the proposed discharge or transfer.

1160 (13) The following persons must be present at all hearings
1161 authorized under this section:

1162 (a) The resident, or the resident's legal representative
1163 or designee.

1164 (b) The facility administrator, or the facility's legal
1165 representative or designee.

1166
1167 A representative of the State Long-Term Care Ombudsman Program
1168 or the local long-term care ombudsman council may be present at
1169 all hearings authorized by this section.

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1170 (14) In any hearing under this section, the following
1171 information concerning the parties shall be confidential and
1172 exempt from ~~the provisions of~~ s. 119.07(1):

1173 (a) Names and addresses.

1174 (b) Medical services provided.

1175 (c) Social and economic conditions or circumstances.

1176 (d) Evaluation of personal information.

1177 (e) Medical data, including diagnosis and past history of
1178 disease or disability.

1179 (f) Any information received verifying income eligibility
1180 and amount of medical assistance payments. Income information
1181 received from the Social Security Administration or the Internal
1182 Revenue Service must be safeguarded according to the
1183 requirements of the agency that furnished the data.

1184
1185 The exemption created by this subsection does not prohibit
1186 access to such information by the State Long-Term Care Ombudsman
1187 Program or a local long-term care ombudsman council upon
1188 request, by a reviewing court if such information is required to
1189 be part of the record upon subsequent review, or as specified in
1190 s. 24(a), Art. I of the State Constitution.

1191 Section 23. Paragraph (d) of subsection (5) of section
1192 400.162, Florida Statutes, is amended to read:

1193 400.162 Property and personal affairs of residents.—

1194 (5)

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1195 (d) If, at any time during the period for which a license
1196 is issued, a licensee that has not purchased a surety bond or
1197 entered into a self-insurance agreement, as provided in
1198 paragraphs (b) and (c), is requested to provide safekeeping for
1199 the personal funds of a resident, the licensee shall notify the
1200 agency of the request and make application for a surety bond or
1201 for participation in a self-insurance agreement within 7 days
1202 after ~~of~~ the request, exclusive of weekends and holidays. Copies
1203 of the application, along with written documentation of related
1204 correspondence with an insurance agency or group, shall be
1205 maintained by the licensee for review by the agency and the
1206 State ~~Nursing Home and Long-Term Care Facility~~ Ombudsman Program
1207 Council.

1208 Section 24. Subsections (1) and (4) of section 400.19,
1209 Florida Statutes, are amended to read:

1210 400.19 Right of entry and inspection.—

1211 (1) In accordance with part II of chapter 408, the agency
1212 and any of its ~~duly~~ designated officers ~~officer~~ or employees
1213 ~~employee thereof~~ or a representative of ~~member of~~ the State
1214 Long-Term Care Ombudsman Program Council or the local long-term
1215 care ombudsman council shall have the right to enter upon and
1216 into the premises of any facility licensed pursuant to this
1217 part, or any distinct nursing home unit of a hospital licensed
1218 under chapter 395 or any freestanding facility licensed under
1219 chapter 395 which ~~that~~ provides extended care or other long-term
1220 care services, at any reasonable time in order to determine the

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1221 state of compliance with ~~the provisions of~~ this part, part II of
1222 chapter 408, and applicable rules in force pursuant thereto. The
1223 agency shall, within 60 days after receipt of a complaint made
1224 by a resident or resident's representative, complete its
1225 investigation and provide to the complainant its findings and
1226 resolution.

1227 (4) The agency shall conduct unannounced onsite facility
1228 reviews following written verification of licensee noncompliance
1229 in instances in which a representative of the State Long-Term
1230 Care Ombudsman Program or long-term care ombudsman council,
1231 pursuant to ss. 400.0071 and 400.0075, has received a complaint
1232 and has documented deficiencies in resident care or in the
1233 physical plant of the facility that threaten the health, safety,
1234 or security of residents, or when the agency documents through
1235 inspection that conditions in a facility present a direct or
1236 indirect threat to the health, safety, or security of residents.
1237 However, the agency shall conduct unannounced onsite reviews
1238 every 3 months of each facility while the facility has a
1239 conditional license. Deficiencies related to physical plant do
1240 not require followup reviews after the agency has determined
1241 that correction of the deficiency has been accomplished and that
1242 the correction is of the nature that continued compliance can be
1243 reasonably expected.

1244 Section 25. Subsection (6) and paragraph (c) of subsection
1245 (7) of section 400.23, Florida Statutes, are amended to read:

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1246 400.23 Rules; evaluation and deficiencies; licensure
1247 status.—

1248 (6) Before ~~Prior to~~ conducting a survey of the facility,
1249 the survey team shall obtain a copy of the local long-term care
1250 ombudsman council report on the facility. Problems noted in the
1251 report shall be incorporated into and followed up through the
1252 agency's inspection process. This procedure does not preclude
1253 the State Long-Term Care Ombudsman Program or local long-term
1254 care ombudsman council from requesting the agency to conduct a
1255 followup visit to the facility.

1256 (7) The agency shall, at least every 15 months, evaluate
1257 all nursing home facilities and make a determination as to the
1258 degree of compliance by each licensee with the established rules
1259 adopted under this part as a basis for assigning a licensure
1260 status to that facility. The agency shall base its evaluation on
1261 the most recent inspection report, taking into consideration
1262 findings from other official reports, surveys, interviews,
1263 investigations, and inspections. In addition to license
1264 categories authorized under part II of chapter 408, the agency
1265 shall assign a licensure status of standard or conditional to
1266 each nursing home.

1267 (c) In evaluating the overall quality of care and services
1268 and determining whether the facility will receive a conditional
1269 or standard license, the agency shall consider the needs and
1270 limitations of residents in the facility and the results of
1271 interviews and surveys of a representative sampling of

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1272 residents, families of residents, representatives of the State
1273 Long-Term Care Ombudsman Program ~~ombudsman council members in~~
1274 ~~the planning and service area in which the facility is located,~~
1275 guardians of residents, and staff of the nursing home facility.

1276 Section 26. Paragraph (a) of subsection (3), paragraph (f)
1277 of subsection (5), and subsection (6) of section 400.235,
1278 Florida Statutes, is amended to read:

1279 400.235 Nursing home quality and licensure status; Gold
1280 Seal Program.—

1281 (3) (a) The Gold Seal Program shall be developed and
1282 implemented by the Governor's Panel on Excellence in Long-Term
1283 Care which shall operate under the authority of the Executive
1284 Office of the Governor. The panel shall be composed of three
1285 persons appointed by the Governor, to include a consumer
1286 advocate for senior citizens and two persons with expertise in
1287 the fields of quality management, service delivery excellence,
1288 or public sector accountability; three persons appointed by the
1289 Secretary of Elderly Affairs, to include an active member of a
1290 nursing facility family and resident care council and a member
1291 of the University Consortium on Aging; a representative of the
1292 State Long-Term Care Ombudsman Program; one person appointed by
1293 the Florida Life Care Residents Association; one person
1294 appointed by the State Surgeon General; two persons appointed by
1295 the Secretary of Health Care Administration; one person
1296 appointed by the Florida Association of Homes for the Aging; and
1297 one person appointed by the Florida Health Care Association.

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1298 Vacancies on the panel shall be filled in the same manner as the
1299 original appointments.

1300 (5) Facilities must meet the following additional criteria
1301 for recognition as a Gold Seal Program facility:

1302 (f) Evidence that an outstanding record regarding the
1303 number and types of substantiated complaints received and
1304 verified by reported to the State Long-Term Care Ombudsman
1305 Program Council within the 30 months preceding application have
1306 been resolved or the facility made a good faith effort to
1307 resolve the complaints for the program.

1308

1309 A facility assigned a conditional licensure status may not
1310 qualify for consideration for the Gold Seal Program until after
1311 it has operated for 30 months with no class I or class II
1312 deficiencies and has completed a regularly scheduled relicensure
1313 survey.

1314 (6) The agency, nursing facility industry organizations,
1315 consumers, State Long-Term Care Ombudsman Program Council, and
1316 members of the community may recommend to the Governor
1317 facilities that meet the established criteria for consideration
1318 for and award of the Gold Seal. The panel shall review nominees
1319 and make a recommendation to the Governor for final approval and
1320 award. The decision of the Governor is final and is not subject
1321 to appeal.

1322 Section 27. Subsections (18) through (28) of section
1323 415.102, Florida Statutes, are redesignated as subsections (19)

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1324 through and (29), respectively, and a new subsection (18) is
1325 added to that section, to read:

1326 415.102 Definitions of terms used in ss. 415.101-415.113.-

1327 As used in ss. 415.101-415.113, the term:

1328 (18) "Office" has the same meaning as in s. 400.0060.

1329 Section 28. Paragraph (a) of subsection (1) of section
1330 415.1034, Florida Statutes, is amended to read:

1331 415.1034 Mandatory reporting of abuse, neglect, or
1332 exploitation of vulnerable adults; mandatory reports of death.-

1333 (1) MANDATORY REPORTING.-

1334 (a) Any person, including, but not limited to, any:

1335 1. Physician, osteopathic physician, medical examiner,
1336 chiropractic physician, nurse, paramedic, emergency medical
1337 technician, or hospital personnel engaged in the admission,
1338 examination, care, or treatment of vulnerable adults;

1339 2. Health professional or mental health professional other
1340 than one listed in subparagraph 1.;

1341 3. Practitioner who relies solely on spiritual means for
1342 healing;

1343 4. Nursing home staff; assisted living facility staff;
1344 adult day care center staff; adult family-care home staff;
1345 social worker; or other professional adult care, residential, or
1346 institutional staff;

1347 5. State, county, or municipal criminal justice employee
1348 or law enforcement officer;

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1349 6. ~~An~~ Employee of the Department of Business and
1350 Professional Regulation conducting inspections of public lodging
1351 establishments under s. 509.032;

1352 7. Florida advocacy council or Disability Rights Florida
1353 member or a representative of the State Long-Term Care Ombudsman
1354 Program ~~long-term care ombudsman council member~~; or

1355 8. Bank, savings and loan, or credit union officer,
1356 trustee, or employee,

1357
1358 who knows, or has reasonable cause to suspect, that a vulnerable
1359 adult has been or is being abused, neglected, or exploited shall
1360 immediately report such knowledge or suspicion to the central
1361 abuse hotline.

1362 Section 29. Subsection (1) of section 415.104, Florida
1363 Statutes, is amended to read:

1364 415.104 Protective investigations of cases of abuse,
1365 neglect, or exploitation of vulnerable adults; transmittal of
1366 records to state attorney.—

1367 (1) The department shall, upon receipt of a report
1368 alleging abuse, neglect, or exploitation of a vulnerable adult,
1369 begin within 24 hours a protective investigation of the facts
1370 alleged therein. If a caregiver refuses to allow the department
1371 to begin a protective investigation or interferes with the
1372 conduct of such an investigation, the appropriate law
1373 enforcement agency shall be contacted for assistance. If, during
1374 the course of the investigation, the department has reason to

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1375 believe that the abuse, neglect, or exploitation is perpetrated
1376 by a second party, the appropriate law enforcement agency and
1377 state attorney shall be orally notified. The department and the
1378 law enforcement agency shall cooperate to allow the criminal
1379 investigation to proceed concurrently with, and not be hindered
1380 by, the protective investigation. The department shall make a
1381 preliminary written report to the law enforcement agencies
1382 within 5 working days after the oral report. The department
1383 shall, within 24 hours after receipt of the report, notify the
1384 appropriate Florida local advocacy council, or the State Long-
1385 Term Care Ombudsman Program ~~long-term care ombudsman council~~,
1386 when appropriate, that an alleged abuse, neglect, or
1387 exploitation perpetrated by a second party has occurred. Notice
1388 to the Florida local advocacy council or the State Long-Term
1389 Care Ombudsman Program ~~long-term care ombudsman council~~ may be
1390 accomplished orally or in writing and shall include the name and
1391 location of the vulnerable adult alleged to have been abused,
1392 neglected, or exploited and the nature of the report.

1393 Section 30. Subsection (8) of section 415.1055, Florida
1394 Statutes, is amended to read:

1395 415.1055 Notification to administrative entities.—

1396 (8) At the conclusion of a protective investigation at a
1397 facility, the department shall notify either the Florida local
1398 advocacy council or the State Long-Term Care Ombudsman Program
1399 or the long-term care ombudsman council of the results of the
1400 investigation. This notification must be in writing.

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1401 Section 31. Subsection (2) of section 415.106, Florida
1402 Statutes, is amended to read:

1403 415.106 Cooperation by the department and criminal justice
1404 and other agencies.—

1405 (2) To ensure coordination, communication, and cooperation
1406 with the investigation of abuse, neglect, or exploitation of
1407 vulnerable adults, the department shall develop and maintain
1408 interprogram agreements or operational procedures among
1409 appropriate departmental programs and the State Long-Term Care
1410 Ombudsman Program Council, the Florida Statewide Advocacy
1411 Council, and other agencies that provide services to vulnerable
1412 adults. These agreements or procedures must cover such subjects
1413 as the appropriate roles and responsibilities of the department
1414 in identifying and responding to reports of abuse, neglect, or
1415 exploitation of vulnerable adults; the provision of services;
1416 and related coordinated activities.

1417 Section 32. Paragraph (g) of subsection (3) of section
1418 415.107, Florida Statutes, is amended to read:

1419 415.107 Confidentiality of reports and records.—

1420 (3) Access to all records, excluding the name of the
1421 reporter which shall be released only as provided in subsection
1422 (6), shall be granted only to the following persons, officials,
1423 and agencies:

1424 (g) Any appropriate official of the Florida advocacy
1425 council, State Long-Term Care Ombudsman Program or long-term

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1426 care ombudsman council investigating a report of known or
1427 suspected abuse, neglect, or exploitation of a vulnerable adult.

1428 Section 33. Present subsections (16) through (26) of
1429 section 429.02, Florida Statutes, are redesignated as
1430 subsections (17) through (27), respectively, present subsections
1431 (11) and (20) are amended, and a new subsection (16) is added to
1432 that section to read:

1433 429.02 Definitions.—When used in this part, the term:

1434 (11) "Extended congregate care" means acts beyond those
1435 authorized in subsection (17) ~~(16)~~ that may be performed
1436 pursuant to part I of chapter 464 by persons licensed thereunder
1437 while carrying out their professional duties, and other
1438 supportive services which may be specified by rule. The purpose
1439 of such services is to enable residents to age in place in a
1440 residential environment despite mental or physical limitations
1441 that might otherwise disqualify them from residency in a
1442 facility licensed under this part.

1443 (16) "Office" has the same meaning as in s. 400.0060.

1444 (17)~~(16)~~ "Personal services" means direct physical
1445 assistance with or supervision of the activities of daily living
1446 and the self-administration of medication and other similar
1447 services which the department may define by rule. "Personal
1448 services" shall not be construed to mean the provision of
1449 medical, nursing, dental, or mental health services.

1450 (18)~~(17)~~ "Physical restraint" means a device which
1451 physically limits, restricts, or deprives an individual of

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1452 movement or mobility, including, but not limited to, a half-bed
1453 rail, a full-bed rail, a geriatric chair, and a posey restraint.
1454 The term "physical restraint" shall also include any device
1455 which was not specifically manufactured as a restraint but which
1456 has been altered, arranged, or otherwise used for this purpose.
1457 The term shall not include bandage material used for the purpose
1458 of binding a wound or injury.

1459 ~~(19)-(18)~~ "Relative" means an individual who is the father,
1460 mother, stepfather, stepmother, son, daughter, brother, sister,
1461 grandmother, grandfather, great-grandmother, great-grandfather,
1462 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1463 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1464 daughter-in-law, brother-in-law, sister-in-law, stepson,
1465 stepdaughter, stepbrother, stepsister, half brother, or half
1466 sister of an owner or administrator.

1467 ~~(20)-(19)~~ "Resident" means a person 18 years of age or
1468 older, residing in and receiving care from a facility.

1469 ~~(21)-(20)~~ "Resident's representative or designee" means a
1470 person other than the owner, or an agent or employee of the
1471 facility, designated in writing by the resident, if legally
1472 competent, to receive notice of changes in the contract executed
1473 pursuant to s. 429.24; to receive notice of and to participate
1474 in meetings between the resident and the facility owner,
1475 administrator, or staff concerning the rights of the resident;
1476 to assist the resident in contacting the State Long-Term Care
1477 Ombudsman Program or local ombudsman council if the resident has

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1478 a complaint against the facility; or to bring legal action on
1479 behalf of the resident pursuant to s. 429.29.

1480 ~~(22)~~~~(21)~~ "Service plan" means a written plan, developed
1481 and agreed upon by the resident and, if applicable, the
1482 resident's representative or designee or the resident's
1483 surrogate, guardian, or attorney in fact, if any, and the
1484 administrator or designee representing the facility, which
1485 addresses the unique physical and psychosocial needs, abilities,
1486 and personal preferences of each resident receiving extended
1487 congregate care services. The plan shall include a brief written
1488 description, in easily understood language, of what services
1489 shall be provided, who shall provide the services, when the
1490 services shall be rendered, and the purposes and benefits of the
1491 services.

1492 ~~(23)~~~~(22)~~ "Shared responsibility" means exploring the
1493 options available to a resident within a facility and the risks
1494 involved with each option when making decisions pertaining to
1495 the resident's abilities, preferences, and service needs,
1496 thereby enabling the resident and, if applicable, the resident's
1497 representative or designee, or the resident's surrogate,
1498 guardian, or attorney in fact, and the facility to develop a
1499 service plan which best meets the resident's needs and seeks to
1500 improve the resident's quality of life.

1501 ~~(24)~~~~(23)~~ "Supervision" means reminding residents to engage
1502 in activities of daily living and the self-administration of

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1503 medication, and, when necessary, observing or providing verbal
1504 cuing to residents while they perform these activities.

1505 ~~(25)~~~~(24)~~ "Supplemental security income," Title XVI of the
1506 Social Security Act, means a program through which the Federal
1507 Government guarantees a minimum monthly income to every person
1508 who is age 65 or older, or disabled, or blind and meets the
1509 income and asset requirements.

1510 ~~(26)~~~~(25)~~ "Supportive services" means services designed to
1511 encourage and assist aged persons or adults with disabilities to
1512 remain in the least restrictive living environment and to
1513 maintain their independence as long as possible.

1514 ~~(27)~~~~(26)~~ "Twenty-four-hour nursing supervision" means
1515 services that are ordered by a physician for a resident whose
1516 condition requires the supervision of a physician and continued
1517 monitoring of vital signs and physical status. Such services
1518 shall be: medically complex enough to require constant
1519 supervision, assessment, planning, or intervention by a nurse;
1520 required to be performed by or under the direct supervision of
1521 licensed nursing personnel or other professional personnel for
1522 safe and effective performance; required on a daily basis; and
1523 consistent with the nature and severity of the resident's
1524 condition or the disease state or stage.

1525 Section 34. Subsection (9) of section 429.19, Florida
1526 Statutes, is amended to read:

1527 429.19 Violations; imposition of administrative fines;
1528 grounds.—

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1529 (9) The agency shall develop and disseminate an annual
1530 list of all facilities sanctioned or fined for violations of
1531 state standards, the number and class of violations involved,
1532 the penalties imposed, and the current status of cases. The list
1533 shall be disseminated, at no charge, to the Department of
1534 Elderly Affairs, the Department of Health, the Department of
1535 Children and Families, the Agency for Persons with Disabilities,
1536 the area agencies on aging, the Florida Statewide Advocacy
1537 Council, ~~and~~ the State Long-Term Care Ombudsman Program and
1538 state and local ombudsman councils. The Department of Children
1539 and Families shall disseminate the list to service providers
1540 under contract to the department who are responsible for
1541 referring persons to a facility for residency. The agency may
1542 charge a fee commensurate with the cost of printing and postage
1543 to other interested parties requesting a copy of this list. This
1544 information may be provided electronically or through the
1545 agency's Internet site.

1546 Section 35. Subsection (8) of section 429.26, Florida
1547 Statutes, is amended to read:

1548 429.26 Appropriateness of placements; examinations of
1549 residents.—

1550 (8) The Department of Children and Families may require an
1551 examination for supplemental security income and optional state
1552 supplementation recipients residing in facilities at any time
1553 and shall provide the examination whenever a resident's
1554 condition requires it. Any facility administrator; personnel of

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1555 the agency, the department, or the Department of Children and
1556 Families; or a representative of the State Long-Term Care
1557 Ombudsman Program ~~long-term care ombudsman council member~~ who
1558 believes a resident needs to be evaluated shall notify the
1559 resident's case manager, who shall take appropriate action. A
1560 report of the examination findings shall be provided to the
1561 resident's case manager and the facility administrator to help
1562 the administrator meet his or her responsibilities under
1563 subsection (1).

1564 Section 36. Subsection (2) and paragraph (b) of subsection
1565 (3) of section 429.28, Florida Statutes, are amended to read:

1566 429.28 Resident bill of rights.—

1567 (2) The administrator of a facility shall ensure that a
1568 written notice of the rights, obligations, and prohibitions set
1569 forth in this part is posted in a prominent place in each
1570 facility and read or explained to residents who cannot read.
1571 This notice must ~~shall~~ include the statewide toll-free telephone
1572 number and e-mail address of the State Long-Term Care Ombudsman
1573 Program and the telephone number of ~~name, address, and telephone~~
1574 ~~numbers~~ of the local ombudsman council and the Elder Abuse
1575 Hotline operated by the Department of Children and Families
1576 ~~central abuse hotline~~ and, when applicable, the Advocacy Center
1577 for Persons with Disabilities, Inc., and the Florida local
1578 advocacy council, where complaints may be lodged. The facility
1579 must ensure a resident's access to a telephone to call the State
1580 Long Term Care Ombudsman Program or local ombudsman council, the

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1581 Elder Abuse Hotline operated by the Department of Children and
1582 Families central abuse hotline, Advocacy Center for Persons with
1583 Disabilities, Inc., and the Florida local advocacy council.

1584 (3)

1585 (b) In order to determine whether the facility is
1586 adequately protecting residents' rights, the biennial survey
1587 shall include private informal conversations with a sample of
1588 residents and consultation with the ombudsman council in the
1589 district planning and service area in which the facility is
1590 located to discuss residents' experiences within the facility.

1591 Section 37. Section 429.34, Florida Statutes, is amended
1592 to read:

1593 429.34 Right of entry and inspection.—In addition to the
1594 requirements of s. 408.811, a ~~any~~ duly designated officer or
1595 employee of the department, the Department of Children and
1596 Families, the Medicaid Fraud Control Unit of the Office of the
1597 Attorney General, the state or local fire marshal, or a
1598 representative of the State Long-Term Care Ombudsman Program or
1599 a member of the state or local long-term care ombudsman council
1600 may shall have the right to enter unannounced upon and into the
1601 premises of any facility licensed under ~~pursuant to~~ this part in
1602 order to determine the state of compliance with ~~the provisions~~
1603 ~~of~~ this part, part II of chapter 408, and applicable rules. Data
1604 collected by the State Long-Term Care Ombudsman Program, ~~state~~
1605 ~~or~~ local long-term care ombudsman councils or the state or local

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1606 advocacy councils may be used by the agency in investigations
1607 involving violations of regulatory standards.

1608 Section 38. Subsection (2) of section 429.35, Florida
1609 Statutes, is amended to read:

1610 429.35 Maintenance of records; reports.—

1611 (2) Within 60 days after the date of the biennial
1612 inspection visit required under s. 408.811 or within 30 days
1613 after the date of any interim visit, the agency shall forward
1614 the results of the inspection to the local ombudsman council in
1615 in the district ~~whose planning and service area, as defined in~~
1616 ~~part II of chapter 400, where~~ the facility is located; to at
1617 least one public library or, in the absence of a public library,
1618 the county seat in the county in which the inspected assisted
1619 living facility is located; and, when appropriate, to the
1620 district Adult Services and Mental Health Program Offices.

1621 Section 39. Subsection (6) of section 429.67, Florida
1622 Statutes, is amended to read:

1623 429.67 Licensure.—

1624 (6) In addition to the requirements of s. 408.811, access
1625 to a licensed adult family-care home must be provided at
1626 reasonable times for the appropriate officials of the
1627 department, the Department of Health, the Department of Children
1628 and Families, the agency, and the State Fire Marshal, who are
1629 responsible for the development and maintenance of fire, health,
1630 sanitary, and safety standards, to inspect the facility to
1631 assure compliance with these standards. In addition, access to a

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1632 licensed adult family-care home must be provided at reasonable
1633 times to representatives of the State Long Term Care Ombudsman
1634 Program for the local long-term care ombudsman council.

1635 Section 40. Subsection (2) of section 429.85, Florida
1636 Statutes, is amended to read:

1637 429.85 Residents' bill of rights.—

1638 (2) The provider shall ensure that residents and their
1639 legal representatives are made aware of the rights, obligations,
1640 and prohibitions set forth in this part. Residents must also be
1641 given the statewide toll-free telephone number and e-mail
1642 address of the State Long-Term Care Ombudsman Program, the
1643 telephone number names, addresses, and telephone numbers of the
1644 local ombudsman council and the Elder Abuse Hotline operated by
1645 the Department of Children and Families ~~the central abuse~~
1646 ~~hotline~~ where they may lodge complaints.

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

1651

Remove everything before the enacting clause and insert:

1652

A bill to be entitled

1653

An act relating to the state ombudsman program; amending s.

1654

400.0060, F.S.; revising and defining terms; amending s.

1655

400.0061, F.S.; revising legislative intent with respect to

1656

citizen ombudsmen; deleting references to ombudsman councils and

1657

transferring their responsibilities to representatives of the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 293 (2015)

Amendment No.

1658 Office of State Long-Term Care Ombudsman; amending s. 400.0063,
1659 F.S.; revising duties of the office; amending s. 400.0065, F.S.;
1660 revising the purpose of the office; revising the duties and
1661 authority of the state ombudsman; requiring the state ombudsman
1662 to submit an annual report to the Governor, the Legislature, and
1663 specified agencies and entities; amending s. 400.0067, F.S.;
1664 revising duties and membership of the State Long-Term Care
1665 Ombudsman Council; amending s. 400.0069, F.S.; requiring the
1666 state ombudsman to designate and direct program districts;
1667 requiring each district to conduct quarterly public meetings;
1668 providing duties of representatives of the office in the
1669 districts; revising the appointments of and qualifications for
1670 district ombudsmen; prohibiting certain individuals from serving
1671 as ombudsmen; amending s. 400.0070, F.S.; providing conditions
1672 under which a representative of the office could be found to
1673 have a conflict of interest; requiring the Department of Elderly
1674 Affairs, in consultation with the state ombudsman, to define by
1675 rule what constitutes a conflict of interest; amending s.
1676 400.0071, F.S.; requiring the Department of Elderly Affairs to
1677 consult with the state ombudsman to adopt rules pertaining to
1678 complaint procedures; amending s. 400.0073, F.S.; providing
1679 procedures for investigation of complaints; amending s.
1680 400.0074, F.S.; revising procedures for conducting onsite
1681 administrative assessments; authorizing the department to adopt
1682 rules; amending s. 400.0075, F.S.; revising complaint
1683 notification and resolution procedures; amending s. 400.0078,

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Bill No. CS/HB 293 (2015)

Amendment No.

1684 F.S.; providing for a resident or representative of a resident
1685 to receive additional information regarding resident rights;
1686 amending s. 400.0079, F.S.; providing immunity from liability
1687 for a representative of the office under certain circumstances;
1688 amending s. 400.0081, F.S.; requiring long-term care facilities
1689 to provide representatives of the office with access to
1690 facilities, residents, and records for certain purposes;
1691 amending s. 400.0083, F.S.; conforming provisions to changes
1692 made by the act; amending s. 400.0087, F.S.; providing for the
1693 office to coordinate ombudsman services with Disability Rights
1694 Florida; amending s. 400.0089, F.S.; conforming provisions to
1695 changes made by the act; amending s. 400.0091, F.S.; revising
1696 training requirements for representatives of the office and
1697 ombudsmen; amending ss. 20.41, 400.021, 400.022, 400.0255,
1698 400.162, 400.19, 400.191, and 400.23, F.S.; conforming
1699 provisions to changes made by the act; amending s. 400.235,
1700 F.S.; conforming provisions to changes made by the act; revising
1701 the additional criteria for recognition as a Gold Seal Program
1702 facility; amending ss. 415.102, 415.1034, 415.104, 415.1055,
1703 415.106, 415.107, 429.02, 429.19, 429.26, 429.28, 429.34,
1704 429.35, 429.67, and 429.85, F.S.; conforming provisions to
1705 changes made by the act; providing an effective date.
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