

**By** the Committees on Appropriations; and Children, Families, and Elder Affairs

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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 defining  
4       terms; 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 State Long-Term Care Ombudsman Program;  
9       amending s. 400.0063, F.S.; deleting references to  
10      ombudsman councils and the Office of the State Long-  
11      Term Care Ombudsman and replacing them with the State  
12      Long-Term Care Ombudsman Program; amending s.  
13      400.0065, F.S.; revising the duties and authority of  
14      the state ombudsman; requiring the state ombudsman to  
15      submit an annual report to the Governor, the  
16      Legislature, and specified agencies and entities;  
17      amending s. 400.0067, F.S.; revising duties and  
18      membership of the State Long-Term Care Ombudsman  
19      Council; amending s. 400.0069, F.S.; requiring the  
20      state ombudsman to designate and direct program  
21      districts; requiring each district to conduct  
22      quarterly public meetings; providing duties of  
23      representatives of the program in the districts;  
24      revising the appointments of and qualifications for  
25      district ombudsmen; prohibiting certain individuals  
26      from serving as ombudsmen; amending s. 400.0070, F.S.;  
27      providing conditions under which a representative of  
28      the program could be found to have a conflict of  
29      interest; requiring the Department of Elderly Affairs,

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

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

68

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

70

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

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

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

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

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

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

87 (5) ~~(4)~~ "Local council" means a local long-term care

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

91 (6)~~(5)~~ "Long-term care facility" means a nursing home  
92 facility, assisted living facility, adult family-care home,  
93 board and care facility, or any other similar residential adult  
94 care facility.

95 (7)~~(6)~~ "Office" means the Office of the State Long-Term  
96 Care Ombudsman Program created by s. 400.0063.

97 (8)~~(7)~~ "Ombudsman" means an individual who has been  
98 certified by the state ombudsman as meeting the requirements of  
99 ss. 400.0069, 400.0070, and 400.0091 ~~the individual appointed by~~  
100 ~~the Secretary of Elderly Affairs to head the Office of State~~  
101 ~~Long-Term Care Ombudsman.~~

102 (9) "Representative of the State Long-Term Care Ombudsman  
103 Program" means the state ombudsman, an employee of the state or  
104 district office certified as an ombudsman or an individual  
105 certified as an ombudsman serving on the state or a local  
106 council.

107 (10)~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age  
108 or older who resides in a long-term care facility.

109 (11)~~(9)~~ "Secretary" means the Secretary of Elderly Affairs.

110 (12)~~(10)~~ "State council" means the State Long-Term Care  
111 Ombudsman Council created by s. 400.0067.

112 (13) "State ombudsman" means the State Long-Term Care  
113 Ombudsman, who is the individual appointed by the Secretary of  
114 Elderly Affairs to head the State Long-Term Care Ombudsman  
115 Program.

116 (14) "State ombudsman program" means the State Long-Term

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117 Care Ombudsman Program operating under the direction of the  
118 State Long-Term Care Ombudsman.

119 Section 2. Section 400.0061, Florida Statutes, is amended  
120 to read:

121 400.0061 Legislative findings and intent; long-term care  
122 facilities.—

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

143 (2) It is the intent of the Legislature, therefore, to use  
144 ~~utilize~~ voluntary citizen ombudsman councils under the  
145 leadership of the State Long-Term Care Ombudsman ~~ombudsman,~~ and,

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146 through them, to operate a state ~~an~~ ombudsman program, which  
147 shall, without interference by any executive agency, undertake  
148 to discover, investigate, and determine the presence of  
149 conditions or individuals that ~~which~~ constitute a threat to the  
150 rights, health, safety, or welfare of the residents of long-term  
151 care facilities. To ensure that the effectiveness and efficiency  
152 of such investigations are not impeded by advance notice or  
153 delay, the Legislature intends that the representatives of the  
154 State Long-Term Care Ombudsman Program ~~ombudsman and ombudsman~~  
155 ~~councils and their designated representatives~~ not be required to  
156 obtain warrants in order to enter into or conduct investigations  
157 or onsite administrative assessments of long-term care  
158 facilities. It is the further intent of the Legislature that the  
159 environment in long-term care facilities be conducive to the  
160 dignity and independence of residents and that investigations by  
161 representatives of the State Long-Term Care Ombudsman Program  
162 ~~ombudsman councils~~ shall further the enforcement of laws, rules,  
163 and regulations that safeguard the health, safety, and welfare  
164 of residents.

165 Section 3. Section 400.0063, Florida Statutes, is amended  
166 to read:

167 400.0063 Establishment of the ~~Office of~~ State Long-Term  
168 Care Ombudsman Program; designation of ombudsman and legal  
169 advocate.—

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

172 (2) (a) The ~~Office of~~ State Long-Term Care Ombudsman Program  
173 shall be headed by the State Long-Term Care Ombudsman, who shall  
174 serve on a full-time basis and shall personally, or through

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175 representatives of the program ~~office~~, carry out its ~~the~~  
176 purposes and functions ~~of the office~~ in accordance with state  
177 and federal law.

178 (b) The state ombudsman shall be appointed by and shall  
179 serve at the pleasure of the Secretary of Elderly Affairs. The  
180 secretary shall appoint a person who has expertise and  
181 experience in the fields of long-term care and advocacy to serve  
182 as state ombudsman.

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

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

189 1. Assisting the state ombudsman in carrying out the duties  
190 of the office with respect to the abuse, neglect, exploitation  
191 or violation of rights of residents of long-term care  
192 facilities.

193 2. Assisting the representatives of the State Long-Term  
194 Care Ombudsman Program ~~state and local councils~~ in carrying out  
195 their responsibilities under this part.

196 3. Pursuing administrative, legal, and other appropriate  
197 remedies on behalf of residents.

198 4. Serving as legal counsel to the representatives of the  
199 State Long-Term Care Ombudsman Program in ~~state and local~~  
200 ~~councils, or individual members thereof, against whom~~ any suit  
201 or other legal action that is initiated in connection with the  
202 performance of the official duties of the representatives of the  
203 State Long-Term Care Ombudsman Program ~~councils or an individual~~

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204 ~~member.~~

205 Section 4. Section 400.0065, Florida Statutes, is amended  
206 to read:

207 400.0065 State Long-Term Care Ombudsman Program; duties and  
208 responsibilities.—

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

211 (a) Identify, investigate, and resolve complaints made by  
212 or on behalf of residents of long-term care facilities relating  
213 to actions or omissions by providers or representatives of  
214 providers of long-term care services, other public or private  
215 agencies, guardians, or representative payees that may adversely  
216 affect the health, safety, welfare, or rights of the residents.

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

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

222 (d) Ensure that residents have regular and timely access to  
223 the services provided through the State Long-Term Care Program  
224 ~~office~~ and that residents and complainants receive timely  
225 responses from representatives of the State Long-Term Care  
226 Program ~~office~~ to their complaints.

227 (e) Represent the interests of residents before  
228 governmental agencies and seek administrative, legal, and other  
229 remedies to protect the health, safety, welfare, and rights of  
230 the residents.

231 (f) Administer the state and local councils.

232 (g) Analyze, comment on, and monitor the development and



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233 implementation of federal, state, and local laws, rules, and  
234 regulations, and other governmental policies and actions, that  
235 pertain to the health, safety, welfare, and rights of the  
236 residents, with respect to the adequacy of long-term care  
237 facilities and services in the state, and recommend any changes  
238 in such laws, rules, regulations, policies, and actions as the  
239 office determines to be appropriate and necessary.

240 (h) Provide technical support for the development of  
241 resident and family councils to protect the well-being and  
242 rights of residents.

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

245 (a) Establish and coordinate districts and local councils  
246 throughout the state.

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

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

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262 Ombudsman Program for purposes of this part.

263 (d) Contract for services necessary to carry out the  
264 activities of the office.

265 (e) Apply for, receive, and accept grants, gifts, or other  
266 payments, including, but not limited to, real property, personal  
267 property, and services from a governmental entity or other  
268 public or private entity or person, and make arrangements for  
269 the use of such grants, gifts, or payments.

270 (f) Coordinate, to the greatest extent possible, state and  
271 local ombudsman services with the protection and advocacy  
272 systems for individuals with developmental disabilities and  
273 mental illnesses and with legal assistance programs for the poor  
274 through adoption of memoranda of understanding and other means.

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

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

281 (h)~~(i)~~ Prepare an annual report describing the activities  
282 carried out by the office, the state council, the districts and  
283 the local councils in the year for which the report is prepared.  
284 The state ombudsman shall submit the report to the secretary,  
285 the United States Assistant Secretary for Aging, the Governor,  
286 the President of the Senate, the Speaker of the House of  
287 Representatives, the Secretary of Children and Families, and the  
288 Secretary of the Agency for Health Care Administration at least  
289 30 days before the convening of the regular session of the  
290 Legislature. ~~The secretary shall in turn submit the report to~~

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291 ~~the United States Assistant Secretary for Aging, the Governor,~~  
292 ~~the President of the Senate, the Speaker of the House of~~  
293 ~~Representatives, the Secretary of Children and Families, and the~~  
294 ~~Secretary of Health Care Administration.~~ The report must ~~shall~~,  
295 at a minimum:

296 1. Contain and analyze data collected concerning complaints  
297 about and conditions in long-term care facilities and the  
298 disposition of such complaints.

299 2. Evaluate the problems experienced by residents.

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

304 4. Provide recommendations for policy, regulatory, and  
305 statutory changes designed to solve identified problems; resolve  
306 residents' complaints; improve residents' lives and quality of  
307 care; protect residents' rights, health, safety, and welfare;  
308 and remove any barriers to the optimal operation of the State  
309 Long-Term Care Ombudsman Program.

310 5. Contain recommendations from the State Long-Term Care  
311 Ombudsman Council regarding program functions and activities and  
312 recommendations for policy, regulatory, and statutory changes  
313 designed to protect residents' rights, health, safety, and  
314 welfare.

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

318 Section 5. Section 400.0067, Florida Statutes, is amended  
319 to read:

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320 400.0067 State Long-Term Care Ombudsman Council; duties;  
321 membership.—

322 (1) There is created within the ~~Office of~~ State Long-Term  
323 Care Ombudsman Program, the State Long-Term Care Ombudsman  
324 Council.

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

326 (a) Serve as an advisory body to assist the state ombudsman  
327 in reaching a consensus among districts and local councils on  
328 issues affecting residents and impacting the optimal operation  
329 of the program.

330 (b) Serve as an appellate body in receiving from the  
331 districts or local councils complaints not resolved at the  
332 district or local level. Any individual member or members of the  
333 state council may enter any long-term care facility involved in  
334 an appeal, pursuant to the conditions specified in s.

335 400.0074(2).

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

340 (d) Assist the ombudsman in eliciting, receiving,  
341 responding to, and resolving complaints made by or on behalf of  
342 residents.

343 (e) Elicit and coordinate state, district, local, and  
344 voluntary organizational assistance for the purpose of improving  
345 the care received by residents.

346 (f) Assist the state ombudsman in preparing the annual  
347 report described in s. 400.0065.

348 (3) The State Long-Term Care Ombudsman Council consists

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349 ~~shall be composed~~ of one active certified ombudsman from each  
350 local council in a district ~~member elected by each local council~~  
351 plus three at-large members ~~appointed by the Governor.~~

352 (a) Each local council in a district must select ~~shall~~  
353 ~~elect by majority vote~~ a representative of its choice to serve  
354 ~~from among the council members to represent the interests of the~~  
355 local council on the state council. A local council chair may  
356 not serve as the representative of the local council on the  
357 state council.

358 (b)1. The state ombudsman secretary, ~~after consulting with~~  
359 ~~the ombudsman~~, shall submit to the secretary ~~Governor~~ a list of  
360 individuals ~~persons~~ recommended for appointment to the at-large  
361 positions on the state council. The list may ~~shall~~ not include  
362 the name of any individual ~~person~~ who is currently serving in a  
363 district ~~on a local council.~~

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

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

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

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

374 3. A local council may recommend replacement ~~removal~~ of its  
375 selected ~~elected~~ representative from the state council ~~by a~~  
376 ~~majority vote~~. If the council votes to replace ~~remove~~ its  
377 representative, the local council chair shall immediately notify

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378 the state ombudsman. ~~The secretary shall advise the Governor of~~  
379 ~~the local council's vote upon receiving notice from the~~  
380 ~~ombudsman.~~

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

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

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

390 2. The chair shall select a vice chair from among the  
391 members. The vice chair shall preside over the state council in  
392 the absence of the chair.

393 3. The chair may create additional executive positions as  
394 necessary to carry out the duties of the state council. Any  
395 person appointed to an executive position shall serve at the  
396 pleasure of the chair, and his or her term shall expire on the  
397 same day as the term of the chair.

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

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407 subsequent consecutive terms.

408 (d)~~(e)~~1. The state council shall meet upon the call of the  
409 chair or upon the call of the state ombudsman. The state council  
410 shall meet at least quarterly but may meet more frequently as  
411 needed.

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

415 3. The state council may not vote on or otherwise make any  
416 decisions resulting in a recommendation that will directly  
417 impact the state council, the district, or any local council,  
418 outside of a publicly noticed meeting at which a quorum is  
419 present.

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

424 Section 6. Section 400.0069, Florida Statutes, is amended  
425 to read:

426 400.0069 Long-term care ombudsman districts; local long-  
427 term care ombudsman councils; duties; appointment ~~membership~~.

428 (1) (a) The state ombudsman shall designate districts and  
429 each district shall designate local long-term care ombudsman  
430 councils to carry out the duties of the State Long-Term Care  
431 Ombudsman Program within local communities. Each district ~~local~~  
432 ~~council~~ shall function under the direction of the state  
433 ombudsman.

434 (b) The state ombudsman shall ensure that there is at least  
435 one employee of the department certified as a long-term care

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436 ombudsman and a least one local council operating in each  
437 district of the department's planning and service areas. The  
438 state ombudsman may create additional local councils as  
439 necessary to ensure that residents throughout the state have  
440 adequate access to State Long-Term Care Ombudsman Program  
441 services. ~~The ombudsman, after approval from the secretary,~~  
442 ~~shall designate the jurisdictional boundaries of each local~~  
443 ~~council.~~

444 (c) Each district shall convene a public meeting at least  
445 quarterly.

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

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

451 (b) Discover, investigate, and determine the existence of  
452 abuse, or neglect, or exploitation in any long-term care  
453 facility and to use the procedures provided for in ss. 415.101-  
454 415.113 when applicable.

455 (c) Identify ~~Elicit, receive,~~ investigate, ~~respond to,~~ and  
456 resolve complaints made by or on behalf of residents relating to  
457 actions or omissions by providers of long-term care services,  
458 other public agencies, guardians, or representative payees which  
459 may adversely affect the health, safety, welfare, or rights of  
460 residents.

461 (d) Review and, if necessary, comment on all existing or  
462 proposed rules, regulations, and other governmental policies and  
463 actions relating to long-term care facilities that may  
464 potentially have an effect on the ~~rights,~~ health, safety,



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465 welfare, and rights ~~welfare~~ of residents.

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

470 (f) Recommend that the state ombudsman and the legal  
471 advocate seek administrative, legal, and other remedies to  
472 protect the health, safety, welfare, and rights of ~~the~~  
473 residents.

474 (g) Provide technical assistance for the development of  
475 resident and family councils at long-term care facilities.

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

478 (3) In order to carry out the duties specified in  
479 subsection (2), a representative of the State Long-Term Care  
480 Ombudsman Program or a member of a local council is authorized  
481 to enter any long-term care facility without notice or first  
482 obtaining a warrant; ~~however, subject to the provisions of s.~~  
483 400.0074(2) may apply regarding notice of a followup  
484 administrative assessment.

485 (4) Each district and local council shall be composed of  
486 ombudsmen ~~members~~ whose primary residences are ~~residence is~~  
487 located within the boundaries of the district ~~local council's~~  
488 jurisdiction.

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

493 1. At least one medical or osteopathic physician whose

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494 practice includes or has included a substantial number of  
495 geriatric patients and who may practice in a long-term care  
496 facility;

497 2. At least one registered nurse who has geriatric  
498 experience;

499 3. At least one licensed pharmacist;

500 4. At least one registered dietitian;

501 5. At least six nursing home residents or representative  
502 consumer advocates for nursing home residents;

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

506 7. At least one attorney; and

507 8. At least one professional social worker.

508 (b) The following individuals may not be appointed as  
509 ombudsmen:

510 1. The owner or representative of a long-term care  
511 facility.

512 2. A provider or representative of a provider of long-term  
513 care service.

514 3. An employee of the agency.

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

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

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

519 ~~(b) In no case shall the medical director of a long-term~~  
520 ~~care facility or an employee of the agency, the department, the~~  
521 ~~Department of Children and Families, or the Agency for Persons~~  
522 ~~with Disabilities serve as a member or as an ex officio member~~

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523 ~~of a council.~~

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

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

527 ~~The ombudsman shall review the individual's application and~~  
528 ~~advise the secretary of his or her recommendation for approval~~  
529 ~~or disapproval of the candidate's membership on the local~~  
530 ~~council. If the secretary approves of the individual's~~  
531 ~~membership, the individual shall be appointed as a member of the~~  
532 ~~local council.~~

533 2. Successfully complete a level 2 background screening  
534 pursuant to s. 430.0402 and chapter 435.

535 (b) The state ombudsman shall approve or deny the  
536 appointment of the individual as an ombudsman ~~secretary may~~  
537 ~~rescind the ombudsman's approval of a member on a local council~~  
538 ~~at any time.~~ If the state ombudsman ~~secretary~~ rescinds the  
539 approval of a member on a local council, the state ombudsman  
540 shall ensure that the individual is immediately removed from the  
541 local council on which he or she serves and the individual may  
542 no longer represent the State Long-Term Care Ombudsman Program  
543 until the state ombudsman ~~secretary~~ provides his or her  
544 approval.

545 (c) Upon appointment as an ombudsman, the individual may  
546 participate in district activities, but may not represent the  
547 program or conduct any authorized program duties until the  
548 individual has completed the initial training specified in s.  
549 400.0091(1) and has been certified by the state ombudsman.

550 (d) The state ombudsman may rescind the appointment of an  
551 individual as an ombudsman for good cause shown, such as

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552 development of a conflict of interest, failure to adhere to the  
553 policies and procedures established by the State Long-Term Care  
554 Ombudsman Program, or demonstrated inability to carry out the  
555 responsibilities of the program. After the appointment is  
556 rescinded, the individual may not conduct any duties as an  
557 ombudsman and may not represent the State Long-Term Care  
558 Ombudsman Program.

559 (e) ~~(e)~~ A local council may recommend the removal of one or  
560 more of its members by submitting to the state ombudsman a  
561 resolution adopted by a two-thirds vote of the members of the  
562 council stating the name of the member or members recommended  
563 for removal and the reasons for the recommendation. If such a  
564 recommendation is adopted by a local council, the local council  
565 chair or district manager ~~coordinator~~ shall immediately report  
566 the council's recommendation to the state ombudsman. The state  
567 ombudsman shall review the recommendation of the local council  
568 and advise the district manager and local council chair  
569 ~~secretary~~ of his or her decision ~~recommendation~~ regarding  
570 removal of the council member or members.

571 (6) (a) Each local council shall elect a chair for a term of  
572 1 year. There shall be no limitation on the number of terms that  
573 an approved member of a local council may serve as chair.

574 (b) The chair shall select a vice chair from among the  
575 members of the council. The vice chair shall preside over the  
576 council in the absence of the chair.

577 (c) The chair may create additional executive positions as  
578 necessary to carry out the duties of the local council. Any  
579 person appointed to an executive position shall serve at the  
580 pleasure of the chair, and his or her term shall expire on the

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581 same day as the term of the chair.

582 (d) A chair may be immediately removed from office prior to  
583 the expiration of his or her term by a vote of two-thirds of the  
584 members of the local council. If any chair is removed from  
585 office before ~~prior to~~ the expiration of his or her term, a  
586 replacement chair shall be elected during the same meeting, and  
587 the term of the replacement chair shall begin immediately. The  
588 replacement chair shall serve for the remainder of the term of  
589 the person he or she replaced.

590 (7) Each local council shall meet upon the call of its  
591 chair or upon the call of the ombudsman. Each local council  
592 shall meet at least once a month but may meet more frequently if  
593 necessary.

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

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

606 Section 7. Section 400.0070, Florida Statutes, is amended  
607 to read:

608 400.0070 Conflicts of interest.—

609 (1) A representative of the State Long-Term Care Ombudsman

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610 Program may ~~The ombudsman shall~~ not:

611 (a) Have a direct involvement in the licensing or  
612 certification of, or an ownership or investment interest in, a  
613 long-term care facility or a provider of a long-term care  
614 service.

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

617 (c) Receive, or have a right to receive, directly or  
618 indirectly, remuneration, in cash or in kind, under a  
619 compensation agreement with the owner or operator of a long-term  
620 care facility.

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

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

627 (a) Situations that constitute a ~~person having a~~ conflict  
628 of interest which ~~that~~ could materially affect the objectivity  
629 or capacity of an individual ~~a person~~ to serve as a  
630 representative of the State Long-Term Care Ombudsman Program  
631 while carrying out the purposes of the State Long-Term Care  
632 Program as specified in this part ~~on an ombudsman council, or as~~  
633 ~~an employee of the office, while carrying out the purposes of~~  
634 ~~the State Long-Term Care Ombudsman Program as specified in this~~  
635 ~~part.~~

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

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639 Section 8. Section 400.0071, Florida Statutes, is amended  
640 to read:

641 400.0071 State Long-Term Care Ombudsman Program complaint  
642 procedures.—The department, in consultation with the state  
643 ombudsman, shall adopt rules implementing state and local  
644 complaint procedures. The rules must include procedures for  
645 receiving, investigating, identifying, and resolving complaints  
646 concerning the health, safety, welfare, and rights of  
647 residents.†

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

650 ~~(2) Conducting investigations of a long-term care facility~~  
651 ~~or an employee of a long-term care facility subsequent to~~  
652 ~~receiving a complaint.~~

653 ~~(3) Conducting onsite administrative assessments of long-~~  
654 ~~term care facilities.~~

655 Section 9. Section 400.0073, Florida Statutes, is amended  
656 to read:

657 400.0073 State and local ombudsman council investigations.—

658 (1) A representative of the State Long-Term Care Ombudsman  
659 Program local council shall identify and investigate, within a  
660 reasonable time after a complaint is made, by or on behalf any  
661 ~~complaint~~ of a resident relating to actions or omissions by  
662 providers or representatives of providers of long-term care  
663 services, other public agencies, guardians, or representative  
664 payees which may adversely affect the health, safety, welfare,  
665 or rights of residents., ~~a representative of a resident, or any~~  
666 ~~other credible source based on an action or omission by an~~  
667 ~~administrator, an employee, or a representative of a long-term~~

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668 ~~care facility which might be:~~

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

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

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

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

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

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

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

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

680 ~~(2)~~<sup>(3)</sup> Subsequent to an appeal from a local council, the  
 681 state council may investigate any complaint received by the  
 682 local council involving a long-term care facility or a resident.

683 ~~(3)~~<sup>(4)</sup> If a representative of the State Long-Term Care  
 684 Ombudsman Program ~~the ombudsman or any state or local council~~  
 685 ~~member~~ is not allowed to enter a long-term care facility, the  
 686 administrator of the facility shall be considered to have  
 687 interfered with a representative of the State Long-Term Care  
 688 Ombudsman Program ~~office, the state council, or the local~~  
 689 ~~council~~ in the performance of official duties as described in s.  
 690 400.0083(1) and to have violated ~~committed a violation of~~ this  
 691 part. The representative of the State Long-Term Care Ombudsman  
 692 Program ~~ombudsman~~ shall report a facility's refusal to allow  
 693 entry to the state ombudsman or his or her designee, who shall  
 694 report the incident to the agency, and the agency shall record  
 695 the report and take it into consideration when determining  
 696 actions allowable under s. 400.102, s. 400.121, s. 429.14, s.



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697 429.19, s. 429.69, or s. 429.71.

698 Section 10. Section 400.0074, Florida Statutes, is amended  
699 to read:

700 400.0074 Local ombudsman council onsite administrative  
701 assessments.—

702 (1) A representative of the State Long-Term Care Ombudsman  
703 Program shall ~~In addition to any specific investigation~~  
704 ~~conducted pursuant to a complaint, the local council shall~~  
705 conduct, at least annually, an onsite administrative assessment  
706 of each nursing home, assisted living facility, and adult  
707 family-care home ~~within its jurisdiction~~. This administrative  
708 assessment must be resident-centered and must ~~shall~~ focus on  
709 factors affecting the rights, health, safety, and welfare of the  
710 residents. Each local council is encouraged to conduct a similar  
711 onsite administrative assessment of each additional long-term  
712 care facility within its jurisdiction.

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

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

720 (b) An administrative assessment shall be conducted at a  
721 time and for a duration necessary to produce the information  
722 required to complete the assessment ~~carry out the duties of the~~  
723 ~~local council.~~

724 (c) Advance notice of an administrative assessment may not  
725 be provided to a long-term care facility, except that notice of

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726 followup assessments on specific problems may be provided.

727 (d) A representative of the State Long-Term Care Ombudsman  
728 Program local council member ~~physically~~ present for the  
729 administrative assessment must ~~shall~~ identify himself or herself  
730 to the administrator and cite the specific statutory authority  
731 ~~for his or her assessment~~ of the facility or his or her  
732 designee.

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

735 (f) A representative of the State Long-Term Care Ombudsman  
736 Program local council member may not enter a single-family  
737 residential unit within a long-term care facility during an  
738 administrative assessment without the permission of the resident  
739 or the representative of the resident.

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

743 (3) Regardless of jurisdiction, the state ombudsman may  
744 authorize a state or local council member to assist another  
745 local council to perform the administrative assessments  
746 described in this section.

747 (4) An onsite administrative assessment may not be  
748 accomplished by forcible entry. However, if a representative of  
749 the State Long-Term Care Ombudsman Program ~~the ombudsman or a~~  
750 ~~state or local council member~~ is not allowed to enter a long-  
751 term care facility, the administrator of the facility shall be  
752 considered to have interfered with a representative of the State  
753 Long-Term Care Ombudsman Program ~~office, the state council, or~~  
754 ~~the local council~~ in the performance of official duties as

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755 described in s. 400.0083(1) and to have committed a violation of  
756 this part. The representative of the State Long-Term Care  
757 Ombudsman Program ~~ombudsman~~ shall report the refusal by a  
758 facility to allow entry to the state ombudsman or his or her  
759 designee, who shall report the incident to the agency, and the  
760 agency shall record the report and take it into consideration  
761 when determining actions allowable under s. 400.102, s. 400.121,  
762 s. 429.14, s. 429.19, s. 429.69, or s. 429.71.

763 (5) The department, in consultation with the state  
764 ombudsman, may adopt rules implementing procedures for  
765 conducting onsite administrative assessments of long-term care  
766 facilities.

767 Section 11. Section 400.0075, Florida Statutes, is amended  
768 to read:

769 400.0075 Complaint notification and resolution procedures.-

770 (1) (a) Any complaint ~~or problem~~ verified by a  
771 representative of the State Long-Term Care Ombudsman Program ~~an~~  
772 ~~ombudsman council~~ as a result of an investigation which is  
773 determined by the local council to require remedial action may  
774 ~~or onsite administrative assessment, which complaint or problem~~  
775 ~~is determined to require remedial action by the local council,~~  
776 ~~shall~~ be identified and brought to the attention of the long-  
777 term care facility administrator subject to the confidentiality  
778 provisions of s. 400.0077 in writing. Upon receipt of the  
779 information ~~such document,~~ the administrator, with the  
780 concurrence of the representative of the State Long-Term Care  
781 Ombudsman Program ~~local council chair,~~ shall establish target  
782 dates for taking appropriate remedial action. If, by the target  
783 date, the remedial action is not completed or forthcoming, the

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784 representative of the State Long-Term Care Ombudsman Program may  
785 extend the target date if there is reason to believe such action  
786 would facilitate the resolution of the complaint, or the  
787 representative of the State Long-Term Care Ombudsman Program may  
788 refer the complaint to the district manager, who may refer the  
789 complaint to the state council. ~~local council chair may, after~~  
790 ~~obtaining approval from the ombudsman and a majority of the~~  
791 ~~members of the local council:~~

792 1. ~~Extend the target date if the chair has reason to~~  
793 ~~believe such action would facilitate the resolution of the~~  
794 ~~complaint.~~

795 2. ~~In accordance with s. 400.0077, publicize the complaint,~~  
796 ~~the recommendations of the council, and the response of the~~  
797 ~~long-term care facility.~~

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

799 (b) If the representative of the State Long-Term Care  
800 Ombudsman Program determines ~~local council chair believes~~ that  
801 the health, safety, welfare, or rights of a ~~the~~ resident are in  
802 imminent danger, the representative of the State Long-Term Care  
803 Ombudsman Program must immediately ~~the chair shall~~ notify the  
804 district manager and local council chair. ~~ombudsman or legal~~  
805 ~~advocate, who,~~ The district manager or local council chair,  
806 after verifying that such imminent danger exists, must notify  
807 the appropriate state agencies, including law enforcement  
808 agencies, the state ombudsman, and the legal advocate to ensure  
809 the protection of ~~shall seek immediate legal or administrative~~  
810 ~~remedies to protect~~ the resident.

811 (c) If the state ombudsman or legal advocate has reason to  
812 believe that the long-term care facility or an employee of the

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813 facility has committed a criminal act, the state ombudsman or  
814 legal advocate shall provide the local law enforcement agency  
815 with the relevant information to initiate an investigation of  
816 the case.

817 (2) ~~(a)~~ Upon referral from a district or local council, the  
818 state ombudsman or his or her designee ~~council~~ shall assume the  
819 responsibility for the disposition of the complaint. If a long-  
820 term care facility fails to take action to resolve or remedy the  
821 ~~on a complaint by the state council~~, the state ombudsman ~~council~~  
822 may, ~~after obtaining approval from the ombudsman and a majority~~  
823 ~~of the state council members~~:

824 (a)1. In accordance with s. 400.0077, publicize the  
825 complaint, the recommendations of the local or state council,  
826 and the response of the long-term care facility.

827 (b)2. Recommend to the department and the agency a series  
828 of facility reviews pursuant to s. 400.19, s. 429.34, or s.  
829 429.67 to ensure correction and nonrecurrence of the conditions  
830 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a  
831 long-term care facility.

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

835 (d)4. Recommend to the department and the agency that  
836 procedures be initiated for action against ~~revocation of~~ the  
837 long-term care facility's license in accordance with chapter  
838 120.

839 ~~(b) If the state council chair believes that the health,~~  
840 ~~safety, welfare, or rights of the resident are in imminent~~  
841 ~~danger, the chair shall notify the ombudsman or legal advocate,~~

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842 ~~who, after verifying that such imminent danger exists, shall~~  
843 ~~seek immediate legal or administrative remedies to protect the~~  
844 ~~resident.~~

845 (3)(e) If the state ombudsman, after consultation with the  
846 legal advocate, has reason to believe that the long-term care  
847 facility or an employee of the facility has committed a criminal  
848 act, the state ombudsman shall provide the local law enforcement  
849 agency with the relevant information to initiate an  
850 investigation of the case.

851 Section 12. Section 400.0078, Florida Statutes, is amended  
852 to read:

853 400.0078 Citizen access to State Long-Term Care Ombudsman  
854 Program services.—

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

859 ~~(2) Every resident or representative of a resident shall~~  
860 ~~receive,~~ Upon admission to a long-term care facility, each  
861 resident or representative of a resident must receive  
862 information regarding:

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

865 (b) The statewide toll-free telephone number and e-mail  
866 address for receiving complaints;;~~and~~

867 (c) Information that retaliatory action cannot be taken  
868 against a resident for presenting grievances or for exercising  
869 any other resident rights.

870 (d) Other relevant information regarding how to contact

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871 representatives of the State Long-Term Care Ombudsman Program  
872 ~~the program.~~

873

874 Residents or their representatives must be furnished additional  
875 copies of this information upon request.

876 Section 13. Section 400.0079, Florida Statutes, is amended  
877 to read:

878 400.0079 Immunity.—

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

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

889 Section 14. Section 400.0081, Florida Statutes, is amended  
890 to read:

891 400.0081 Access to facilities, residents, and records.—

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

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

899 (b) Where appropriate, medical and social records of a

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900 resident for review ~~as necessary to investigate or resolve a~~  
901 ~~complaint~~, if:

902 1. The representative of the State Long-Term Care Ombudsman  
903 Program office has the permission of the resident or the legal  
904 representative of the resident; or

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

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

909 1. A legal representative or guardian of the resident  
910 refuses to give permission;

911 2. The representative of the State Long-Term Care Ombudsman  
912 Program office has reasonable cause to believe that the legal  
913 representative or guardian is not acting in the best interests  
914 of the resident; and

915 3. The representative of the State Long-Term Care Ombudsman  
916 Program state or local council member obtains the approval of  
917 the state ombudsman.

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

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

923 (2) The department, in consultation with the state  
924 ombudsman ~~and the state council~~, may adopt rules to establish  
925 procedures to ensure access to facilities, residents, and  
926 records as described in this section.

927 Section 15. Section 400.0083, Florida Statutes, is amended  
928 to read:



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929 400.0083 Interference; retaliation; penalties.—

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

935 (2) A ~~It shall be unlawful for any person, long-term care~~  
936 ~~facility, or other entity~~ may not ~~to~~ knowingly or willfully take  
937 action or retaliate against any resident, employee, or other  
938 person for filing a complaint with, providing information to, or  
939 otherwise cooperating with any representative of the State Long-  
940 Term Care Ombudsman Program ~~office, the state council, or a~~  
941 ~~local council~~.

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

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

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

948 Section 16. Section 400.0087, Florida Statutes, is amended  
949 to read:

950 400.0087 Department oversight; funding.—

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

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

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958 (b) The department may divert from the federal ombudsman  
959 appropriation an amount equal to the department's administrative  
960 cost ratio to cover the costs associated with administering the  
961 State Long-Term Care Ombudsman Program. The remaining allotment  
962 from the Older Americans Act program shall be expended on direct  
963 ombudsman activities.

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

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

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

972 (b) Provides information to public and private agencies,  
973 legislators, and others.

974 (c) Provides appropriate training to representatives of the  
975 State Long-Term Care Ombudsman Office ~~or of the state or local~~  
976 ~~councils~~.

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

981 (4) The department shall also:

982 (a) Receive and disburse state and federal funds for  
983 purposes that the state ombudsman has formulated in accordance  
984 with the Older Americans Act.

985 (b) Whenever necessary, act as liaison between agencies and  
986 branches of the federal and state governments and the State

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987 Long-Term Care Ombudsman Program.

988 Section 17. Section 400.0089, Florida Statutes, is amended  
989 to read:

990 400.0089 Complaint data reports.—The State Long-Term Care  
991 Ombudsman Program ~~office~~ shall maintain a statewide uniform  
992 reporting system to collect and analyze data relating to  
993 complaints and conditions in long-term care facilities and to  
994 residents for the purpose of identifying and resolving  
995 complaints significant problems. ~~The office shall publish~~  
996 ~~quarterly and make readily available~~ Information pertaining to  
997 the number and types of complaints received by the State Long-  
998 Term Care Ombudsman Program shall be published quarterly and  
999 made readily available and shall include such information in the  
1000 annual report required under s. 400.0065.

1001 Section 18. Section 400.0091, Florida Statutes, is amended  
1002 to read:

1003 400.0091 Training.—The state ombudsman shall ensure that  
1004 appropriate training is provided to all representatives of the  
1005 State Long-Term Care Ombudsman Program ~~employees of the office~~  
1006 ~~and to the members of the state and local councils~~.

1007 (1) All representatives of the State Long-Term Care  
1008 Ombudsman Program ~~state and local council members and employees~~  
1009 ~~of the office~~ shall be given a minimum of 20 hours of training  
1010 upon employment with the State Long-Term Care Ombudsman Program  
1011 ~~office~~ or appointment as an ombudsman. ~~Ten approval as a state~~  
1012 ~~or local council member and 10 hours of~~ training in the form of  
1013 continuing education is required annually thereafter.

1014 (2) The state ombudsman shall approve the curriculum for  
1015 the initial and continuing education training, which must, at a

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1016 minimum, address:

1017 (a) Resident confidentiality.

1018 (b) Guardianships and powers of attorney.

1019 (c) Medication administration.

1020 (d) Care and medication of residents with dementia and  
1021 Alzheimer's disease.

1022 (e) Accounting for residents' funds.

1023 (f) Discharge rights and responsibilities.

1024 (g) Cultural sensitivity.

1025 (h) Any other topic related to residency in a long-term  
1026 care facility ~~recommended by the secretary.~~

1027 (3) An individual ~~No employee, officer, or representative~~  
1028 ~~of the office or of the state or local councils,~~ other than the  
1029 state ombudsman, may not hold himself or herself out as a  
1030 representative of the State Long-Term Care Ombudsman Program or  
1031 conduct any authorized program duty described in this part  
1032 unless the individual ~~person~~ has received the training required  
1033 by this section and has been certified by the state ombudsman as  
1034 qualified to carry out ombudsman activities on behalf of the  
1035 office or the state or local councils.

1036 Section 19. Subsection (4) of section 20.41, Florida  
1037 Statutes, is amended to read:

1038 20.41 Department of Elderly Affairs.—There is created a  
1039 Department of Elderly Affairs.

1040 (4) The department shall administer the State Long-Term  
1041 Care Ombudsman Program Council, created by s. 400.0063 ~~400.0067,~~  
1042 ~~and the local long-term care ombudsman councils, created by s.~~  
1043 ~~400.0069~~ and shall, as required by s. 712 of the federal Older  
1044 Americans Act of 1965, ensure that ~~both~~ the State Long-Term Care

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1045 Ombudsman Program operates ~~state and local long-term care~~  
1046 ~~ombudsman councils operate~~ in compliance with the Older  
1047 Americans Act.

1048 Section 20. Subsections (14) through (19) of section  
1049 400.021, Florida Statutes, are amended to read:

1050 400.021 Definitions.—When used in this part, unless the  
1051 context otherwise requires, the term:

1052 (14) "Office" has the same meaning as in s. 400.0060.

1053 (15)~~(14)~~ "Planning and service area" means the geographic  
1054 area in which the Older Americans Act programs are administered  
1055 and services are delivered by the Department of Elderly Affairs.

1056 (16) "Representative of the State Long-Term Care Ombudsman  
1057 Program" has the same meaning as in s. 400.0060.

1058 (17)~~(15)~~ "Respite care" means admission to a nursing home  
1059 for the purpose of providing a short period of rest or relief or  
1060 emergency alternative care for the primary caregiver of an  
1061 individual receiving care at home who, without home-based care,  
1062 would otherwise require institutional care.

1063 (18)~~(16)~~ "Resident care plan" means a written plan  
1064 developed, maintained, and reviewed not less than quarterly by a  
1065 registered nurse, with participation from other facility staff  
1066 and the resident or his or her designee or legal representative,  
1067 which includes a comprehensive assessment of the needs of an  
1068 individual resident; the type and frequency of services required  
1069 to provide the necessary care for the resident to attain or  
1070 maintain the highest practicable physical, mental, and  
1071 psychosocial well-being; a listing of services provided within  
1072 or outside the facility to meet those needs; and an explanation  
1073 of service goals.

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1074        (19)~~(17)~~ "Resident designee" means a person, other than the  
 1075 owner, administrator, or employee of the facility, designated in  
 1076 writing by a resident or a resident's guardian, if the resident  
 1077 is adjudicated incompetent, to be the resident's representative  
 1078 for a specific, limited purpose.

1079        (20)~~(18)~~ "State Long-Term Care Ombudsman Program ombudsman  
 1080 council" has the same meaning as in s. 400.0060 ~~means the State~~  
 1081 ~~Long-Term Care Ombudsman Council established pursuant to s.~~  
 1082 ~~400.0067.~~

1083        (21)~~(19)~~ "Therapeutic spa services" means bathing, nail,  
 1084 and hair care services and other similar services related to  
 1085 personal hygiene.

1086        Section 21. Paragraph (c) of subsection (1) and subsections  
 1087 (2), and (3) of section 400.022, Florida Statutes, are amended  
 1088 to read:

1089        400.022 Residents' rights.—

1090        (1) All licensees of nursing home facilities shall adopt  
 1091 and make public a statement of the rights and responsibilities  
 1092 of the residents of such facilities and shall treat such  
 1093 residents in accordance with the provisions of that statement.  
 1094 The statement shall assure each resident the following:

1095        (c) Any entity or individual that provides health, social,  
 1096 legal, or other services to a resident has the right to have  
 1097 reasonable access to the resident. The resident has the right to  
 1098 deny or withdraw consent to access at any time by any entity or  
 1099 individual. Notwithstanding the visiting policy of the facility,  
 1100 the following individuals must be permitted immediate access to  
 1101 the resident:

1102        1. Any representative of the federal or state government,

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1103 including, but not limited to, representatives of the Department  
1104 of Children and Families, the Department of Health, the Agency  
1105 for Health Care Administration, the Office of the Attorney  
1106 General, and the Department of Elderly Affairs; any law  
1107 enforcement officer; any representative of the State Long-Term  
1108 Care Ombudsman Program ~~members of the state or local ombudsman~~  
1109 ~~council~~; and the resident's individual physician.

1110 2. Subject to the resident's right to deny or withdraw  
1111 consent, immediate family or other relatives of the resident.

1112

1113 The facility must allow representatives of the State Long-Term  
1114 Care Ombudsman Program ~~Council~~ to examine a resident's clinical  
1115 records with the permission of the resident or the resident's  
1116 legal representative and consistent with state law.

1117 (2) The licensee for each nursing home shall orally inform  
1118 the resident of the resident's rights and provide a copy of the  
1119 statement required by subsection (1) to each resident or the  
1120 resident's legal representative at or before the resident's  
1121 admission to a facility. The licensee shall provide a copy of  
1122 the resident's rights to each staff member of the facility. Each  
1123 such licensee shall prepare a written plan and provide  
1124 appropriate staff training to implement the provisions of this  
1125 section. The written statement of rights must include a  
1126 statement that a resident may file a complaint with the agency  
1127 or state or local ombudsman council. The statement must be in  
1128 boldfaced type and ~~shall~~ include the ~~name, address, and~~  
1129 telephone number and e-mail address of the State Long-Term Care  
1130 Ombudsman Program, the numbers of the local ombudsman council  
1131 and the Elder Abuse Hotline operated by the Department of

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1132 Children and Families ~~central abuse hotline where complaints may~~  
1133 ~~be lodged.~~

1134 (3) Any violation of the resident's rights set forth in  
1135 this section constitutes ~~shall constitute~~ grounds for action by  
1136 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or  
1137 part II of chapter 408. In order to determine whether the  
1138 licensee is adequately protecting residents' rights, the  
1139 licensure inspection of the facility must ~~shall~~ include private  
1140 informal conversations with a sample of residents to discuss  
1141 residents' experiences within the facility with respect to  
1142 rights specified in this section and general compliance with  
1143 standards, and consultation with the State Long-Term Care  
1144 Ombudsman Program ~~ombudsman council in the local planning and~~  
1145 ~~service area of the Department of Elderly Affairs in which the~~  
1146 ~~nursing home is located.~~

1147 Section 22. Subsections (8), (9), and (11) through (14) of  
1148 section 400.0255, Florida Statutes, are amended to read:

1149 400.0255 Resident transfer or discharge; requirements and  
1150 procedures; hearings.-

1151 (8) The notice required by subsection (7) must be in  
1152 writing and must contain all information required by state and  
1153 federal law, rules, or regulations applicable to Medicaid or  
1154 Medicare cases. The agency shall develop a standard document to  
1155 be used by all facilities licensed under this part for purposes  
1156 of notifying residents of a discharge or transfer. Such document  
1157 must include a means for a resident to request the local long-  
1158 term care ombudsman council to review the notice and request  
1159 information about or assistance with initiating a fair hearing  
1160 with the department's Office of Appeals Hearings. In addition to



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1161 any other pertinent information included, the form shall specify  
1162 the reason allowed under federal or state law that the resident  
1163 is being discharged or transferred, with an explanation to  
1164 support this action. Further, the form must ~~shall~~ state the  
1165 effective date of the discharge or transfer and the location to  
1166 which the resident is being discharged or transferred. The form  
1167 must ~~shall~~ clearly describe the resident's appeal rights and the  
1168 procedures for filing an appeal, including the right to request  
1169 the local ombudsman council ~~to~~ review the notice of discharge or  
1170 transfer. A copy of the notice must be placed in the resident's  
1171 clinical record, and a copy must be transmitted to the  
1172 resident's legal guardian or representative and to the local  
1173 ombudsman council within 5 business days after signature by the  
1174 resident or resident designee.

1175 (9) A resident may request that the State Long-Term Care  
1176 Ombudsman Program or local ombudsman council review any notice  
1177 of discharge or transfer given to the resident. When requested  
1178 by a resident to review a notice of discharge or transfer, the  
1179 local ombudsman council shall do so within 7 days after receipt  
1180 of the request. The nursing home administrator, or the  
1181 administrator's designee, must forward the request for review  
1182 contained in the notice to the State Long-Term Care Ombudsman  
1183 Program or local ombudsman council within 24 hours after such  
1184 request is submitted. Failure to forward the request within 24  
1185 hours after the request is submitted shall toll the running of  
1186 the 30-day advance notice period until the request has been  
1187 forwarded.

1188 (11) Notwithstanding paragraph (10) (b), an emergency  
1189 discharge or transfer may be implemented as necessary pursuant

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1190 to state or federal law during the ~~period of~~ time after the  
 1191 notice is given and before the time a hearing decision is  
 1192 rendered. Notice of an emergency discharge or transfer to the  
 1193 resident, the resident's legal guardian or representative, and  
 1194 the State Long-Term Care Ombudsman Program or the local  
 1195 ombudsman council if requested pursuant to subsection (9) must  
 1196 be by telephone or in person. This notice shall be given before  
 1197 the transfer, if possible, or as soon thereafter as practicable.  
 1198 The State Long-Term Care Ombudsman Program or a A local  
 1199 ombudsman council conducting a review under this subsection  
 1200 shall do so within 24 hours after receipt of the request. The  
 1201 resident's file must be documented to show who was contacted,  
 1202 whether the contact was by telephone or in person, and the date  
 1203 and time of the contact. If the notice is not given in writing,  
 1204 written notice meeting the requirements of subsection (8) must  
 1205 be given the next working day.

1206 (12) After receipt of any notice required under this  
 1207 section, the State Long-Term Care Ombudsman Program or local  
 1208 ombudsman council may request a private informal conversation  
 1209 with a resident to whom the notice is directed, and, if known, a  
 1210 family member or the resident's legal guardian or designee, to  
 1211 ensure that the facility is proceeding with the discharge or  
 1212 transfer in accordance with ~~the requirements of~~ this section. If  
 1213 requested, the State Long-Term Care Ombudsman Program or the  
 1214 local ombudsman council shall assist the resident with filing an  
 1215 appeal of the proposed discharge or transfer.

1216 (13) The following persons must be present at all hearings  
 1217 authorized under this section:

1218 (a) The resident, or the resident's legal representative or

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1219 designee.

1220 (b) The facility administrator, or the facility's legal  
1221 representative or designee.

1222  
1223 A representative of the State Long-Term Care Ombudsman Program  
1224 or the local long-term care ombudsman council may be present at  
1225 all hearings authorized by this section.

1226 (14) In any hearing under this section, the following  
1227 information concerning the parties shall be confidential and  
1228 exempt from ~~the provisions of~~ s. 119.07(1):

1229 (a) Names and addresses.

1230 (b) Medical services provided.

1231 (c) Social and economic conditions or circumstances.

1232 (d) Evaluation of personal information.

1233 (e) Medical data, including diagnosis and past history of  
1234 disease or disability.

1235 (f) Any information received verifying income eligibility  
1236 and amount of medical assistance payments. Income information  
1237 received from the Social Security Administration or the Internal  
1238 Revenue Service must be safeguarded according to the  
1239 requirements of the agency that furnished the data.

1240  
1241 The exemption created by this subsection does not prohibit  
1242 access to such information by the State Long-Term Care Ombudsman  
1243 Program or a local long-term care ombudsman council upon  
1244 request, by a reviewing court if such information is required to  
1245 be part of the record upon subsequent review, or as specified in  
1246 s. 24(a), Art. I of the State Constitution.

1247 Section 23. Paragraph (d) of subsection (5) of section

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1248 400.162, Florida Statutes, is amended to read:

1249 400.162 Property and personal affairs of residents.—

1250 (5)

1251 (d) If, at any time during the period for which a license  
1252 is issued, a licensee that has not purchased a surety bond or  
1253 entered into a self-insurance agreement, as provided in  
1254 paragraphs (b) and (c), is requested to provide safekeeping for  
1255 the personal funds of a resident, the licensee shall notify the  
1256 agency of the request and make application for a surety bond or  
1257 for participation in a self-insurance agreement within 7 days  
1258 after ~~of~~ the request, exclusive of weekends and holidays. Copies  
1259 of the application, along with written documentation of related  
1260 correspondence with an insurance agency or group, shall be  
1261 maintained by the licensee for review by the agency and the  
1262 State ~~Nursing Home and Long-Term Care Facility~~ Ombudsman Program  
1263 ~~Council~~.

1264 Section 24. Subsections (1) and (4) of section 400.19,  
1265 Florida Statutes, are amended to read:

1266 400.19 Right of entry and inspection.—

1267 (1) In accordance with part II of chapter 408, the agency  
1268 and any of its ~~duly~~ designated officers ~~officer~~ or employees  
1269 ~~employee thereof~~ or a representative of ~~member of~~ the State  
1270 Long-Term Care Ombudsman Program Council or the local long-term  
1271 care ombudsman council shall have the right to enter upon and  
1272 into the premises of any facility licensed pursuant to this  
1273 part, or any distinct nursing home unit of a hospital licensed  
1274 under chapter 395 or any freestanding facility licensed under  
1275 chapter 395 which ~~that~~ provides extended care or other long-term  
1276 care services, at any reasonable time in order to determine the

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1277 state of compliance with ~~the provisions of~~ this part, part II of  
1278 chapter 408, and applicable rules in force pursuant thereto. The  
1279 agency shall, within 60 days after receipt of a complaint made  
1280 by a resident or resident's representative, complete its  
1281 investigation and provide to the complainant its findings and  
1282 resolution.

1283 (4) The agency shall conduct unannounced onsite facility  
1284 reviews following written verification of licensee noncompliance  
1285 in instances in which a representative of the State Long-Term  
1286 Care Ombudsman Program or long-term care ombudsman council,  
1287 pursuant to ss. 400.0071 and 400.0075, has received a complaint  
1288 and has documented deficiencies in resident care or in the  
1289 physical plant of the facility that threaten the health, safety,  
1290 or security of residents, or when the agency documents through  
1291 inspection that conditions in a facility present a direct or  
1292 indirect threat to the health, safety, or security of residents.  
1293 However, the agency shall conduct unannounced onsite reviews  
1294 every 3 months of each facility while the facility has a  
1295 conditional license. Deficiencies related to physical plant do  
1296 not require followup reviews after the agency has determined  
1297 that correction of the deficiency has been accomplished and that  
1298 the correction is of the nature that continued compliance can be  
1299 reasonably expected.

1300 Section 25. Subsection (1) of section 400.191, Florida  
1301 Statutes, is amended to read:

1302 400.191 Availability, distribution, and posting of reports  
1303 and records.—

1304 (1) The agency shall provide information to the public  
1305 about all of the licensed nursing home facilities operating in

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1306 the state. The agency shall, within 60 days after a licensure  
1307 inspection visit or within 30 days after any interim visit to a  
1308 facility, send copies of the inspection reports to the office  
1309 ~~local long-term care ombudsman council~~, the agency's local  
1310 office, and a public library or the county seat for the county  
1311 in which the facility is located. The agency may provide  
1312 electronic access to inspection reports as a substitute for  
1313 sending copies.

1314 Section 26. Subsection (6) and paragraph (c) of subsection  
1315 (7) of section 400.23, Florida Statutes, are amended to read:

1316 400.23 Rules; evaluation and deficiencies; licensure  
1317 status.—

1318 (6) Before ~~Prior to~~ conducting a survey of the facility,  
1319 the survey team shall obtain a copy of the local long-term care  
1320 ombudsman council report on the facility. Problems noted in the  
1321 report shall be incorporated into and followed up through the  
1322 agency's inspection process. This procedure does not preclude  
1323 the State Long-Term Care Ombudsman Program or local long-term  
1324 care ombudsman council from requesting the agency to conduct a  
1325 followup visit to the facility.

1326 (7) The agency shall, at least every 15 months, evaluate  
1327 all nursing home facilities and make a determination as to the  
1328 degree of compliance by each licensee with the established rules  
1329 adopted under this part as a basis for assigning a licensure  
1330 status to that facility. The agency shall base its evaluation on  
1331 the most recent inspection report, taking into consideration  
1332 findings from other official reports, surveys, interviews,  
1333 investigations, and inspections. In addition to license  
1334 categories authorized under part II of chapter 408, the agency

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1335 shall assign a licensure status of standard or conditional to  
1336 each nursing home.

1337 (c) In evaluating the overall quality of care and services  
1338 and determining whether the facility will receive a conditional  
1339 or standard license, the agency shall consider the needs and  
1340 limitations of residents in the facility and the results of  
1341 interviews and surveys of a representative sampling of  
1342 residents, families of residents, representatives of the State  
1343 Long-Term Care Ombudsman Program ~~ombudsman council members in~~  
1344 ~~the planning and service area in which the facility is located,~~  
1345 guardians of residents, and staff of the nursing home facility.

1346 Section 27. Paragraph (a) of subsection (3), paragraph (f)  
1347 of subsection (5), and subsection (6) of section 400.235,  
1348 Florida Statutes, are amended to read:

1349 400.235 Nursing home quality and licensure status; Gold  
1350 Seal Program.—

1351 (3) (a) The Gold Seal Program shall be developed and  
1352 implemented by the Governor's Panel on Excellence in Long-Term  
1353 Care which shall operate under the authority of the Executive  
1354 Office of the Governor. The panel shall be composed of three  
1355 persons appointed by the Governor, to include a consumer  
1356 advocate for senior citizens and two persons with expertise in  
1357 the fields of quality management, service delivery excellence,  
1358 or public sector accountability; three persons appointed by the  
1359 Secretary of Elderly Affairs, to include an active member of a  
1360 nursing facility family and resident care council and a member  
1361 of the University Consortium on Aging; a representative of the  
1362 State Long-Term Care Ombudsman Program; one person appointed by  
1363 the Florida Life Care Residents Association; one person

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1364 appointed by the State Surgeon General; two persons appointed by  
1365 the Secretary of Health Care Administration; one person  
1366 appointed by the Florida Association of Homes for the Aging; and  
1367 one person appointed by the Florida Health Care Association.  
1368 Vacancies on the panel shall be filled in the same manner as the  
1369 original appointments.

1370 (5) Facilities must meet the following additional criteria  
1371 for recognition as a Gold Seal Program facility:

1372 (f) Evidence that verified ~~an outstanding record regarding~~  
1373 ~~the number and types of substantiated~~ complaints reported to the  
1374 State Long-Term Care Ombudsman Program Council ~~Council~~ within the 30  
1375 months preceding application for the program.

1376  
1377 A facility assigned a conditional licensure status may not  
1378 qualify for consideration for the Gold Seal Program until after  
1379 it has operated for 30 months with no class I or class II  
1380 deficiencies and has completed a regularly scheduled relicensure  
1381 survey.

1382 (6) The agency, nursing facility industry organizations,  
1383 consumers, State Long-Term Care Ombudsman Program Council, and  
1384 members of the community may recommend to the Governor  
1385 facilities that meet the established criteria for consideration  
1386 for and award of the Gold Seal. The panel shall review nominees  
1387 and make a recommendation to the Governor for final approval and  
1388 award. The decision of the Governor is final and is not subject  
1389 to appeal.

1390 Section 28. Present subsections (18) through (28) of  
1391 section 415.102, Florida Statutes, are redesignated as  
1392 subsections (19) through and (29), respectively, and a new



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1393 subsection (18) is added to that section, to read:

1394 415.102 Definitions of terms used in ss. 415.101-415.113.-

1395 As used in ss. 415.101-415.113, the term:

1396 (18) "Office" has the same meaning as in s. 400.0060.

1397 Section 29. Paragraph (a) of subsection (1) of section  
1398 415.1034, Florida Statutes, is amended to read:

1399 415.1034 Mandatory reporting of abuse, neglect, or  
1400 exploitation of vulnerable adults; mandatory reports of death.-

1401 (1) MANDATORY REPORTING.-

1402 (a) Any person, including, but not limited to, any:

1403 1. Physician, osteopathic physician, medical examiner,  
1404 chiropractic physician, nurse, paramedic, emergency medical  
1405 technician, or hospital personnel engaged in the admission,  
1406 examination, care, or treatment of vulnerable adults;

1407 2. Health professional or mental health professional other  
1408 than one listed in subparagraph 1.;

1409 3. Practitioner who relies solely on spiritual means for  
1410 healing;

1411 4. Nursing home staff; assisted living facility staff;  
1412 adult day care center staff; adult family-care home staff;  
1413 social worker; or other professional adult care, residential, or  
1414 institutional staff;

1415 5. State, county, or municipal criminal justice employee or  
1416 law enforcement officer;

1417 6. ~~An~~ Employee of the Department of Business and  
1418 Professional Regulation conducting inspections of public lodging  
1419 establishments under s. 509.032;

1420 7. Florida advocacy council or Disability Rights Florida  
1421 member or a representative of the State Long-Term Care Ombudsman

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1422 ~~Program long-term care ombudsman council member; or~~

1423 8. Bank, savings and loan, or credit union officer,  
1424 trustee, or employee,

1425  
1426 who knows, or has reasonable cause to suspect, that a vulnerable  
1427 adult has been or is being abused, neglected, or exploited shall  
1428 immediately report such knowledge or suspicion to the central  
1429 abuse hotline.

1430 Section 30. Subsection (1) of section 415.104, Florida  
1431 Statutes, is amended to read:

1432 415.104 Protective investigations of cases of abuse,  
1433 neglect, or exploitation of vulnerable adults; transmittal of  
1434 records to state attorney.—

1435 (1) The department shall, upon receipt of a report alleging  
1436 abuse, neglect, or exploitation of a vulnerable adult, begin  
1437 within 24 hours a protective investigation of the facts alleged  
1438 therein. If a caregiver refuses to allow the department to begin  
1439 a protective investigation or interferes with the conduct of  
1440 such an investigation, the appropriate law enforcement agency  
1441 shall be contacted for assistance. If, during the course of the  
1442 investigation, the department has reason to believe that the  
1443 abuse, neglect, or exploitation is perpetrated by a second  
1444 party, the appropriate law enforcement agency and state attorney  
1445 shall be orally notified. The department and the law enforcement  
1446 agency shall cooperate to allow the criminal investigation to  
1447 proceed concurrently with, and not be hindered by, the  
1448 protective investigation. The department shall make a  
1449 preliminary written report to the law enforcement agencies  
1450 within 5 working days after the oral report. The department

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1451 shall, within 24 hours after receipt of the report, notify the  
1452 appropriate Florida local advocacy council, or the State Long-  
1453 Term Care Ombudsman Program ~~long-term care ombudsman council~~,  
1454 when appropriate, that an alleged abuse, neglect, or  
1455 exploitation perpetrated by a second party has occurred. Notice  
1456 to the Florida local advocacy council or the State Long-Term  
1457 Care Ombudsman Program ~~long-term care ombudsman council~~ may be  
1458 accomplished orally or in writing and shall include the name and  
1459 location of the vulnerable adult alleged to have been abused,  
1460 neglected, or exploited and the nature of the report.

1461 Section 31. Subsection (8) of section 415.1055, Florida  
1462 Statutes, is amended to read:

1463 415.1055 Notification to administrative entities.—

1464 (8) At the conclusion of a protective investigation at a  
1465 facility, the department shall notify either the Florida local  
1466 advocacy council or the State Long-Term Care Ombudsman Program  
1467 or the long-term care ombudsman council of the results of the  
1468 investigation. This notification must be in writing.

1469 Section 32. Subsection (2) of section 415.106, Florida  
1470 Statutes, is amended to read:

1471 415.106 Cooperation by the department and criminal justice  
1472 and other agencies.—

1473 (2) To ensure coordination, communication, and cooperation  
1474 with the investigation of abuse, neglect, or exploitation of  
1475 vulnerable adults, the department shall develop and maintain  
1476 interprogram agreements or operational procedures among  
1477 appropriate departmental programs and the State Long-Term Care  
1478 Ombudsman Program Council, the Florida Statewide Advocacy  
1479 Council, and other agencies that provide services to vulnerable

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1480 adults. These agreements or procedures must cover such subjects  
1481 as the appropriate roles and responsibilities of the department  
1482 in identifying and responding to reports of abuse, neglect, or  
1483 exploitation of vulnerable adults; the provision of services;  
1484 and related coordinated activities.

1485 Section 33. Paragraph (g) of subsection (3) of section  
1486 415.107, Florida Statutes, is amended to read:

1487 415.107 Confidentiality of reports and records.—

1488 (3) Access to all records, excluding the name of the  
1489 reporter which shall be released only as provided in subsection  
1490 (6), shall be granted only to the following persons, officials,  
1491 and agencies:

1492 (g) Any appropriate official of the Florida advocacy  
1493 council, State Long-Term Care Ombudsman Program or long-term  
1494 care ombudsman council investigating a report of known or  
1495 suspected abuse, neglect, or exploitation of a vulnerable adult.

1496 Section 34. Present subsections (16) through (26) of  
1497 section 429.02, Florida Statutes, are redesignated as  
1498 subsections (17) through (27), respectively, present subsections  
1499 (11) and (20) are amended, and a new subsection (16) is added to  
1500 that section to read:

1501 429.02 Definitions.—When used in this part, the term:

1502 (11) "Extended congregate care" means acts beyond those  
1503 authorized in subsection (17) ~~(16)~~ that may be performed  
1504 pursuant to part I of chapter 464 by persons licensed thereunder  
1505 while carrying out their professional duties, and other  
1506 supportive services which may be specified by rule. The purpose  
1507 of such services is to enable residents to age in place in a  
1508 residential environment despite mental or physical limitations

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1509 that might otherwise disqualify them from residency in a  
1510 facility licensed under this part.

1511 (16) "Office" has the same meaning as in s. 400.0060.

1512 (17)~~(16)~~ "Personal services" means direct physical  
1513 assistance with or supervision of the activities of daily living  
1514 and the self-administration of medication and other similar  
1515 services which the department may define by rule. "Personal  
1516 services" shall not be construed to mean the provision of  
1517 medical, nursing, dental, or mental health services.

1518 (18)~~(17)~~ "Physical restraint" means a device which  
1519 physically limits, restricts, or deprives an individual of  
1520 movement or mobility, including, but not limited to, a half-bed  
1521 rail, a full-bed rail, a geriatric chair, and a posey restraint.  
1522 The term "physical restraint" shall also include any device  
1523 which was not specifically manufactured as a restraint but which  
1524 has been altered, arranged, or otherwise used for this purpose.  
1525 The term shall not include bandage material used for the purpose  
1526 of binding a wound or injury.

1527 (19)~~(18)~~ "Relative" means an individual who is the father,  
1528 mother, stepfather, stepmother, son, daughter, brother, sister,  
1529 grandmother, grandfather, great-grandmother, great-grandfather,  
1530 grandson, granddaughter, uncle, aunt, first cousin, nephew,  
1531 niece, husband, wife, father-in-law, mother-in-law, son-in-law,  
1532 daughter-in-law, brother-in-law, sister-in-law, stepson,  
1533 stepdaughter, stepbrother, stepsister, half brother, or half  
1534 sister of an owner or administrator.

1535 (20)~~(19)~~ "Resident" means a person 18 years of age or  
1536 older, residing in and receiving care from a facility.

1537 (21)~~(20)~~ "Resident's representative or designee" means a

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1538 person other than the owner, or an agent or employee of the  
1539 facility, designated in writing by the resident, if legally  
1540 competent, to receive notice of changes in the contract executed  
1541 pursuant to s. 429.24; to receive notice of and to participate  
1542 in meetings between the resident and the facility owner,  
1543 administrator, or staff concerning the rights of the resident;  
1544 to assist the resident in contacting the State Long-Term Care  
1545 Ombudsman Program or local ombudsman council if the resident has  
1546 a complaint against the facility; or to bring legal action on  
1547 behalf of the resident pursuant to s. 429.29.

1548 (22)~~(21)~~ "Service plan" means a written plan, developed and  
1549 agreed upon by the resident and, if applicable, the resident's  
1550 representative or designee or the resident's surrogate,  
1551 guardian, or attorney in fact, if any, and the administrator or  
1552 designee representing the facility, which addresses the unique  
1553 physical and psychosocial needs, abilities, and personal  
1554 preferences of each resident receiving extended congregate care  
1555 services. The plan shall include a brief written description, in  
1556 easily understood language, of what services shall be provided,  
1557 who shall provide the services, when the services shall be  
1558 rendered, and the purposes and benefits of the services.

1559 (23)~~(22)~~ "Shared responsibility" means exploring the  
1560 options available to a resident within a facility and the risks  
1561 involved with each option when making decisions pertaining to  
1562 the resident's abilities, preferences, and service needs,  
1563 thereby enabling the resident and, if applicable, the resident's  
1564 representative or designee, or the resident's surrogate,  
1565 guardian, or attorney in fact, and the facility to develop a  
1566 service plan which best meets the resident's needs and seeks to

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1567 improve the resident's quality of life.

1568        ~~(24)~~(23) "Supervision" means reminding residents to engage  
1569 in activities of daily living and the self-administration of  
1570 medication, and, when necessary, observing or providing verbal  
1571 cuing to residents while they perform these activities.

1572        ~~(25)~~(24) "Supplemental security income," Title XVI of the  
1573 Social Security Act, means a program through which the Federal  
1574 Government guarantees a minimum monthly income to every person  
1575 who is age 65 or older, or disabled, or blind and meets the  
1576 income and asset requirements.

1577        ~~(26)~~(25) "Supportive services" means services designed to  
1578 encourage and assist aged persons or adults with disabilities to  
1579 remain in the least restrictive living environment and to  
1580 maintain their independence as long as possible.

1581        ~~(27)~~(26) "Twenty-four-hour nursing supervision" means  
1582 services that are ordered by a physician for a resident whose  
1583 condition requires the supervision of a physician and continued  
1584 monitoring of vital signs and physical status. Such services  
1585 shall be: medically complex enough to require constant  
1586 supervision, assessment, planning, or intervention by a nurse;  
1587 required to be performed by or under the direct supervision of  
1588 licensed nursing personnel or other professional personnel for  
1589 safe and effective performance; required on a daily basis; and  
1590 consistent with the nature and severity of the resident's  
1591 condition or the disease state or stage.

1592        Section 35. Subsection (9) of section 429.19, Florida  
1593 Statutes, is amended to read:

1594        429.19 Violations; imposition of administrative fines;  
1595 grounds.—

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1596 (9) The agency shall develop and disseminate an annual list  
1597 of all facilities sanctioned or fined for violations of state  
1598 standards, the number and class of violations involved, the  
1599 penalties imposed, and the current status of cases. The list  
1600 shall be disseminated, at no charge, to the Department of  
1601 Elderly Affairs, the Department of Health, the Department of  
1602 Children and Families, the Agency for Persons with Disabilities,  
1603 the area agencies on aging, the Florida Statewide Advocacy  
1604 Council, ~~and~~ the State Long-Term Care Ombudsman Program and  
1605 state and local ombudsman councils. The Department of Children  
1606 and Families shall disseminate the list to service providers  
1607 under contract to the department who are responsible for  
1608 referring persons to a facility for residency. The agency may  
1609 charge a fee commensurate with the cost of printing and postage  
1610 to other interested parties requesting a copy of this list. This  
1611 information may be provided electronically or through the  
1612 agency's Internet site.

1613 Section 36. Subsection (8) of section 429.26, Florida  
1614 Statutes, is amended to read:

1615 429.26 Appropriateness of placements; examinations of  
1616 residents.—

1617 (8) The Department of Children and Families may require an  
1618 examination for supplemental security income and optional state  
1619 supplementation recipients residing in facilities at any time  
1620 and shall provide the examination whenever a resident's  
1621 condition requires it. Any facility administrator; personnel of  
1622 the agency, the department, or the Department of Children and  
1623 Families; or a representative of the State Long-Term Care  
1624 Ombudsman Program ~~long-term care ombudsman council member~~ who



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1625 believes a resident needs to be evaluated shall notify the  
1626 resident's case manager, who shall take appropriate action. A  
1627 report of the examination findings shall be provided to the  
1628 resident's case manager and the facility administrator to help  
1629 the administrator meet his or her responsibilities under  
1630 subsection (1).

1631 Section 37. Subsection (2) and paragraph (b) of subsection  
1632 (3) of section 429.28, Florida Statutes, are amended to read:

1633 429.28 Resident bill of rights.—

1634 (2) The administrator of a facility shall ensure that a  
1635 written notice of the rights, obligations, and prohibitions set  
1636 forth in this part is posted in a prominent place in each  
1637 facility and read or explained to residents who cannot read.  
1638 This notice must ~~shall~~ include the statewide toll-free telephone  
1639 number and e-mail address of the State Long-Term Care Ombudsman  
1640 Program and the telephone number of ~~name, address, and telephone~~  
1641 ~~numbers~~ of the local ombudsman council and the Elder Abuse  
1642 Hotline operated by the Department of Children and Families  
1643 ~~central abuse hotline~~ and, when applicable, the Advocacy Center  
1644 for Persons with Disabilities, Inc., and the Florida local  
1645 advocacy council, where complaints may be lodged. The facility  
1646 must ensure a resident's access to a telephone to call the State  
1647 Long-Term Care Ombudsman Program or local ombudsman council, the  
1648 Elder Abuse Hotline operated by the Department of Children and  
1649 Families ~~central abuse hotline~~, Advocacy Center for Persons with  
1650 Disabilities, Inc., and the Florida local advocacy council.

1651 (3)

1652 (b) In order to determine whether the facility is  
1653 adequately protecting residents' rights, the biennial survey

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1654 shall include private informal conversations with a sample of  
 1655 residents and consultation with the ombudsman council in the  
 1656 district ~~planning and service area~~ in which the facility is  
 1657 located to discuss residents' experiences within the facility.

1658 Section 38. Section 429.34, Florida Statutes, is amended to  
 1659 read:

1660 429.34 Right of entry and inspection.—In addition to the  
 1661 requirements of s. 408.811, a ~~any~~ duly designated officer or  
 1662 employee of the department, the Department of Children and  
 1663 Families, the Medicaid Fraud Control Unit of the Office of the  
 1664 Attorney General, the state or local fire marshal, or a  
 1665 representative of the State Long-Term Care Ombudsman Program or  
 1666 a member of the state or local long-term care ombudsman council  
 1667 may ~~shall have the right to~~ enter unannounced upon and into the  
 1668 premises of any facility licensed under ~~pursuant to~~ this part in  
 1669 order to determine the state of compliance with ~~the provisions~~  
 1670 ~~of~~ this part, part II of chapter 408, and applicable rules. Data  
 1671 collected by the State Long-Term Care Ombudsman Program, ~~state~~  
 1672 ~~or~~ local long-term care ombudsman councils or the state or local  
 1673 advocacy councils may be used by the agency in investigations  
 1674 involving violations of regulatory standards.

1675 Section 39. Subsection (2) of section 429.35, Florida  
 1676 Statutes, is amended to read:

1677 429.35 Maintenance of records; reports.—

1678 (2) Within 60 days after the date of the biennial  
 1679 inspection visit required under s. 408.811 or within 30 days  
 1680 after the date of any interim visit, the agency shall forward  
 1681 the results of the inspection to the local ombudsman council in  
 1682 in the district ~~whose planning and service area, as defined in~~

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1683 ~~part II of chapter 400, where~~ the facility is located; to at  
1684 least one public library or, in the absence of a public library,  
1685 the county seat in the county in which the inspected assisted  
1686 living facility is located; and, when appropriate, to the  
1687 district Adult Services and Mental Health Program Offices.

1688 Section 40. Subsection (6) of section 429.67, Florida  
1689 Statutes, is amended to read:

1690 429.67 Licensure.—

1691 (6) In addition to the requirements of s. 408.811, access  
1692 to a licensed adult family-care home must be provided at  
1693 reasonable times for the appropriate officials of the  
1694 department, the Department of Health, the Department of Children  
1695 and Families, the agency, and the State Fire Marshal, who are  
1696 responsible for the development and maintenance of fire, health,  
1697 sanitary, and safety standards, to inspect the facility to  
1698 assure compliance with these standards. In addition, access to a  
1699 licensed adult family-care home must be provided at reasonable  
1700 times to representatives of the State Long-Term Care Ombudsman  
1701 Program for the local long-term care ombudsman council.

1702 Section 41. Subsection (2) of section 429.85, Florida  
1703 Statutes, is amended to read:

1704 429.85 Residents' bill of rights.—

1705 (2) The provider shall ensure that residents and their  
1706 legal representatives are made aware of the rights, obligations,  
1707 and prohibitions set forth in this part. Residents must also be  
1708 given the statewide toll-free telephone number and e-mail  
1709 address of the State Long-Term Care Ombudsman Program, the  
1710 telephone number ~~names, addresses, and telephone numbers~~ of the  
1711 local ombudsman council and the Elder Abuse Hotline operated by

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1712 the Department of Children and Families ~~the central abuse~~  
1713 ~~hotline~~ where they may lodge complaints.

1714 Section 42. This act shall take effect July 1, 2015.