

By Senator Richter

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

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30 rule what constitutes a conflict of interest; amending  
31 s. 400.0071, F.S.; requiring the department to consult  
32 with the state ombudsman to adopt rules pertaining to  
33 complaint procedures; amending s. 400.0073, F.S.;  
34 providing procedures for investigation of complaints;  
35 amending s. 400.0074, F.S.; revising procedures for  
36 conducting onsite administrative assessments;  
37 authorizing the department to adopt rules; amending s.  
38 400.0075, F.S.; revising complaint notification and  
39 resolution procedures; amending s. 400.0078, F.S.;  
40 providing for a resident or representative of a  
41 resident to receive additional information regarding  
42 resident rights; amending s. 400.0079, F.S.; providing  
43 immunity from liability for a representative of the  
44 office under certain circumstances; amending s.  
45 400.0081, F.S.; requiring long-term care facilities to  
46 provide representatives of the office with access to  
47 facilities, residents, and records for certain  
48 purposes; amending s. 400.0083, F.S.; conforming  
49 provisions to changes made by the act; amending s.  
50 400.0087, F.S.; providing for the office to coordinate  
51 ombudsman services with Disability Rights Florida;  
52 amending s. 400.0089, F.S.; conforming provisions to  
53 changes made by the act; amending s. 400.0091, F.S.;  
54 revising training requirements for representatives of  
55 the office and ombudsmen; amending ss. 20.41, 400.021,  
56 400.022, 400.0255, 400.1413, 400.162, 400.19, 400.191,  
57 400.23, 400.235, 415.102, 415.1034, 415.104, 415.1055,  
58 415.106, 415.107, 429.02, 429.07, 429.19, 429.26,

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59 429.28, 429.34, 429.35, 429.67, 429.85, 744.102, and  
 60 744.444, F.S.; conforming provisions to changes made  
 61 by the act; providing an effective date.

62  
 63 Be It Enacted by the Legislature of the State of Florida:

64  
 65 Section 1. Section 400.0060, Florida Statutes, is amended  
 66 to read:

67 400.0060 Definitions.—When used in this part, unless the  
 68 context clearly dictates otherwise, the term:

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

74 (2) "Agency" means the Agency for Health Care  
 75 Administration.

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

77 (4) "District" means a geographical area designated by the  
 78 state ombudsman in which individuals certified as ombudsmen  
 79 carry out the duties of the state ombudsman program. A district  
 80 may have more than one local unit of ombudsmen. ~~"Local council"~~  
 81 ~~means a local long-term care ombudsman council designated by the~~  
 82 ~~ombudsman pursuant to s. 400.0069. Local councils are also known~~  
 83 ~~as district long-term care ombudsman councils or district~~  
 84 ~~councils.~~

85 (5) "Long-term care facility" means a licensed nursing home  
 86 facility, assisted living facility, adult family-care home,  
 87 board and care facility, facility in which continuing long-term

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88 care is provided, or any other similar licensed residential  
 89 adult care facility.

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

92 (7) "Ombudsman" means an individual who has been certified  
 93 by the state ombudsman as meeting the requirements of ss.  
 94 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~  
 95 ~~Secretary of Elderly Affairs to head the Office of State Long-~~  
 96 ~~Term Care Ombudsman.~~

97 (8) "Representative of the office" or "representative of  
 98 the state ombudsman program" means the state ombudsman, an  
 99 employee of the office, or an individual certified as an  
 100 ombudsman.

101 (9)~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age or  
 102 older who resides in a long-term care facility.

103 (10)~~(9)~~ "Secretary" means the Secretary of Elderly Affairs.

104 (11)~~(10)~~ "State council" means the State Long-Term Care  
 105 Ombudsman Council created by s. 400.0067.

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

109 (13) "State ombudsman program" means the program operating  
 110 under the direction of the office.

111 Section 2. Section 400.0061, Florida Statutes, is amended  
 112 to read:

113 400.0061 Legislative findings and intent; long-term care  
 114 facilities.-

115 (1) The Legislature finds that conditions in long-term care  
 116 facilities in this state are such that the rights, health,

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

136 (2) It is the intent of the Legislature, therefore, to use  
 137 ~~utilize~~ voluntary citizen ombudsmen ~~ombudsman councils~~ under the  
 138 leadership of the state ombudsman, and, through them, to operate  
 139 a state ~~an~~ ombudsman program, which shall, without interference  
 140 by any executive agency, undertake to discover, investigate, and  
 141 determine the presence of conditions or individuals who ~~which~~  
 142 constitute a threat to the rights, health, safety, or welfare of  
 143 the residents of long-term care facilities. To ensure that the  
 144 effectiveness and efficiency of such investigations are not  
 145 impeded by advance notice or delay, the Legislature intends that

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146 representatives of the office ~~ombudsman and ombudsman councils~~  
147 ~~and their designated representatives~~ not be required to obtain  
148 warrants in order to enter into or conduct investigations or  
149 onsite administrative assessments of long-term care facilities.  
150 It is the further intent of the Legislature that the environment  
151 in long-term care facilities be conducive to the dignity and  
152 independence of residents and that investigations by  
153 representatives of the office ~~ombudsman councils~~ shall further  
154 the enforcement of laws, rules, and regulations that safeguard  
155 the health, safety, and welfare of residents.

156 Section 3. Section 400.0063, Florida Statutes, is amended  
157 to read:

158 400.0063 Establishment of Office of State Long-Term Care  
159 Ombudsman; designation of ombudsman and legal advocate.—

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

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

168 (b) The state ombudsman shall be appointed by and shall  
169 serve at the pleasure of the Secretary of Elderly Affairs. The  
170 secretary shall appoint a person who has expertise and  
171 experience in the fields of long-term care and advocacy to serve  
172 as state ombudsman.

173 (3) (a) There is created in the office the position of legal  
174 advocate, who shall be selected by and serve at the pleasure of

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175 the state ombudsman and shall be a member in good standing of  
176 The Florida Bar.

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

179 1. Assisting the state ombudsman in carrying out the duties  
180 of the office with respect to the abuse, neglect, exploitation,  
181 or violation of rights of residents of long-term care  
182 facilities.

183 2. Assisting the state council and representatives of the  
184 office ~~local councils~~ in carrying out their responsibilities  
185 under this part.

186 3. Pursuing administrative, legal, and other appropriate  
187 remedies on behalf of residents.

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

194 Section 4. Section 400.0065, Florida Statutes, is amended  
195 to read:

196 400.0065 Office of State Long-Term Care Ombudsman; duties  
197 and responsibilities.-

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

200 (a) Identify, investigate, and resolve complaints made by  
201 or on behalf of residents of long-term care facilities relating  
202 to actions or omissions by providers or representatives of  
203 providers of long-term care services, other public or private

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

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

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

211 (d) Ensure that residents have regular and timely access to  
212 the services provided through the office and that residents and  
213 complainants receive timely responses from representatives of  
214 the office to their complaints.

215 (e) Represent the interests of residents before  
216 governmental agencies and seek administrative, legal, and other  
217 remedies to protect the health, safety, welfare, and rights of  
218 the residents.

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

220 (g) Analyze, comment on, and monitor the development and  
221 implementation of federal, state, and local laws, rules, and  
222 regulations~~7~~ and other governmental policies and actions~~7~~ that  
223 pertain to the health, safety, welfare, and rights of the  
224 residents, with respect to the adequacy of long-term care  
225 facilities and services in the state~~7~~ and recommend any changes  
226 in such laws, rules, regulations, policies, and actions as the  
227 office determines to be appropriate and necessary.

228 (h) Provide technical support for the development of  
229 resident and family councils to protect the well-being and  
230 rights of residents.

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



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- 233 (a) Establish and coordinate districts ~~local councils~~  
234 throughout the state.
- 235 (b) Perform the duties specified in state and federal law,  
236 rules, and regulations.
- 237 (c) Within the limits of appropriated federal and state  
238 funding, employ such personnel ~~as are~~ necessary to perform  
239 adequately the functions of the office and provide or contract  
240 for legal services to assist the state council and  
241 representatives of the office ~~local councils~~ in the performance  
242 of their duties. ~~Staff positions established for the purpose of~~  
243 ~~coordinating the activities of each local council and assisting~~  
244 ~~its members may be filled by the ombudsman after approval by the~~  
245 ~~secretary. Notwithstanding any other provision of this part,~~  
246 ~~upon certification by the ombudsman that the staff member hired~~  
247 ~~to fill any such position has completed the initial training~~  
248 ~~required under s. 400.0091, such person shall be considered a~~  
249 ~~representative of the State Long Term Care Ombudsman Program for~~  
250 ~~purposes of this part.~~
- 251 (d) Contract for services necessary to carry out the  
252 activities of the office.
- 253 (e) Apply for, receive, and accept grants, gifts, or other  
254 payments, including, but not limited to, real property, personal  
255 property, and services from a governmental entity or other  
256 public or private entity or person, and make arrangements for  
257 the use of such grants, gifts, or payments.
- 258 (f) Coordinate, to the greatest extent possible, state and  
259 local ombudsman services with the protection and advocacy  
260 systems for individuals with developmental disabilities and  
261 mental illnesses and with legal assistance programs for the poor

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262 through adoption of memoranda of understanding and other means.

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

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

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

283 1. Contain and analyze data collected concerning complaints  
284 about and conditions in long-term care facilities and the  
285 disposition of such complaints.

286 2. Evaluate the problems experienced by residents.

287 3. Analyze the successes of the state ombudsman program  
288 during the preceding year, including an assessment of how  
289 successfully the office ~~program~~ has carried out its  
290 responsibilities under the Older Americans Act.

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291 4. Provide recommendations for policy, regulatory, and  
292 statutory changes designed to solve identified problems; resolve  
293 residents' complaints; improve residents' lives and quality of  
294 care; protect residents' rights, health, safety, and welfare;  
295 and remove any barriers to the optimal operation of the state  
296 ~~Long-Term Care~~ ombudsman program.

297 5. Contain recommendations from the state ~~Long-Term Care~~  
298 ~~Ombudsman~~ council regarding program functions and activities and  
299 recommendations for policy, regulatory, and statutory changes  
300 designed to protect residents' rights, health, safety, and  
301 welfare.

302 6. Contain any relevant recommendations from  
303 representatives of the office ~~local councils~~ regarding program  
304 functions and activities.

305 Section 5. Section 400.0067, Florida Statutes, is amended  
306 to read:

307 400.0067 State Long-Term Care Ombudsman Council; duties;  
308 membership.—

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

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

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

316 ~~(b) Serve as an appellate body in receiving from the local~~  
317 ~~councils complaints not resolved at the local level. Any~~  
318 ~~individual member or members of the state council may enter any~~  
319 ~~long-term care facility involved in an appeal, pursuant to the~~

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320 ~~conditions specified in s. 400.0074(2).~~

321 (b)~~(e)~~ Assist the state ombudsman to discover, investigate,  
 322 and determine the existence of abuse or neglect in any long-term  
 323 care facility, and work with the adult protective services  
 324 program as required in ss. 415.101-415.113.

325 (c)~~(d)~~ Assist the state ombudsman in eliciting, receiving,  
 326 responding to, and resolving complaints made by or on behalf of  
 327 residents.

328 (d)~~(e)~~ Elicit and coordinate state, district local, and  
 329 voluntary organizational assistance for the purpose of improving  
 330 the care received by residents.

331 (e)~~(f)~~ Assist the state ombudsman in preparing the annual  
 332 report described in s. 400.0065.

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

338 (a) Each local unit in a district must select ~~council shall~~  
 339 ~~elect by majority vote~~ a representative of its choice to serve  
 340 ~~from among the council members to represent the interests of the~~  
 341 ~~local council~~ on the state council. ~~A local council chair may~~  
 342 ~~not serve as the representative of the local council on the~~  
 343 ~~state council.~~

344 (b)1. The state ombudsman secretary, ~~after consulting with~~  
 345 ~~the ombudsman~~, shall submit to the secretary ~~Governor~~ a list of  
 346 individuals ~~persons~~ recommended for appointment to the at-large  
 347 positions on the state council. The list may ~~shall~~ not include  
 348 the name of any individual ~~person~~ who is currently serving in a

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349 ~~district on a local council.~~

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

352 3. If the secretary ~~Governor~~ does not appoint an at-large  
353 member to fill a vacant position within 60 days after the list  
354 is submitted, the state secretary, ~~after consulting with the~~  
355 ~~ombudsman~~, shall appoint an at-large member to fill that vacant  
356 position.

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

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

361 ~~3. A local council may recommend removal of its elected~~  
362 ~~representative from the state council by a majority vote. If the~~  
363 ~~council votes to remove its representative, the local council~~  
364 ~~chair shall immediately notify the ombudsman. The secretary~~  
365 ~~shall advise the Governor of the local council's vote upon~~  
366 ~~receiving notice from the ombudsman.~~

367 (b) 4. The position of any member missing three state  
368 council meetings within a 1-year period without cause may be  
369 declared vacant by the state ombudsman. The findings of the  
370 state ombudsman regarding cause shall be final and binding.

371 (c) 5. Any vacancy on the state council shall be filled in  
372 the same manner as the original appointment.

373 (d) 1. The state council shall elect a chair to serve for a  
374 term of 1 year. A chair may not serve more than two consecutive  
375 terms.

376 2. The chair shall select a vice chair from among the  
377 members. The vice chair shall preside over the state council in

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378 the absence of the chair.

379 3. The chair may create additional executive positions as  
380 necessary to carry out the duties of the state council. Any  
381 person appointed to an executive position shall serve at the  
382 pleasure of the chair, and his or her term shall expire on the  
383 same day as the term of the chair.

384 4. A chair may be immediately removed from office before  
385 ~~prior to~~ the expiration of his or her term by a vote of two-  
386 thirds of all state council members present at any meeting at  
387 which a quorum is present. If a chair is removed from office  
388 before ~~prior to~~ the expiration of his or her term, a replacement  
389 chair shall be chosen during the same meeting in the same manner  
390 as described in this paragraph, and the term of the replacement  
391 chair shall begin immediately. The replacement chair shall serve  
392 for the remainder of the term and is eligible to serve two  
393 subsequent consecutive terms.

394 (e)1. The state council shall meet upon the call of the  
395 chair or upon the call of the state ombudsman. The state council  
396 shall meet at least quarterly but may meet more frequently as  
397 needed.

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

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

405 (f) Members may not ~~shall~~ receive ~~no~~ compensation but  
406 shall, with approval from the state ombudsman, be reimbursed for

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407 per diem and travel expenses as provided in s. 112.061.

408 Section 6. Section 400.0069, Florida Statutes, is amended  
409 to read:

410 400.0069 ~~Local~~ Long-term care ombudsman districts ~~councils~~;  
411 duties; appointment membership.-

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

417 (b) The state ombudsman shall ensure that there are  
418 representatives of the office ~~is at least one local council~~  
419 ~~operating in each district of the department's planning and~~  
420 ~~service areas. The ombudsman may create additional local~~  
421 ~~councils~~ as necessary to ensure that residents throughout the  
422 state have adequate access to state ~~Long-Term Care~~ ombudsman  
423 program services. ~~The ombudsman, after approval from the~~  
424 ~~secretary, shall designate the jurisdictional boundaries of each~~  
425 ~~local council.~~

426 (c) Each district must convene a public meeting every  
427 quarter.

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

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

433 (b) Discover, investigate, and determine the existence of  
434 abuse, or neglect, or exploitation using ~~in any long-term care~~  
435 ~~facility and to use~~ the procedures provided for in ss. 415.101-

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436 415.113 when applicable.

437 (c) Identify ~~Elicit, receive,~~ investigate, ~~respond to,~~ and  
438 resolve complaints made by or on behalf of residents relating to  
439 actions or omissions by providers or representatives of  
440 providers of long-term care services, other public agencies,  
441 guardians, or representative payees which may adversely affect  
442 the health, safety, welfare, or rights of residents.

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

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

452 (f) Recommend that the state ombudsman and the legal  
453 advocate seek administrative, legal, and other remedies to  
454 protect the health, safety, welfare, and rights of ~~the~~  
455 residents.

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

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

460 (3) In order to carry out the duties specified in  
461 subsection (2), a representative of the office may ~~member of a~~  
462 ~~local council is authorized to~~ enter any long-term care facility  
463 without notice or without first obtaining a warrant; however,  
464 ~~subject to the provisions of s. 400.0074(2)~~ may apply regarding



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465 notice of a followup administrative assessment.

466 (4) Each district local council shall be composed of  
 467 ombudsmen members whose primary residences are ~~residence is~~  
 468 located within the boundaries of the district local council's  
 469 jurisdiction.

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

474 ~~1. At least one medical or osteopathic physician whose~~  
 475 ~~practice includes or has included a substantial number of~~  
 476 ~~geriatric patients and who may practice in a long-term care~~  
 477 ~~facility;~~

478 ~~2. At least one registered nurse who has geriatric~~  
 479 ~~experience;~~

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

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

482 ~~5. At least six nursing home residents or representative~~  
 483 ~~consumer advocates for nursing home residents;~~

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

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

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

489 (b) The following individuals may not be appointed as  
 490 ombudsmen:

491 1. The owner or representative of a long-term care  
 492 facility.

493 2. A provider or representative of a provider of long-term

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494 care service.

495 3. An employee of the agency.

496 4. An employee of the department, except for a  
 497 representative of the office.

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

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

500 ~~In no case shall the medical director of a long-term care~~  
 501 ~~facility or an employee of the agency, the department, the~~  
 502 ~~Department of Children and Families, or the Agency for Persons~~  
 503 ~~with Disabilities serve as a member or as an ex officio member~~  
 504 ~~of a council.~~

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

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

508 2. Successfully complete level 2 background screening  
 509 pursuant to s. 430.0402 and chapter 435 ~~The ombudsman shall~~  
 510 ~~review the individual's application and advise the secretary of~~  
 511 ~~his or her recommendation for approval or disapproval of the~~  
 512 ~~candidate's membership on the local council. If the secretary~~  
 513 ~~approves of the individual's membership, the individual shall be~~  
 514 ~~appointed as a member of the local council.~~

515 (b) The state ombudsman shall approve or deny the  
 516 appointment of the individual as an ombudsman ~~The secretary may~~  
 517 ~~rescind the ombudsman's approval of a member on a local council~~  
 518 ~~at any time. If the secretary rescinds the approval of a member~~  
 519 ~~on a local council, the ombudsman shall ensure that the~~  
 520 ~~individual is immediately removed from the local council on~~  
 521 ~~which he or she serves and the individual may no longer~~  
 522 ~~represent the State Long Term Care Ombudsman Program until the~~

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523 ~~secretary provides his or her approval.~~

524 (c) Upon appointment as an ombudsman, the individual may  
525 participate in district activities but may not represent the  
526 office or conduct any authorized program duties until the  
527 individual has completed the initial training specified in s.  
528 400.0091(1) and has been certified by the state ombudsman.

529 (d) The state ombudsman, for good cause shown, such as  
530 development of a conflict of interest, failure to adhere to the  
531 policies and procedures established by the office, or  
532 demonstrated inability to carry out the responsibilities of the  
533 office, may rescind the appointment of an individual as an  
534 ombudsman. After the appointment is rescinded, the individual  
535 may not conduct any duties as an ombudsman and may not represent  
536 the office or the state ombudsman program ~~A local council may~~  
537 ~~recommend the removal of one or more of its members by~~  
538 ~~submitting to the ombudsman a resolution adopted by a two-thirds~~  
539 ~~vote of the members of the council stating the name of the~~  
540 ~~member or members recommended for removal and the reasons for~~  
541 ~~the recommendation. If such a recommendation is adopted by a~~  
542 ~~local council, the local council chair or district coordinator~~  
543 ~~shall immediately report the council's recommendation to the~~  
544 ~~ombudsman. The ombudsman shall review the recommendation of the~~  
545 ~~local council and advise the secretary of his or her~~  
546 ~~recommendation regarding removal of the council member or~~  
547 ~~members.~~

548 ~~(6)(a) Each local council shall elect a chair for a term of~~  
549 ~~1 year. There shall be no limitation on the number of terms that~~  
550 ~~an approved member of a local council may serve as chair.~~

551 ~~(b) The chair shall select a vice chair from among the~~

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552 ~~members of the council. The vice chair shall preside over the~~  
553 ~~council in the absence of the chair.~~

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

559 ~~(d) A chair may be immediately removed from office prior to~~  
560 ~~the expiration of his or her term by a vote of two thirds of the~~  
561 ~~members of the local council. If any chair is removed from~~  
562 ~~office prior to the expiration of his or her term, a replacement~~  
563 ~~chair shall be elected during the same meeting, and the term of~~  
564 ~~the replacement chair shall begin immediately. The replacement~~  
565 ~~chair shall serve for the remainder of the term of the person he~~  
566 ~~or she replaced.~~

567 ~~(7) Each local council shall meet upon the call of its~~  
568 ~~chair or upon the call of the ombudsman. Each local council~~  
569 ~~shall meet at least once a month but may meet more frequently if~~  
570 ~~necessary.~~

571 ~~(6)(8) An ombudsman may not A member of a local council~~  
572 ~~shall receive ~~no~~ compensation but shall, with approval from the~~  
573 ~~state ombudsman, be reimbursed for travel expenses ~~both within~~~~  
574 ~~~~and outside the jurisdiction of the local council~~ in accordance~~  
575 ~~with the provisions of s. 112.061.~~

576 ~~(7)(9) A representative of the office may The local~~  
577 ~~councils are authorized to call upon appropriate state agencies~~  
578 ~~of state government for such professional assistance as may be~~  
579 ~~needed in the discharge of his or her ~~their~~ duties, and such.~~  
580 ~~All state agencies shall cooperate with the local councils in~~

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581 providing requested information and agency representation ~~at~~  
582 ~~council meetings.~~

583 Section 7. Section 400.0070, Florida Statutes, is amended  
584 to read:

585 400.0070 Conflicts of interest.—

586 (1) A representative of the office may ~~The ombudsman shall~~  
587 not:

588 (a) Have a direct involvement in the licensing or  
589 certification of, or an ownership or investment interest in, a  
590 long-term care facility or a provider of a long-term care  
591 service.

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

594 (c) Receive, or have a right to receive, directly or  
595 indirectly, remuneration, in cash or in kind, under a  
596 compensation agreement with the owner or operator of a long-term  
597 care facility.

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

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

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

609 (b) The procedure by which an individual ~~a person~~ listed in

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610 subsection (2) shall certify that he or she does not have a ~~has~~  
611 ~~no~~ conflict of interest.

612 Section 8. Section 400.0071, Florida Statutes, is amended  
613 to read:

614 400.0071 State ~~Long Term Care~~ ombudsman program complaint  
615 procedures.—The department, in consultation with the state  
616 ombudsman, shall adopt rules implementing state and local  
617 complaint procedures. The rules must include procedures for  
618 receiving, investigating, identifying, and resolving complaints  
619 concerning the health, safety, welfare, and rights of residents;

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

622 ~~(2) Conducting investigations of a long term care facility~~  
623 ~~or an employee of a long term care facility subsequent to~~  
624 ~~receiving a complaint.~~

625 ~~(3) Conducting onsite administrative assessments of long-~~  
626 ~~term care facilities.~~

627 Section 9. Section 400.0073, Florida Statutes, is amended  
628 to read:

629 400.0073 Complaint ~~State and local ombudsman council~~  
630 investigations.—

631 (1) A representative of the office ~~local council~~ shall  
632 identify and investigate, ~~within a reasonable time after a~~  
633 ~~complaint is made~~, any complaint made by or on behalf of a  
634 resident, ~~a representative of a resident, or any other credible~~  
635 ~~source based on an action or omission by an administrator, an~~  
636 ~~employee, or a representative of a long term care facility~~ which  
637 might be:

638 (a) Contrary to law;

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

641 (c) Based on a mistake of fact;

642 (d) Based on improper or irrelevant grounds;

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

644 (f) Performed in an inefficient manner; or

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

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

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

652 (2)(4) If a representative of the office ~~the ombudsman or~~  
653 ~~any state or local council member~~ is not allowed to enter a  
654 long-term care facility, the administrator of the facility shall  
655 be considered to have interfered with a representative of the  
656 office, ~~the state council, or the local council~~ in the  
657 performance of official duties as described in s. 400.0083(1)  
658 and to have violated ~~committed a violation of~~ this part. The  
659 representative of the office ~~ombudsman~~ shall report a facility's  
660 refusal to allow entry to the facility to the state ombudsman or  
661 his or her designee, who shall report the incident to the  
662 agency, and the agency shall record the report and take it into  
663 consideration when determining actions allowable under s.  
664 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
665 429.71.

666 Section 10. Section 400.0074, Florida Statutes, is amended  
667 to read:

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668 400.0074 ~~Local ombudsman council~~ Onsite administrative  
669 assessments.-

670 (1) A representative of the office ~~In addition to any~~  
671 ~~specific investigation conducted pursuant to a complaint, the~~  
672 ~~local council~~ shall conduct, at least annually, an onsite  
673 administrative assessment of each nursing home, assisted living  
674 facility, and adult family-care home ~~within its jurisdiction.~~  
675 This administrative assessment must be resident-centered and  
676 must ~~shall~~ focus on factors affecting the rights, health,  
677 safety, and welfare of the residents. ~~Each local council is~~  
678 ~~encouraged to conduct a similar onsite administrative assessment~~  
679 ~~of each additional long-term care facility within its~~  
680 ~~jurisdiction.~~

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

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

688 (b) An administrative assessment shall be conducted at a  
689 time and for a duration necessary to produce the information  
690 required to complete the assessment ~~carry out the duties of the~~  
691 ~~local council.~~

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

695 (d) A representative of the office ~~local council member~~  
696 ~~physically~~ present for the administrative assessment must ~~shall~~



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697 identify himself or herself to the administrator and ~~cite the~~  
698 ~~specific statutory authority for his or her assessment~~ of the  
699 facility or his or her designee.

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

702 (f) A representative of the office ~~local council member~~ may  
703 not enter a single-family residential unit within a long-term  
704 care facility during an administrative assessment without the  
705 permission of the resident or the representative of the  
706 resident.

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

710 (3) ~~Regardless of jurisdiction, the ombudsman may authorize~~  
711 ~~a state or local council member to assist another local council~~  
712 ~~to perform the administrative assessments described in this~~  
713 ~~section.~~

714 ~~(4)~~ An onsite administrative assessment may not be  
715 accomplished by forcible entry. However, if a representative of  
716 the office ~~ombudsman or a state or local council member~~ is not  
717 allowed to enter a long-term care facility, the administrator of  
718 the facility shall be considered to have interfered with a  
719 representative of the office, ~~the state council, or the local~~  
720 ~~council~~ in the performance of official duties as described in s.  
721 400.0083(1) and to have committed a violation of this part. The  
722 representative of the office ~~ombudsman~~ shall report the refusal  
723 by a facility to allow entry to the state ombudsman or his or  
724 her designee, who shall then report the incident to the agency,  
725 and the agency shall record the report and take it into

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726 consideration when determining actions allowable under s.  
 727 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
 728 429.71.

729 (4) The department, in consultation with the state  
 730 ombudsman, may adopt rules implementing procedures for  
 731 conducting onsite administrative assessments of long-term care  
 732 facilities.

733 Section 11. Section 400.0075, Florida Statutes, is amended  
 734 to read:

735 400.0075 Complaint notification and resolution procedures.—

736 (1) (a) Any complaint ~~or problem~~ verified by a  
 737 representative of the office an ombudsman council as a result of  
 738 an investigation may or onsite administrative assessment, which  
 739 ~~complaint or problem is determined to require remedial action by~~  
 740 ~~the local council,~~ shall be identified and brought to the  
 741 attention of the long-term care facility administrator, subject  
 742 to the confidentiality provisions of s. 400.0077 in writing.

743 Upon receipt of the information such document, the  
 744 administrator, with the concurrence of the representative of the  
 745 office local council chair, shall establish target dates for  
 746 taking appropriate remedial action. If, by the target date, the  
 747 remedial action is not completed or forthcoming, the  
 748 representative may extend the target date if there is reason to  
 749 believe such action would facilitate the resolution of the  
 750 complaint, or the representative may refer the complaint to the  
 751 district office local council chair may, after obtaining  
 752 ~~approval from the ombudsman and a majority of the members of the~~  
 753 ~~local council:~~

754 ~~1. Extend the target date if the chair has reason to~~

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755 ~~believe such action would facilitate the resolution of the~~  
756 ~~complaint.~~

757 ~~2. In accordance with s. 400.0077, publicize the complaint,~~  
758 ~~the recommendations of the council, and the response of the~~  
759 ~~long-term care facility.~~

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

761 (b) If an ombudsman determines ~~the local council chair~~  
762 ~~believes~~ that the health, safety, welfare, or rights of a ~~the~~  
763 resident are in imminent danger, the ombudsman must immediately  
764 notify the district office. ~~The district office chair shall~~  
765 ~~notify the ombudsman or legal advocate, who,~~ after verifying  
766 that such imminent danger exists, must notify the appropriate  
767 state agencies, including law enforcement agencies, the state  
768 ombudsman, and the legal advocate, to ensure the protection of  
769 ~~shall seek immediate legal or administrative remedies to protect~~  
770 the resident.

771 (c) If the state ombudsman or legal advocate has reason to  
772 believe that the long-term care facility or an employee of the  
773 facility has committed a criminal act, the state ombudsman or  
774 legal advocate shall provide the local law enforcement agency  
775 with the relevant information to initiate an investigation of  
776 the case.

777 (2) ~~(a)~~ Upon referral from a district ~~local council,~~ the  
778 state ombudsman or his or her designee ~~council~~ shall assume the  
779 responsibility for the disposition of the complaint. If a long-  
780 term care facility fails to take action to resolve or remedy the  
781 ~~on a~~ complaint ~~by the state council,~~ the state ombudsman ~~council~~  
782 may, ~~after obtaining approval from the ombudsman and a majority~~  
783 ~~of the state council members:~~

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784        (a)1. In accordance with s. 400.0077, publicize the  
785 complaint, the recommendations of the representatives of the  
786 office local or state council, and the response of the long-term  
787 care facility.

788        (b)2. Recommend to the department and the agency a series  
789 of facility reviews pursuant to s. 400.19, s. 429.34, or s.  
790 429.67 to ensure correction and nonrecurrence of the conditions  
791 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a  
792 long-term care facility.

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

796        (d)4. Recommend to the department and the agency that  
797 procedures be initiated for action against ~~revocation of~~ the  
798 long-term care facility's license in accordance with chapter  
799 120.

800        ~~(b) If the state council chair believes that the health,~~  
801 ~~safety, welfare, or rights of the resident are in imminent~~  
802 ~~danger, the chair shall notify the ombudsman or legal advocate,~~  
803 ~~who, after verifying that such imminent danger exists, shall~~  
804 ~~seek immediate legal or administrative remedies to protect the~~  
805 ~~resident.~~

806        (3)(e) If the state ombudsman, after consultation with the  
807 legal advocate, has reason to believe that the long-term care  
808 facility or an employee of the facility has committed a criminal  
809 act, the office ombudsman shall provide the local law  
810 enforcement agency with the relevant information to initiate an  
811 investigation of the case.

812        Section 12. Section 400.0078, Florida Statutes, is amended

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813 to read:

814 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman  
815 program services.-

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

820 (2) ~~Every resident or representative of a resident shall~~  
821 ~~receive,~~ Upon admission to a long-term care facility, each  
822 resident or representative of a resident must receive  
823 information regarding:

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

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

828 (c) Information that retaliatory action cannot be taken  
829 against a resident for presenting grievances or for exercising  
830 any other resident rights.

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

833  
834 Residents or their representatives must be furnished additional  
835 copies of this information upon request.

836 Section 13. Section 400.0079, Florida Statutes, is amended  
837 to read:

838 400.0079 Immunity.-

839 (1) Any person making a complaint pursuant to this part who  
840 does so in good faith shall be immune from any liability, civil  
841 or criminal, that otherwise might be incurred or imposed as a

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842 direct or indirect result of making the complaint.

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

849 Section 14. Section 400.0081, Florida Statutes, is amended  
850 to read:

851 400.0081 Access to facilities, residents, and records.—

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

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

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

861 1. The representative of the office has the permission of  
862 the resident or the legal representative of the resident; or

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

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

867 1. A legal representative or guardian of the resident  
868 refuses to give permission;

869 2. A representative of the office has reasonable cause to  
870 believe that the legal representative or guardian is not acting

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871 in the best interests of the resident; and

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

874 (d) Access to the administrative records, policies, and  
875 documents to which residents or the general public has ~~have~~  
876 access.

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

880 (2) The department, in consultation with the state  
881 ombudsman ~~and the state council~~, may adopt rules to establish  
882 procedures to ensure access to facilities, residents, and  
883 records as described in this section.

884 Section 15. Section 400.0083, Florida Statutes, is amended  
885 to read:

886 400.0083 Interference; retaliation; penalties.—

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

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

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

899 (a) Is ~~Shall be~~ liable for damages and equitable relief as

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900 determined by law.

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

903 Section 16. Section 400.0087, Florida Statutes, is amended  
904 to read:

905 400.0087 Department oversight; funding.—

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

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

913 (b) The department may divert from the federal ombudsman  
914 appropriation an amount equal to the department's administrative  
915 cost ratio to cover the costs associated with administering the  
916 state ombudsman program. The remaining allotment from the Older  
917 Americans Act program shall be expended on direct ombudsman  
918 activities.

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

922 (3) The department is responsible for ensuring that the  
923 office:

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

926 (b) Provides information to public and private agencies,  
927 legislators, and others, subject to the confidentiality  
928 provisions of s. 400.0077.



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

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

935 (4) The department shall also:

936 (a) Receive and disburse state and federal funds for  
937 purposes that the state ombudsman has formulated in accordance  
938 with the Older Americans Act.

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

942 Section 17. Section 400.0089, Florida Statutes, is amended  
943 to read:

944 400.0089 Complaint data reports.—The office shall maintain  
945 a statewide uniform reporting system to collect and analyze data  
946 relating to complaints and conditions in long-term care  
947 facilities and to residents for the purpose of identifying and  
948 resolving complaints ~~significant problems~~. The office shall  
949 publish quarterly and make readily available information  
950 pertaining to the number and types of complaints received by the  
951 state ~~Long-Term Care~~ ombudsman program and shall include such  
952 information in the annual report required under s. 400.0065.

953 Section 18. Section 400.0091, Florida Statutes, is amended  
954 to read:

955 400.0091 Training.—The state ombudsman shall ensure that  
956 appropriate training is provided to all representatives  
957 ~~employees~~ of the office ~~and to the members of the state and~~

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958 ~~local councils.~~

959 (1) All representatives ~~state and local council members and~~  
 960 ~~employees~~ of the office shall be given a minimum of 20 hours of  
 961 training upon employment with the office or appointment as an  
 962 ombudsman. Ten approval as a state or local council member and  
 963 ~~10~~ hours of continuing education is required annually  
 964 thereafter.

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

968 (a) Resident confidentiality.

969 (b) Guardianships and powers of attorney.

970 (c) Medication administration.

971 (d) Care and medication of residents with dementia and  
 972 Alzheimer's disease.

973 (e) Accounting for residents' funds.

974 (f) Discharge rights and responsibilities.

975 (g) Cultural sensitivity.

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

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

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

989 20.41 Department of Elderly Affairs.—There is created a  
990 Department of Elderly Affairs.

991 (4) The department shall administer the Office of State  
992 Long-Term Care Ombudsman Council, created by s. 400.0063 ~~s.~~  
993 ~~400.0067~~, and the ~~local long-term care ombudsman councils~~,  
994 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the  
995 federal Older Americans Act of 1965, ensure that ~~both~~ the state  
996 office operates and ~~local long-term care ombudsman councils~~  
997 ~~operate~~ in compliance with the Older Americans Act.

998 Section 20. Present subsections (11) through (14) of  
999 section 400.021, Florida Statutes, are renumbered as subsections  
1000 (10) through (13), respectively, present subsections (10) and  
1001 (18) are amended, and a new subsection (14) is added to that  
1002 section, to read:

1003 400.021 Definitions.—When used in this part, unless the  
1004 context otherwise requires, the term:

1005 ~~(10) "Local ombudsman council" means a local long-term care~~  
1006 ~~ombudsman council established pursuant to s. 400.0069, located~~  
1007 ~~within the Older Americans Act planning and service areas.~~

1008 (14) "Representative of the state ombudsman program" has  
1009 the same meaning as provided in s. 400.0060.

1010 (18) "State ombudsman program council" has the same meaning  
1011 as provided in s. 400.0060 ~~means the State Long-Term Care~~  
1012 ~~Ombudsman Council established pursuant to s. 400.0067.~~

1013 Section 21. Paragraph (c) of subsection (1) and subsections  
1014 (2) and (3) of section 400.022, Florida Statutes, are amended to  
1015 read:

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1016 400.022 Residents' rights.—

1017 (1) All licensees of nursing home facilities shall adopt  
 1018 and make public a statement of the rights and responsibilities  
 1019 of the residents of such facilities and shall treat such  
 1020 residents in accordance with the provisions of that statement.  
 1021 The statement shall assure each resident the following:

1022 (c) Any entity or individual that provides health, social,  
 1023 legal, or other services to a resident has the right to have  
 1024 reasonable access to the resident. The resident has the right to  
 1025 deny or withdraw consent to access at any time by any entity or  
 1026 individual. Notwithstanding the visiting policy of the facility,  
 1027 the following individuals must be permitted immediate access to  
 1028 the resident:

1029 1. Any representative of the federal or state government,  
 1030 including, but not limited to, representatives of the Department  
 1031 of Children and Families, the Department of Health, the Agency  
 1032 for Health Care Administration, the Office of the Attorney  
 1033 General, and the Department of Elderly Affairs; any law  
 1034 enforcement officer; any representative ~~members~~ of the state ~~or~~  
 1035 ~~local~~ ombudsman program ~~council~~; and the resident's individual  
 1036 physician.

1037 2. Subject to the resident's right to deny or withdraw  
 1038 consent, immediate family or other relatives of the resident.

1039  
 1040 The facility must allow representatives of the office ~~state~~  
 1041 ~~Long-Term Care ombudsman Council~~ to examine a resident's  
 1042 clinical records with the permission of the resident or the  
 1043 resident's legal representative and consistent with state law.

1044 (2) The licensee for each nursing home shall orally inform

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1045 the resident of the resident's rights and provide a copy of the  
 1046 statement required by subsection (1) to each resident or the  
 1047 resident's legal representative at or before the resident's  
 1048 admission to a facility. The licensee shall provide a copy of  
 1049 the resident's rights to each staff member of the facility. Each  
 1050 such licensee shall prepare a written plan and provide  
 1051 appropriate staff training to implement ~~the provisions of this~~  
 1052 section. The written statement of rights must include a  
 1053 statement that a resident may file a complaint with the agency  
 1054 or state local ombudsman program council. The statement must be  
 1055 in boldfaced type and ~~shall~~ include the ~~name, address, and~~  
 1056 telephone number and e-mail address of the state numbers of the  
 1057 ~~local~~ ombudsman program council and the telephone number of the  
 1058 central abuse hotline where complaints may be lodged.

1059 (3) Any violation of the resident's rights set forth in  
 1060 this section constitutes ~~shall constitute~~ grounds for action by  
 1061 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or  
 1062 part II of chapter 408. In order to determine whether the  
 1063 licensee is adequately protecting residents' rights, the  
 1064 licensure inspection of the facility must ~~shall~~ include private  
 1065 informal conversations with a sample of residents to discuss  
 1066 residents' experiences within the facility with respect to  
 1067 rights specified in this section and general compliance with  
 1068 standards, and consultation with a representative of the state  
 1069 ombudsman program council ~~in the local planning and service area~~  
 1070 ~~of the Department of Elderly Affairs in which the nursing home~~  
 1071 ~~is located.~~

1072 Section 22. Subsections (8), (9), and (11) through (14) of  
 1073 section 400.0255, Florida Statutes, are amended to read:

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1074 400.0255 Resident transfer or discharge; requirements and  
1075 procedures; hearings.—

1076 (8) The notice required by subsection (7) must be in  
1077 writing and must contain all information required by state and  
1078 federal law, rules, or regulations applicable to Medicaid or  
1079 Medicare cases. The agency shall develop a standard document to  
1080 be used by all facilities licensed under this part for purposes  
1081 of notifying residents of a discharge or transfer. Such document  
1082 must include a means for a resident to request the state local  
1083 ~~long-term care~~ ombudsman program council to review the notice  
1084 and request information about or assistance with initiating a  
1085 fair hearing with the department's Office of Appeals Hearings.  
1086 In addition to any other pertinent information included, the  
1087 form shall specify the reason allowed under federal or state law  
1088 that the resident is being discharged or transferred, with an  
1089 explanation to support this action. Further, the form must ~~shall~~  
1090 state the effective date of the discharge or transfer and the  
1091 location to which the resident is being discharged or  
1092 transferred. The form must ~~shall~~ clearly describe the resident's  
1093 appeal rights and the procedures for filing an appeal, including  
1094 the right to request the state local ombudsman program council  
1095 to review the notice of discharge or transfer. A copy of the  
1096 notice must be placed in the resident's clinical record, and a  
1097 copy must be transmitted to the resident's legal guardian or  
1098 representative and to the office local ~~ombudsman council~~ within  
1099 5 business days after signature by the resident or resident  
1100 designee.

1101 (9) A resident may request that the state local ombudsman  
1102 program council review any notice of discharge or transfer given

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1103 to the resident. When requested by a resident to review a notice  
1104 of discharge or transfer, the state ~~local~~ ombudsman program  
1105 ~~council~~ shall do so within 7 days after receipt of the request.  
1106 The nursing home administrator, or the administrator's designee,  
1107 must forward the request for review contained in the notice to  
1108 the state ~~local~~ ombudsman program ~~council~~ within 24 hours after  
1109 such request is submitted. Failure to forward the request within  
1110 24 hours after the request is submitted shall toll the running  
1111 of the 30-day advance notice period until the request has been  
1112 forwarded.

1113 (11) Notwithstanding paragraph (10) (b), an emergency  
1114 discharge or transfer may be implemented as necessary pursuant  
1115 to state or federal law during the ~~period of~~ time after the  
1116 notice is given and before the time a hearing decision is  
1117 rendered. Notice of an emergency discharge or transfer to the  
1118 resident, the resident's legal guardian or representative, and  
1119 the state ~~local~~ ombudsman program ~~council~~ if requested pursuant  
1120 to subsection (9) must be by telephone or in person. This notice  
1121 shall be given before the transfer, if possible, or as soon  
1122 thereafter as practicable. A representative of the state ~~local~~  
1123 ombudsman program ~~council~~ conducting a review under this  
1124 subsection shall do so within 24 hours after receipt of the  
1125 request. The resident's file must be documented to show who was  
1126 contacted, whether the contact was by telephone or in person,  
1127 and the date and time of the contact. If the notice is not given  
1128 in writing, written notice meeting the requirements of  
1129 subsection (8) must be given the next working day.

1130 (12) After receipt of any notice required under this  
1131 section, the state ~~local~~ ombudsman program ~~council~~ may request a

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1132 private informal conversation with a resident to whom the notice  
1133 is directed, and, if known, a family member or the resident's  
1134 legal guardian or designee, to ensure that the facility is  
1135 proceeding with the discharge or transfer in accordance with ~~the~~  
1136 ~~requirements of~~ this section. If requested, the state local  
1137 ombudsman program council shall assist the resident with filing  
1138 an appeal of the proposed discharge or transfer.

1139 (13) The following persons must be present at all hearings  
1140 authorized under this section:

1141 (a) The resident, or the resident's legal representative or  
1142 designee.

1143 (b) The facility administrator, or the facility's legal  
1144 representative or designee.

1145

1146 A representative of the state local ~~long term care~~ ombudsman  
1147 program council may be present at all hearings authorized by  
1148 this section.

1149 (14) In any hearing under this section, the following  
1150 information concerning the parties shall be confidential and  
1151 exempt from ~~the provisions of~~ s. 119.07(1):

1152 (a) Names and addresses.

1153 (b) Medical services provided.

1154 (c) Social and economic conditions or circumstances.

1155 (d) Evaluation of personal information.

1156 (e) Medical data, including diagnosis and past history of  
1157 disease or disability.

1158 (f) Any information received verifying income eligibility  
1159 and amount of medical assistance payments. Income information  
1160 received from the Social Security Administration or the Internal



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1161 Revenue Service must be safeguarded according to the  
1162 requirements of the agency that furnished the data.

1163  
1164 The exemption created by this subsection does not prohibit  
1165 access to such information by a representative of the state  
1166 ~~local long-term care~~ ombudsman program council upon request, by  
1167 a reviewing court if such information is required to be part of  
1168 the record upon subsequent review, or as specified in s. 24(a),  
1169 Art. I of the State Constitution.

1170 Section 23. Subsection (2) of section 400.1413, Florida  
1171 Statutes, is amended to read:

1172 400.1413 Volunteers in nursing homes.—

1173 (2) This section does not affect the activities of the  
1174 ~~state or local long-term care~~ ombudsman program councils  
1175 authorized under part I.

1176 Section 24. Paragraph (d) of subsection (5) of section  
1177 400.162, Florida Statutes, is amended to read:

1178 400.162 Property and personal affairs of residents.—

1179 (5)

1180 (d) If, at any time during the period for which a license  
1181 is issued, a licensee that has not purchased a surety bond or  
1182 entered into a self-insurance agreement, as provided in  
1183 paragraphs (b) and (c), is requested to provide safekeeping for  
1184 the personal funds of a resident, the licensee shall notify the  
1185 agency of the request and make application for a surety bond or  
1186 for participation in a self-insurance agreement within 7 days  
1187 after ~~of~~ the request, exclusive of weekends and holidays. Copies  
1188 of the application, along with written documentation of related  
1189 correspondence with an insurance agency or group, shall be

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1190 maintained by the licensee for review by the agency and the  
1191 state ~~Nursing Home and Long-Term Care Facility~~ ombudsman program  
1192 ~~Council~~.

1193 Section 25. Subsections (1) and (4) of section 400.19,  
1194 Florida Statutes, are amended to read:

1195 400.19 Right of entry and inspection.—

1196 (1) In accordance with part II of chapter 408, the agency  
1197 and any duly designated officer or employee thereof or a  
1198 representative member of the state ~~Long-Term Care~~ ombudsman  
1199 program Council ~~or the local long-term care ombudsman council~~  
1200 shall have the right to enter upon and into the premises of any  
1201 facility licensed pursuant to this part, or any distinct nursing  
1202 home unit of a hospital licensed under chapter 395 or any  
1203 freestanding facility licensed under chapter 395 which ~~that~~  
1204 provides extended care or other long-term care services, at any  
1205 reasonable time in order to determine the state of compliance  
1206 with ~~the provisions of~~ this part, part II of chapter 408, and  
1207 applicable rules in force pursuant thereto. The agency shall,  
1208 within 60 days after receipt of a complaint made by a resident  
1209 or resident's representative, complete its investigation and  
1210 provide to the complainant its findings and resolution.

1211 (4) The agency shall conduct unannounced onsite facility  
1212 reviews following written verification of licensee noncompliance  
1213 in instances in which the state ~~a long-term care~~ ombudsman  
1214 program council, pursuant to ss. 400.0071 and 400.0075, has  
1215 received a complaint and has documented deficiencies in resident  
1216 care or in the physical plant of the facility that threaten the  
1217 health, safety, or security of residents, or when the agency  
1218 documents through inspection that conditions in a facility

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1219 present a direct or indirect threat to the health, safety, or  
1220 security of residents. However, the agency shall conduct  
1221 unannounced onsite reviews every 3 months of each facility while  
1222 the facility has a conditional license. Deficiencies related to  
1223 physical plant do not require followup reviews after the agency  
1224 has determined that correction of the deficiency has been  
1225 accomplished and that the correction is of the nature that  
1226 continued compliance can be reasonably expected.

1227 Section 26. Subsection (1) of section 400.191, Florida  
1228 Statutes, is amended to read:

1229 400.191 Availability, distribution, and posting of reports  
1230 and records.—

1231 (1) The agency shall provide information to the public  
1232 about all of the licensed nursing home facilities operating in  
1233 the state. The agency shall, within 60 days after a licensure  
1234 inspection visit or within 30 days after any interim visit to a  
1235 facility, send copies of the inspection reports to the state  
1236 ~~local long-term care~~ ombudsman program council, the agency's  
1237 local office, and a public library or the county seat for the  
1238 county in which the facility is located. The agency may provide  
1239 electronic access to inspection reports as a substitute for  
1240 sending copies.

1241 Section 27. Subsection (6) and paragraph (c) of subsection  
1242 (7) of section 400.23, Florida Statutes, are amended to read:

1243 400.23 Rules; evaluation and deficiencies; licensure  
1244 status.—

1245 (6) Before ~~Prior to~~ conducting a survey of the facility,  
1246 the survey team shall obtain a copy of the state ~~local long-term~~  
1247 ~~care~~ ombudsman program council report on the facility. Problems

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1248 noted in the report shall be incorporated into and followed up  
1249 through the agency's inspection process. This procedure does not  
1250 preclude the state local long-term care ombudsman program  
1251 ~~council~~ from requesting the agency to conduct a followup visit  
1252 to the facility.

1253 (7) The agency shall, at least every 15 months, evaluate  
1254 all nursing home facilities and make a determination as to the  
1255 degree of compliance by each licensee with the established rules  
1256 adopted under this part as a basis for assigning a licensure  
1257 status to that facility. The agency shall base its evaluation on  
1258 the most recent inspection report, taking into consideration  
1259 findings from other official reports, surveys, interviews,  
1260 investigations, and inspections. In addition to license  
1261 categories authorized under part II of chapter 408, the agency  
1262 shall assign a licensure status of standard or conditional to  
1263 each nursing home.

1264 (c) In evaluating the overall quality of care and services  
1265 and determining whether the facility will receive a conditional  
1266 or standard license, the agency shall consider the needs and  
1267 limitations of residents in the facility and the results of  
1268 interviews and surveys of a representative sampling of  
1269 residents, families of residents, representatives of the state  
1270 ombudsman program ~~council members in the planning and service~~  
1271 ~~area in which the facility is located~~, guardians of residents,  
1272 and staff of the nursing home facility.

1273 Section 28. Paragraph (a) of subsection (3), paragraph (f)  
1274 of subsection (5), and subsection (6) of section 400.235,  
1275 Florida Statutes, are amended to read:

1276 400.235 Nursing home quality and licensure status; Gold

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1277 Seal Program.—

1278 (3) (a) The Gold Seal Program shall be developed and  
1279 implemented by the Governor's Panel on Excellence in Long-Term  
1280 Care which shall operate under the authority of the Executive  
1281 Office of the Governor. The panel shall be composed of three  
1282 persons appointed by the Governor, to include a consumer  
1283 advocate for senior citizens and two persons with expertise in  
1284 the fields of quality management, service delivery excellence,  
1285 or public sector accountability; three persons appointed by the  
1286 Secretary of Elderly Affairs, to include an active member of a  
1287 nursing facility family and resident care council and a member  
1288 of the University Consortium on Aging; the state ~~Long-Term Care~~  
1289 ombudsman; one person appointed by the Florida Life Care  
1290 Residents Association; one person appointed by the State Surgeon  
1291 General; two persons appointed by the Secretary of Health Care  
1292 Administration; one person appointed by the Florida Association  
1293 of Homes for the Aging; and one person appointed by the Florida  
1294 Health Care Association. Vacancies on the panel shall be filled  
1295 in the same manner as the original appointments.

1296 (5) Facilities must meet the following additional criteria  
1297 for recognition as a Gold Seal Program facility:

1298 (f) Evidence that an outstanding record regarding the  
1299 number and types of substantiated complaints received and  
1300 verified by reported to the state ~~Long-Term Care~~ ombudsman  
1301 program Council within the 30 months preceding application have  
1302 been resolved or the facility made a good faith effort to  
1303 resolve the complaints for the program.

1304  
1305 A facility assigned a conditional licensure status may not

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1306 qualify for consideration for the Gold Seal Program until after  
 1307 it has operated for 30 months with no class I or class II  
 1308 deficiencies and has completed a regularly scheduled relicensure  
 1309 survey.

1310 (6) The agency, nursing facility industry organizations,  
 1311 consumers, the state Long-Term-Care ombudsman program Council,  
 1312 and members of the community may recommend to the Governor  
 1313 facilities that meet the established criteria for consideration  
 1314 for and award of the Gold Seal. The panel shall review nominees  
 1315 and make a recommendation to the Governor for final approval and  
 1316 award. The decision of the Governor is final and is not subject  
 1317 to appeal.

1318 Section 29. Present subsection (25) of section 415.102,  
 1319 Florida Statutes, is renumbered as subsection (26), subsections  
 1320 (26) through (28) of that section are renumbered as subsections  
 1321 (28) through (30), respectively, and new subsections (25) and  
 1322 (27) are added to that section to read:

1323 415.102 Definitions of terms used in ss. 415.101-415.113.—  
 1324 As used in ss. 415.101-415.113, the term:

1325 (25) "Representative of the state ombudsman program" has  
 1326 the same meaning as provided in s. 400.0060.

1327 (27) "State ombudsman program" has the same meaning as  
 1328 provided in s. 400.0060.

1329 Section 30. 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:

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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 or  
 1348 law enforcement officer;

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 member or representative of the  
 1353 state Long-Term-Care ombudsman program ~~council member~~; or

1354 8. Bank, savings and loan, or credit union officer,  
 1355 trustee, or employee,

1356  
 1357 who knows, or has reasonable cause to suspect, that a vulnerable  
 1358 adult has been or is being abused, neglected, or exploited shall  
 1359 immediately report such knowledge or suspicion to the central  
 1360 abuse hotline.

1361 Section 31. Subsection (1) of section 415.104, Florida  
 1362 Statutes, is amended to read:

1363 415.104 Protective investigations of cases of abuse,

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1364 neglect, or exploitation of vulnerable adults; transmittal of  
1365 records to state attorney.—

1366 (1) The department shall, upon receipt of a report alleging  
1367 abuse, neglect, or exploitation of a vulnerable adult, begin  
1368 within 24 hours a protective investigation of the facts alleged  
1369 therein. If a caregiver refuses to allow the department to begin  
1370 a protective investigation or interferes with the conduct of  
1371 such an investigation, the appropriate law enforcement agency  
1372 shall be contacted for assistance. If, during the course of the  
1373 investigation, the department has reason to believe that the  
1374 abuse, neglect, or exploitation is perpetrated by a second  
1375 party, the appropriate law enforcement agency and state attorney  
1376 shall be orally notified. The department and the law enforcement  
1377 agency shall cooperate to allow the criminal investigation to  
1378 proceed concurrently with, and not be hindered by, the  
1379 protective investigation. The department shall make a  
1380 preliminary written report to the law enforcement agencies  
1381 within 5 working days after the oral report. The department  
1382 shall, within 24 hours after receipt of the report, notify the  
1383 appropriate Florida local advocacy council, or the state long-  
1384 term care ombudsman program council, when appropriate, that an  
1385 alleged abuse, neglect, or exploitation perpetrated by a second  
1386 party has occurred. Notice to the Florida local advocacy council  
1387 or the state long-term care ombudsman program council may be  
1388 accomplished orally or in writing and shall include the name and  
1389 location of the vulnerable adult alleged to have been abused,  
1390 neglected, or exploited and the nature of the report.

1391 Section 32. Subsection (8) of section 415.1055, Florida  
1392 Statutes, is amended to read:



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1393 415.1055 Notification to administrative entities.—

1394 (8) At the conclusion of a protective investigation at a  
1395 facility, the department shall notify ~~either~~ the Florida local  
1396 advocacy council or the state long-term care ombudsman program  
1397 ~~council~~ of the results of the investigation. This notification  
1398 must be in writing.

1399 Section 33. Subsection (2) of section 415.106, Florida  
1400 Statutes, is amended to read:

1401 415.106 Cooperation by the department and criminal justice  
1402 and other agencies.—

1403 (2) To ensure coordination, communication, and cooperation  
1404 with the investigation of abuse, neglect, or exploitation of  
1405 vulnerable adults, the department shall develop and maintain  
1406 interprogram agreements or operational procedures among  
1407 appropriate departmental programs and the state ~~Long-Term Care~~  
1408 ombudsman program Council, the Florida Statewide Advocacy  
1409 Council, and other agencies that provide services to vulnerable  
1410 adults. These agreements or procedures must cover such subjects  
1411 as the appropriate roles and responsibilities of the department  
1412 in identifying and responding to reports of abuse, neglect, or  
1413 exploitation of vulnerable adults; the provision of services;  
1414 and related coordinated activities.

1415 Section 34. Paragraph (g) of subsection (3) of section  
1416 415.107, Florida Statutes, is amended to read:

1417 415.107 Confidentiality of reports and records.—

1418 (3) Access to all records, excluding the name of the  
1419 reporter which shall be released only as provided in subsection  
1420 (6), shall be granted only to the following persons, officials,  
1421 and agencies:

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1422 (g) Any appropriate official of the Florida advocacy  
 1423 council or the state long-term care ombudsman program council  
 1424 investigating a report of known or suspected abuse, neglect, or  
 1425 exploitation of a vulnerable adult.

1426 Section 35. Present subsections (19) through (22) and (23)  
 1427 through (26) of section 429.02, Florida Statutes, are renumbered  
 1428 as subsections (20) through (23) and (25) through (28),  
 1429 respectively, present subsection (20) is amended, and new  
 1430 subsections (19) and (24) are added to that section, to read:

1431 429.02 Definitions.—When used in this part, the term:

1432 (19) "Representative of the state ombudsman program" has  
 1433 the same meaning as provided in s. 400.0060.

1434 (21)-(20) "Resident's representative or designee" means a  
 1435 person other than the owner, or an agent or employee of the  
 1436 facility, designated in writing by the resident, if legally  
 1437 competent, to receive notice of changes in the contract executed  
 1438 pursuant to s. 429.24; to receive notice of and to participate  
 1439 in meetings between the resident and the facility owner,  
 1440 administrator, or staff concerning the rights of the resident;  
 1441 to assist the resident in contacting the state ombudsman program  
 1442 ~~council~~ if the resident has a complaint against the facility; or  
 1443 to bring legal action on behalf of the resident pursuant to s.  
 1444 429.29.

1445 (24) "State ombudsman program" has the same meaning as  
 1446 provided in s. 400.0060.

1447 Section 36. Paragraph (b) of subsection (3) of section  
 1448 429.07, Florida Statutes, is amended to read:

1449 429.07 License required; fee.—

1450 (3) In addition to the requirements of s. 408.806, each

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1451 license granted by the agency must state the type of care for  
1452 which the license is granted. Licenses shall be issued for one  
1453 or more of the following categories of care: standard, extended  
1454 congregate care, limited nursing services, or limited mental  
1455 health.

1456 (b) An extended congregate care license shall be issued to  
1457 facilities providing, directly or through contract, services  
1458 beyond those authorized in paragraph (a), including services  
1459 performed by persons licensed under part I of chapter 464 and  
1460 supportive services, as defined by rule, to persons who would  
1461 otherwise be disqualified from continued residence in a facility  
1462 licensed under this part.

1463 1. In order for extended congregate care services to be  
1464 provided, the agency must first determine that all requirements  
1465 established in law and rule are met and must specifically  
1466 designate, on the facility's license, that such services may be  
1467 provided and whether the designation applies to all or part of  
1468 the facility. Such designation may be made at the time of  
1469 initial licensure or relicensure, or upon request in writing by  
1470 a licensee under this part and part II of chapter 408. The  
1471 notification of approval or the denial of the request shall be  
1472 made in accordance with part II of chapter 408. Existing  
1473 facilities qualifying to provide extended congregate care  
1474 services must have maintained a standard license and may not  
1475 have been subject to administrative sanctions during the  
1476 previous 2 years, or since initial licensure if the facility has  
1477 been licensed for less than 2 years, for any of the following  
1478 reasons:

1479 a. A class I or class II violation;

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1480           b. Three or more repeat or recurring class III violations  
1481 of identical or similar resident care standards from which a  
1482 pattern of noncompliance is found by the agency;

1483           c. Three or more class III violations that were not  
1484 corrected in accordance with the corrective action plan approved  
1485 by the agency;

1486           d. Violation of resident care standards which results in  
1487 requiring the facility to employ the services of a consultant  
1488 pharmacist or consultant dietitian;

1489           e. Denial, suspension, or revocation of a license for  
1490 another facility licensed under this part in which the applicant  
1491 for an extended congregate care license has at least 25 percent  
1492 ownership interest; or

1493           f. Imposition of a moratorium pursuant to this part or part  
1494 II of chapter 408 or initiation of injunctive proceedings.

1495           2. A facility that is licensed to provide extended  
1496 congregate care services shall maintain a written progress  
1497 report on each person who receives services which describes the  
1498 type, amount, duration, scope, and outcome of services that are  
1499 rendered and the general status of the resident's health. A  
1500 registered nurse, or appropriate designee, representing the  
1501 agency shall visit the facility at least quarterly to monitor  
1502 residents who are receiving extended congregate care services  
1503 and to determine whether ~~if~~ the facility is in compliance with  
1504 this part, part II of chapter 408, and relevant rules. One of  
1505 the visits may be in conjunction with the regular survey. The  
1506 monitoring visits may be provided through contractual  
1507 arrangements with appropriate community agencies. A registered  
1508 nurse shall serve as part of the team that inspects the

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1509 facility. The agency may waive one of the required yearly  
1510 monitoring visits for a facility that has been licensed for at  
1511 least 24 months to provide extended congregate care services,  
1512 if, during the inspection, the registered nurse determines that  
1513 extended congregate care services are being provided  
1514 appropriately, and if the facility has no class I or class II  
1515 violations and no uncorrected class III violations. The agency  
1516 must first consult with the state long-term care ombudsman  
1517 program council for the area in which the facility is located to  
1518 determine whether ~~if~~ any complaints have been made and  
1519 substantiated about the quality of services or care. The agency  
1520 may not waive one of the required yearly monitoring visits if  
1521 complaints have been made and substantiated.

1522 3. A facility that is licensed to provide extended  
1523 congregate care services must:

1524 a. Demonstrate the capability to meet unanticipated  
1525 resident service needs.

1526 b. Offer a physical environment that promotes a homelike  
1527 setting, provides for resident privacy, promotes resident  
1528 independence, and allows sufficient congregate space as defined  
1529 by rule.

1530 c. Have sufficient staff available, taking into account the  
1531 physical plant and firesafety features of the building, to  
1532 assist with the evacuation of residents in an emergency.

1533 d. Adopt and follow policies and procedures that maximize  
1534 resident independence, dignity, choice, and decisionmaking to  
1535 permit residents to age in place, so that moves due to changes  
1536 in functional status are minimized or avoided.

1537 e. Allow residents or, if applicable, a resident's

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1538 representative, designee, surrogate, guardian, or attorney in  
1539 fact to make a variety of personal choices, participate in  
1540 developing service plans, and share responsibility in  
1541 decisionmaking.

1542 f. Implement the concept of managed risk.

1543 g. Provide, directly or through contract, the services of a  
1544 person licensed under part I of chapter 464.

1545 h. In addition to the training mandated in s. 429.52,  
1546 provide specialized training as defined by rule for facility  
1547 staff.

1548 4. A facility that is licensed to provide extended  
1549 congregate care services is exempt from the criteria for  
1550 continued residency set forth in rules adopted under s. 429.41.  
1551 A licensed facility must adopt its own requirements within  
1552 guidelines for continued residency set forth by rule. However,  
1553 the facility may not serve residents who require 24-hour nursing  
1554 supervision. A licensed facility that provides extended  
1555 congregate care services must also provide each resident with a  
1556 written copy of facility policies governing admission and  
1557 retention.

1558 5. The primary purpose of extended congregate care services  
1559 is to allow residents, as they become more impaired, the option  
1560 of remaining in a familiar setting from which they would  
1561 otherwise be disqualified for continued residency. A facility  
1562 licensed to provide extended congregate care services may also  
1563 admit an individual who exceeds the admission criteria for a  
1564 facility with a standard license, if the individual is  
1565 determined appropriate for admission to the extended congregate  
1566 care facility.

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1567           6. Before the admission of an individual to a facility  
1568 licensed to provide extended congregate care services, the  
1569 individual must undergo a medical examination as provided in s.  
1570 429.26(4) and the facility must develop a preliminary service  
1571 plan for the individual.

1572           7. When a facility can no longer provide or arrange for  
1573 services in accordance with the resident's service plan and  
1574 needs and the facility's policy, the facility shall make  
1575 arrangements for relocating the person in accordance with s.  
1576 429.28(1) (k).

1577           8. Failure to provide extended congregate care services may  
1578 result in denial of extended congregate care license renewal.

1579           Section 37. Subsection (9) of section 429.19, Florida  
1580 Statutes, is amended to read:

1581           429.19 Violations; imposition of administrative fines;  
1582 grounds.—

1583           (9) The agency shall develop and disseminate an annual list  
1584 of all facilities sanctioned or fined for violations of state  
1585 standards, the number and class of violations involved, the  
1586 penalties imposed, and the current status of cases. The list  
1587 shall be disseminated, at no charge, to the Department of  
1588 Elderly Affairs, the Department of Health, the Department of  
1589 Children and Families, the Agency for Persons with Disabilities,  
1590 the area agencies on aging, the Florida Statewide Advocacy  
1591 Council, and the state ~~and local~~ ombudsman program ~~councils~~. The  
1592 Department of Children and Families shall disseminate the list  
1593 to service providers under contract to the department who are  
1594 responsible for referring persons to a facility for residency.  
1595 The agency may charge a fee commensurate with the cost of

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1596 printing and postage to other interested parties requesting a  
1597 copy of this list. This information may be provided  
1598 electronically or through the agency's Internet site.

1599 Section 38. Subsection (8) of section 429.26, Florida  
1600 Statutes, is amended to read:

1601 429.26 Appropriateness of placements; examinations of  
1602 residents.—

1603 (8) The Department of Children and Families may require an  
1604 examination for supplemental security income and optional state  
1605 supplementation recipients residing in facilities at any time  
1606 and shall provide the examination whenever a resident's  
1607 condition requires it. Any facility administrator; personnel of  
1608 the agency, the department, or the Department of Children and  
1609 Families; or representative of the state ombudsman program ~~long-~~  
1610 ~~term care ombudsman council member~~ who believes a resident needs  
1611 to be evaluated shall notify the resident's case manager, who  
1612 shall take appropriate action. A report of the examination  
1613 findings shall be provided to the resident's case manager and  
1614 the facility administrator to help the administrator meet his or  
1615 her responsibilities under subsection (1).

1616 Section 39. Subsection (2) and paragraph (b) of subsection  
1617 (3) of section 429.28, Florida Statutes, are amended to read:

1618 429.28 Resident bill of rights.—

1619 (2) The administrator of a facility shall ensure that a  
1620 written notice of the rights, obligations, and prohibitions set  
1621 forth in this part is posted in a prominent place in each  
1622 facility and read or explained to residents who cannot read.  
1623 This notice must ~~shall~~ include the statewide toll-free telephone  
1624 number and e-mail address of the state ombudsman program and the



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1625 ~~telephone number of the name, address, and telephone numbers of~~  
 1626 ~~the local ombudsman council and~~ central abuse hotline and, when  
 1627 applicable, the Advocacy Center for Persons with Disabilities,  
 1628 Inc., and the Florida local advocacy council, where complaints  
 1629 may be lodged. The facility must ensure a resident's access to a  
 1630 telephone to call the state local ombudsman program council, the  
 1631 central abuse hotline, the Advocacy Center for Persons with  
 1632 Disabilities, Inc., and the Florida local advocacy council.

1633 (3)

1634 (b) In order to determine whether the facility is  
 1635 adequately protecting residents' rights, the biennial survey  
 1636 shall include private informal conversations with a sample of  
 1637 residents and consultation with the state ombudsman program  
 1638 ~~council~~ in the planning and service area in which the facility  
 1639 is located to discuss residents' experiences within the  
 1640 facility.

1641 Section 40. Section 429.34, Florida Statutes, is amended to  
 1642 read:

1643 429.34 Right of entry and inspection.—In addition to the  
 1644 requirements of s. 408.811, a ~~any~~ duly designated officer or  
 1645 employee of the department, the Department of Children and  
 1646 Families, the Medicaid Fraud Control Unit of the Office of the  
 1647 Attorney General, the state or local fire marshal, or a  
 1648 representative member of the state ~~or local long-term care~~  
 1649 ombudsman program may council ~~shall have the right to enter~~  
 1650 unannounced upon and into the premises of any facility licensed  
 1651 under ~~pursuant to~~ this part in order to determine the state of  
 1652 compliance with ~~the provisions of~~ this part, part II of chapter  
 1653 408, and applicable rules. Data collected by the state ~~or local~~

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1654 ~~long-term care~~ ombudsman program ~~councils~~ or the state or local  
1655 advocacy councils may be used by the agency in investigations  
1656 involving violations of regulatory standards.

1657 Section 41. Subsection (2) of section 429.35, Florida  
1658 Statutes, is amended to read:

1659 429.35 Maintenance of records; reports.—

1660 (2) Within 60 days after the date of the biennial  
1661 inspection visit required under s. 408.811 or within 30 days  
1662 after the date of any interim visit, the agency shall forward  
1663 the results of the inspection to the state ~~local~~ ombudsman  
1664 program council ~~in whose planning and service area, as defined~~  
1665 ~~in part II of chapter 400, the facility is located;~~ to at least  
1666 one public library or, in the absence of a public library, the  
1667 county seat in the county in which the inspected assisted living  
1668 facility is located; and, when appropriate, to the district  
1669 Adult Services and Mental Health Program Offices.

1670 Section 42. Subsection (6) of section 429.67, Florida  
1671 Statutes, is amended to read:

1672 429.67 Licensure.—

1673 (6) In addition to the requirements of s. 408.811, access  
1674 to a licensed adult family-care home must be provided at  
1675 reasonable times for the appropriate officials of the  
1676 department, the Department of Health, the Department of Children  
1677 and Families, the agency, and the State Fire Marshal, who are  
1678 responsible for the development and maintenance of fire, health,  
1679 sanitary, and safety standards, to inspect the facility to  
1680 assure compliance with these standards. In addition, access to a  
1681 licensed adult family-care home must be provided at reasonable  
1682 times to representatives of the state ~~for the local long-term~~

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1683 ~~are~~ ombudsman program ~~council~~.

1684 Section 43. Subsection (2) of section 429.85, Florida  
1685 Statutes, is amended to read:

1686 429.85 Residents' bill of rights.—

1687 (2) The provider shall ensure that residents and their  
1688 legal representatives are made aware of the rights, obligations,  
1689 and prohibitions set forth in this part. Residents must also be  
1690 given the statewide toll-free telephone number and e-mail  
1691 address of the state ombudsman program and the telephone number  
1692 of names, addresses, and telephone numbers of the local  
1693 ~~ombudsman council~~ and the central abuse hotline where they may  
1694 lodge complaints.

1695 Section 44. Present subsections (19) through (22) of  
1696 section 744.102, Florida Statutes, are renumbered as subsections  
1697 (20) through (23), respectively, and a new subsection (19) is  
1698 added to that section to read:

1699 744.102 Definitions.—As used in this chapter, the term:

1700 (19) "Representative of the state ombudsman program" has  
1701 the same meaning as provided in s. 400.0060.

1702 Section 45. Subsection (17) of section 744.444, Florida  
1703 Statutes, is amended to read:

1704 744.444 Power of guardian without court approval.—Without  
1705 obtaining court approval, a plenary guardian of the property, or  
1706 a limited guardian of the property within the powers granted by  
1707 the order appointing the guardian or an approved annual or  
1708 amended guardianship report, may:

1709 (17) Provide confidential information about a ward which  
1710 ~~that~~ is related to an investigation arising under part I of  
1711 chapter 400 to a representative of the local or state ombudsman

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1712 program ~~council member~~ conducting such an investigation. Any  
1713 such ombudsman shall have a duty to maintain the confidentiality  
1714 of such information.

1715 Section 46. This act shall take effect July 1, 2015.