

FOR CONSIDERATION By the Committee on 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 providing
4 definitions; amending s. 400.0061, F.S.; revising
5 legislative intent with respect to citizen ombudsmen;
6 deleting references to ombudsman councils and
7 transferring their responsibilities to representatives
8 of the Office of State Long-Term Care Ombudsman;
9 amending s. 400.0063, F.S.; revising duties of the
10 office; amending s. 400.0065, F.S.; revising the
11 purpose of the office; revising the duties and
12 authority of the state ombudsman; requiring the state
13 ombudsman to submit an annual report to the Governor,
14 the Legislature, and specified agencies and entities;
15 amending s. 400.0067, F.S.; revising duties and
16 membership of the State Long-Term Care Ombudsman
17 Council; amending s. 400.0069, F.S.; requiring the
18 state ombudsman to designate and direct program
19 districts; requiring each district to conduct
20 quarterly public meetings; providing duties of
21 representatives of the office in the districts;
22 revising the appointments of and qualifications for
23 district ombudsmen; prohibiting certain individuals
24 from serving as ombudsmen; amending s. 400.0070, F.S.;
25 providing conditions under which a representative of
26 the office could be found to have a conflict of
27 interest; requiring the Department of Elderly Affairs,
28 in consultation with the state ombudsman, to define by
29 rule what constitutes a conflict of interest; amending

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

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

67 Be It Enacted by the Legislature of the State of Florida:
68

69 Section 1. Section 400.0060, Florida Statutes, is amended
70 to read:

71 400.0060 Definitions.—When used in this part, unless the
72 context clearly dictates otherwise, the term:

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

78 (2) "Agency" means the Agency for Health Care
79 Administration.

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

81 (4) "District" means a geographical area designated by the
82 state ombudsman in which individuals certified as ombudsmen
83 carry out the duties of the state ombudsman program. A district
84 may have more than one local council of ombudsmen.

85 (5) "Local council" means a local long-term care ombudsman
86 council designated by the ombudsman pursuant to s. 400.0069.
87 Local councils are also known as district long-term care

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88 ombudsman councils or district councils.

89 (6)~~(5)~~ "Long-term care facility" means a nursing home
90 facility, assisted living facility, adult family-care home,
91 board and care facility, facility in which continuing long-term
92 care is provided, or any other similar residential adult care
93 facility.

94 (7)~~(6)~~ "Office" means the Office of State Long-Term Care
95 Ombudsman created by s. 400.0063.

96 (8)~~(7)~~ "Ombudsman" means an individual who has been
97 certified by the state ombudsman as meeting the requirements of
98 ss. 400.0069, 400.0070, and 400.0091 ~~the individual appointed by~~
99 ~~the Secretary of Elderly Affairs to head the Office of State~~
100 ~~Long-Term Care Ombudsman.~~

101 (9) "Representative of the office" means the state
102 ombudsman, an employee of the office, or an individual certified
103 as an ombudsman serving on a local council.

104 (10)~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age
105 or older who resides in a long-term care facility.

106 (11)~~(9)~~ "Secretary" means the Secretary of Elderly Affairs.

107 (12)~~(10)~~ "State council" means the State Long-Term Care
108 Ombudsman Council created by s. 400.0067.

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

112 (14) "State ombudsman program" means the program operating
113 under the direction of the office.

114 Section 2. Section 400.0061, Florida Statutes, is amended
115 to read:

116 400.0061 Legislative findings and intent; long-term care

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117 facilities.-

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

139 (2) It is the intent of the Legislature, therefore, to use
140 ~~utilize~~ voluntary citizen ombudsmen ~~ombudsman councils~~ under the
141 leadership of the state ombudsman, and, through them, to operate
142 a state ~~an~~ ombudsman program, which shall, without interference
143 by any executive agency, undertake to discover, investigate, and
144 determine the presence of conditions or individuals who ~~which~~
145 constitute a threat to the rights, health, safety, or welfare of

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

159 Section 3. Section 400.0063, Florida Statutes, is amended
160 to read:

161 400.0063 Establishment of Office of State Long-Term Care
162 Ombudsman; designation of ombudsman and legal advocate.—

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

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

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

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175 as state ombudsman.

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

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

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

186 2. Assisting the state council, representatives of the
187 office, and local councils in carrying out their
188 responsibilities under this part.

189 3. Pursuing administrative, legal, and other appropriate
190 remedies on behalf of residents.

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

197 Section 4. Section 400.0065, Florida Statutes, is amended
198 to read:

199 400.0065 Office of State Long-Term Care Ombudsman; duties
200 and responsibilities.—

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

203 (a) Identify, investigate, and resolve complaints made by

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204 or on behalf of residents of long-term care facilities relating
205 to actions or omissions by providers or representatives of
206 providers of long-term care services, other public or private
207 agencies, guardians, or representative payees that may adversely
208 affect the health, safety, welfare, or rights of the residents.

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

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

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

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

222 (f) Administer the state council and local councils.

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

231 (h) Provide technical support for the development of
232 resident and family councils to protect the well-being and

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233 rights of residents.

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

236 (a) Establish and coordinate districts and local councils
237 throughout the state.

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

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

254 (d) Contract for services necessary to carry out the
255 activities of the office.

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

261 (f) Coordinate, to the greatest extent possible, state and

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262 local ombudsman services with the protection and advocacy
263 systems for individuals with developmental disabilities and
264 mental illnesses and with legal assistance programs for the poor
265 through adoption of memoranda of understanding and other means.

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

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

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

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

289 2. Evaluate the problems experienced by residents.

290 3. Analyze the successes of the state ombudsman program

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291 during the preceding year, including an assessment of how
292 successfully the office ~~program~~ has carried out its
293 responsibilities under the Older Americans Act.

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

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

305 6. Contain any relevant recommendations from
306 representatives of the office and local councils regarding
307 program functions and activities.

308 Section 5. Section 400.0067, Florida Statutes, is amended
309 to read:

310 400.0067 State Long-Term Care Ombudsman Council; duties;
311 membership.—

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

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

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

319 (b) Serve as an appellate body in receiving from the

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

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

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

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

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

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

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

348 (b)1. The state ombudsman ~~secretary, after consulting with~~

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

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

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

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

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

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

375 (c) 4. The position of any member missing three state
376 council meetings within a 1-year period without cause may be
377 declared vacant by the state ombudsman. The findings of the

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378 state ombudsman regarding cause shall be final and binding.

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

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

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

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

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

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

406 2. A quorum shall be considered present if more than 50

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407 percent of all active state council members are in attendance at
408 the same meeting.

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

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

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

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

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

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

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436 (c) Each district shall convene a public meeting every
437 quarter.

438 (2) The duties of the representatives of the office in the
439 districts and the members of the local councils are to:

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

443 (b) Discover, investigate, and determine the existence of
444 abuse, ~~or neglect, or exploitation using in any long-term care~~
445 ~~facility and to use~~ the procedures provided for in ss. 415.101-
446 415.113 when applicable.

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

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

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

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

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465 residents.

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

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

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

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

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

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

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

490 3. At least one licensed pharmacist;

491 4. At least one registered dietitian;

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

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

497 7. At least one attorney; and

498 8. At least one professional social worker.

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

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

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

505 3. An employee of the agency.

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

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

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

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

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

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

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523 ~~approves of the individual's membership, the individual shall be~~
524 ~~appointed as a member of the local council.~~

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

534 (c) Upon appointment as an ombudsman, the individual may
535 participate in district activities but may not represent the
536 office or conduct any authorized program duties until the
537 individual has completed the initial training specified in s.
538 400.0091(1) and has been certified by the state ombudsman.

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

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

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

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

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

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

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

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

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

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

595 400.0070 Conflicts of interest.—

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

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

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

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

608 (2) Each representative ~~employee~~ of the office, ~~each state~~
609 ~~council member, and each local council member~~ shall certify that

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610 he or she does not have any ~~has no~~ conflict of interest.

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

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

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

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

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

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

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

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

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

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639 400.0073 Complaint ~~State and local ombudsman council~~
640 investigations.-

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

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

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

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

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

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

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

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

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

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

666 (2)-(4) If a representative of the office ~~the ombudsman or~~
667 ~~any state or local council member~~ is not allowed to enter a

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668 long-term care facility, the administrator of the facility shall
669 be considered to have interfered with a representative of the
670 office, ~~the state council, or the local council~~ in the
671 performance of official duties as described in s. 400.0083(1)
672 and to have violated ~~committed a violation of~~ this part. The
673 representative of the office ~~ombudsman~~ shall report a facility's
674 refusal to allow entry to the facility to the state ombudsman or
675 his or her designee, who shall report the incident to the
676 agency, and the agency shall record the report and take it into
677 consideration when determining actions allowable under s.
678 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
679 429.71.

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

682 400.0074 ~~Local ombudsman council~~ Onsite administrative
683 assessments.-

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

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

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

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

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

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

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

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

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

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

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726 ~~to perform the administrative assessments described in this~~
 727 ~~section.~~

728 ~~(4)~~ An onsite administrative assessment may not be
 729 accomplished by forcible entry. However, if a representative of
 730 the office ombudsman or a state or local council member is not
 731 allowed to enter a long-term care facility, the administrator of
 732 the facility shall be considered to have interfered with a
 733 representative of the office, ~~the state council, or the local~~
 734 ~~council~~ in the performance of official duties as described in s.
 735 400.0083(1) and to have committed a violation of this part. The
 736 representative of the office ombudsman shall report the refusal
 737 by a facility to allow entry to the state ombudsman or his or
 738 her designee, who shall then report the incident to the agency,
 739 and the agency shall record the report and take it into
 740 consideration when determining actions allowable under s.
 741 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
 742 429.71.

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

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

749 400.0075 Complaint notification and resolution procedures.—

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

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

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

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

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

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

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784 the resident.

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

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

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

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

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

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

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813 120.

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

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

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

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

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

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

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

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

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842 (c) Information that retaliatory action cannot be taken
843 against a resident for presenting grievances or for exercising
844 any other resident rights.

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

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

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

852 400.0079 Immunity.—

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

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

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

865 400.0081 Access to facilities, residents, and records.—

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

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

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871 ~~resolve a complaint.~~

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

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

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

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

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

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

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

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

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

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

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

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900 400.0083 Interference; retaliation; penalties.—

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

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

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

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

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

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

919 400.0087 Department oversight; funding.—

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

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

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

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929 cost ratio to cover the costs associated with administering the
930 state ombudsman program. The remaining allotment from the Older
931 Americans Act program shall be expended on direct ombudsman
932 activities.

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

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

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

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

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

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

948 (4) The department shall also:

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

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

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

957 400.0089 Complaint data reports.—The office shall maintain

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

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

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

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

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

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

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987 (f) Discharge rights and responsibilities.

988 (g) Cultural sensitivity.

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

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

1000 Section 19. Subsection (4) of section 20.41, Florida
1001 Statutes, is amended to read:

1002 20.41 Department of Elderly Affairs.—There is created a
1003 Department of Elderly Affairs.

1004 (4) The department shall administer the Office of State
1005 Long-Term Care Ombudsman Council, created by s. 400.0063
1006 ~~400.0067,~~ and the ~~local long-term care ombudsman councils,~~
1007 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the
1008 federal Older Americans Act of 1965, ensure that ~~both~~ the state
1009 office operates and ~~local long-term care ombudsman councils~~
1010 ~~operate~~ in compliance with the Older Americans Act.

1011 Section 20. Subsections (14) through (19) of section
1012 400.021, Florida Statutes, are amended to read:

1013 400.021 Definitions.—When used in this part, unless the
1014 context otherwise requires, the term:

1015 (14) "Office" has the same meaning as in s. 400.0060.

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1016 (15)~~(14)~~ "Planning and service area" means the geographic
1017 area in which the Older Americans Act programs are administered
1018 and services are delivered by the Department of Elderly Affairs.

1019 (16) "Representative of the office" has the same meaning as
1020 in s. 400.0060.

1021 (17)~~(15)~~ "Respite care" means admission to a nursing home
1022 for the purpose of providing a short period of rest or relief or
1023 emergency alternative care for the primary caregiver of an
1024 individual receiving care at home who, without home-based care,
1025 would otherwise require institutional care.

1026 (18)~~(16)~~ "Resident care plan" means a written plan
1027 developed, maintained, and reviewed not less than quarterly by a
1028 registered nurse, with participation from other facility staff
1029 and the resident or his or her designee or legal representative,
1030 which includes a comprehensive assessment of the needs of an
1031 individual resident; the type and frequency of services required
1032 to provide the necessary care for the resident to attain or
1033 maintain the highest practicable physical, mental, and
1034 psychosocial well-being; a listing of services provided within
1035 or outside the facility to meet those needs; and an explanation
1036 of service goals.

1037 (19)~~(17)~~ "Resident designee" means a person, other than the
1038 owner, administrator, or employee of the facility, designated in
1039 writing by a resident or a resident's guardian, if the resident
1040 is adjudicated incompetent, to be the resident's representative
1041 for a specific, limited purpose.

1042 (20)~~(18)~~ "State ombudsman program council" has the same
1043 meaning as in s. 400.0060 ~~means the State Long-Term Care~~
1044 ~~Ombudsman Council established pursuant to s. 400.0067.~~

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1045 ~~(21)(19)~~ "Therapeutic spa services" means bathing, nail,
1046 and hair care services and other similar services related to
1047 personal hygiene.

1048 Section 21. Paragraph (c) of subsection (1) and subsections
1049 (2) and (3) of section 400.022, Florida Statutes, are amended to
1050 read:

1051 400.022 Residents' rights.—

1052 (1) All licensees of nursing home facilities shall adopt
1053 and make public a statement of the rights and responsibilities
1054 of the residents of such facilities and shall treat such
1055 residents in accordance with the provisions of that statement.
1056 The statement shall assure each resident the following:

1057 (c) Any entity or individual that provides health, social,
1058 legal, or other services to a resident has the right to have
1059 reasonable access to the resident. The resident has the right to
1060 deny or withdraw consent to access at any time by any entity or
1061 individual. Notwithstanding the visiting policy of the facility,
1062 the following individuals must be permitted immediate access to
1063 the resident:

1064 1. Any representative of the federal or state government,
1065 including, but not limited to, representatives of the Department
1066 of Children and Families, the Department of Health, the Agency
1067 for Health Care Administration, the Office of the Attorney
1068 General, and the Department of Elderly Affairs; any law
1069 enforcement officer; any representative ~~members~~ of the office
1070 ~~state or local ombudsman council~~; and the resident's individual
1071 physician.

1072 2. Subject to the resident's right to deny or withdraw
1073 consent, immediate family or other relatives of the resident.

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

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

(3) Any violation of the resident's rights set forth in
this section constitutes ~~shall constitute~~ grounds for action by
the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or
part II of chapter 408. In order to determine whether the
licensee is adequately protecting residents' rights, the
licensure inspection of the facility must ~~shall~~ include private
informal conversations with a sample of residents to discuss
residents' experiences within the facility with respect to
rights specified in this section and general compliance with

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1103 standards, and consultation with the state ombudsman program
1104 ~~council in the local planning and service area of the Department~~
1105 ~~of Elderly Affairs in which the nursing home is located.~~

1106 Section 22. Subsections (8), (9), and (11) through (14) of
1107 section 400.0255, Florida Statutes, are amended to read:

1108 400.0255 Resident transfer or discharge; requirements and
1109 procedures; hearings.-

1110 (8) The notice required by subsection (7) must be in
1111 writing and must contain all information required by state and
1112 federal law, rules, or regulations applicable to Medicaid or
1113 Medicare cases. The agency shall develop a standard document to
1114 be used by all facilities licensed under this part for purposes
1115 of notifying residents of a discharge or transfer. Such document
1116 must include a means for a resident to request the office or
1117 ~~local long-term care ombudsman~~ council to review the notice and
1118 request information about or assistance with initiating a fair
1119 hearing with the department's Office of Appeals Hearings. In
1120 addition to any other pertinent information included, the form
1121 shall specify the reason allowed under federal or state law that
1122 the resident is being discharged or transferred, with an
1123 explanation to support this action. Further, the form must ~~shall~~
1124 state the effective date of the discharge or transfer and the
1125 location to which the resident is being discharged or
1126 transferred. The form must ~~shall~~ clearly describe the resident's
1127 appeal rights and the procedures for filing an appeal, including
1128 the right to request the office or local ombudsman council to
1129 review the notice of discharge or transfer. A copy of the notice
1130 must be placed in the resident's clinical record, and a copy
1131 must be transmitted to the resident's legal guardian or

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1132 representative and to the office ~~local ombudsman council~~ within
1133 5 business days after signature by the resident or resident
1134 designee.

1135 (9) A resident may request that the office or local
1136 ombudsman council review any notice of discharge or transfer
1137 given to the resident. When requested by a resident to review a
1138 notice of discharge or transfer, the office or local ombudsman
1139 council shall do so within 7 days after receipt of the request.
1140 The nursing home administrator, or the administrator's designee,
1141 must forward the request for review contained in the notice to
1142 the office or local ombudsman council within 24 hours after such
1143 request is submitted. Failure to forward the request within 24
1144 hours after the request is submitted shall toll the running of
1145 the 30-day advance notice period until the request has been
1146 forwarded.

1147 (11) Notwithstanding paragraph (10) (b), an emergency
1148 discharge or transfer may be implemented as necessary pursuant
1149 to state or federal law during the ~~period of~~ time after the
1150 notice is given and before the time a hearing decision is
1151 rendered. Notice of an emergency discharge or transfer to the
1152 resident, the resident's legal guardian or representative, and
1153 the office or local ombudsman council if requested pursuant to
1154 subsection (9) must be by telephone or in person. This notice
1155 shall be given before the transfer, if possible, or as soon
1156 thereafter as practicable. A representative of the office ~~local~~
1157 ~~ombudsman council~~ conducting a review under this subsection
1158 shall do so within 24 hours after receipt of the request. The
1159 resident's file must be documented to show who was contacted,
1160 whether the contact was by telephone or in person, and the date

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1161 and time of the contact. If the notice is not given in writing,
1162 written notice meeting the requirements of subsection (8) must
1163 be given the next working day.

1164 (12) After receipt of any notice required under this
1165 section, the office or local ~~ombudsman~~ council may request a
1166 private informal conversation with a resident to whom the notice
1167 is directed, and, if known, a family member or the resident's
1168 legal guardian or designee, to ensure that the facility is
1169 proceeding with the discharge or transfer in accordance with ~~the~~
1170 ~~requirements of~~ this section. If requested, the office or local
1171 ~~ombudsman~~ council shall assist the resident with filing an
1172 appeal of the proposed discharge or transfer.

1173 (13) The following persons must be present at all hearings
1174 authorized under this section:

1175 (a) The resident, or the resident's legal representative or
1176 designee.

1177 (b) The facility administrator, or the facility's legal
1178 representative or designee.

1179
1180 A representative of the office or local ~~long-term care ombudsman~~
1181 council may be present at all hearings authorized by this
1182 section.

1183 (14) In any hearing under this section, the following
1184 information concerning the parties shall be confidential and
1185 exempt from ~~the provisions of~~ s. 119.07(1):

1186 (a) Names and addresses.

1187 (b) Medical services provided.

1188 (c) Social and economic conditions or circumstances.

1189 (d) Evaluation of personal information.

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1190 (e) Medical data, including diagnosis and past history of
1191 disease or disability.

1192 (f) Any information received verifying income eligibility
1193 and amount of medical assistance payments. Income information
1194 received from the Social Security Administration or the Internal
1195 Revenue Service must be safeguarded according to the
1196 requirements of the agency that furnished the data.

1197
1198 The exemption created by this subsection does not prohibit
1199 access to such information by a representative of the office
1200 ~~local long term care ombudsman council~~ upon request, by a
1201 reviewing court if such information is required to be part of
1202 the record upon subsequent review, or as specified in s. 24(a),
1203 Art. I of the State Constitution.

1204 Section 23. Subsection (2) of section 400.1413, Florida
1205 Statutes, is amended to read:

1206 400.1413 Volunteers in nursing homes.—

1207 (2) This section does not affect the activities of the
1208 ~~state or local long term care ombudsman~~ program or local
1209 councils authorized under part I.

1210 Section 24. Paragraph (d) of subsection (5) of section
1211 400.162, Florida Statutes, is amended to read:

1212 400.162 Property and personal affairs of residents.—

1213 (5)

1214 (d) If, at any time during the period for which a license
1215 is issued, a licensee that has not purchased a surety bond or
1216 entered into a self-insurance agreement, as provided in
1217 paragraphs (b) and (c), is requested to provide safekeeping for
1218 the personal funds of a resident, the licensee shall notify the

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1219 agency of the request and make application for a surety bond or
1220 for participation in a self-insurance agreement within 7 days
1221 after ~~of~~ the request, exclusive of weekends and holidays. Copies
1222 of the application, along with written documentation of related
1223 correspondence with an insurance agency or group, shall be
1224 maintained by the licensee for review by the agency and the
1225 office ~~state Nursing Home and Long-Term Care Facility ombudsman~~
1226 ~~Council~~.

1227 Section 25. Subsections (1) and (4) of section 400.19,
1228 Florida Statutes, are amended to read:

1229 400.19 Right of entry and inspection.-

1230 (1) In accordance with part II of chapter 408, the agency
1231 and any ~~duly~~ designated officer or employee thereof or a
1232 representative member of the office ~~state Long-Term Care~~
1233 ~~ombudsman Council or the local long-term care ombudsman council~~
1234 shall have the right to enter upon and into the premises of any
1235 facility licensed pursuant to this part, or any distinct nursing
1236 home unit of a hospital licensed under chapter 395 or any
1237 freestanding facility licensed under chapter 395 which ~~that~~
1238 provides extended care or other long-term care services, at any
1239 reasonable time in order to determine the state of compliance
1240 with ~~the provisions of~~ this part, part II of chapter 408, and
1241 applicable rules in force pursuant thereto. The agency shall,
1242 within 60 days after receipt of a complaint made by a resident
1243 or resident's representative, complete its investigation and
1244 provide to the complainant its findings and resolution.

1245 (4) The agency shall conduct unannounced onsite facility
1246 reviews following written verification of licensee noncompliance
1247 in instances in which the office ~~a long-term care ombudsman~~

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1248 ~~council~~, pursuant to ss. 400.0071 and 400.0075, has received a
1249 complaint and has documented deficiencies in resident care or in
1250 the physical plant of the facility that threaten the health,
1251 safety, or security of residents, or when the agency documents
1252 through inspection that conditions in a facility present a
1253 direct or indirect threat to the health, safety, or security of
1254 residents. However, the agency shall conduct unannounced onsite
1255 reviews every 3 months of each facility while the facility has a
1256 conditional license. Deficiencies related to physical plant do
1257 not require followup reviews after the agency has determined
1258 that correction of the deficiency has been accomplished and that
1259 the correction is of the nature that continued compliance can be
1260 reasonably expected.

1261 Section 26. Subsection (1) of section 400.191, Florida
1262 Statutes, is amended to read:

1263 400.191 Availability, distribution, and posting of reports
1264 and records.—

1265 (1) The agency shall provide information to the public
1266 about all of the licensed nursing home facilities operating in
1267 the state. The agency shall, within 60 days after a licensure
1268 inspection visit or within 30 days after any interim visit to a
1269 facility, send copies of the inspection reports to the office
1270 ~~local long-term care ombudsman council~~, the agency's local
1271 office, and a public library or the county seat for the county
1272 in which the facility is located. The agency may provide
1273 electronic access to inspection reports as a substitute for
1274 sending copies.

1275 Section 27. Subsection (6) and paragraph (c) of subsection
1276 (7) of section 400.23, Florida Statutes, are amended to read:

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1277 400.23 Rules; evaluation and deficiencies; licensure
1278 status.—

1279 (6) Before ~~Prior to~~ conducting a survey of the facility,
1280 the survey team shall obtain a copy of the office's ~~local long-~~
1281 ~~term care ombudsman council~~ report on the facility. Problems
1282 noted in the report shall be incorporated into and followed up
1283 through the agency's inspection process. This procedure does not
1284 preclude the office or ~~local long-term care ombudsman~~ council
1285 from requesting the agency to conduct a followup visit to the
1286 facility.

1287 (7) The agency shall, at least every 15 months, evaluate
1288 all nursing home facilities and make a determination as to the
1289 degree of compliance by each licensee with the established rules
1290 adopted under this part as a basis for assigning a licensure
1291 status to that facility. The agency shall base its evaluation on
1292 the most recent inspection report, taking into consideration
1293 findings from other official reports, surveys, interviews,
1294 investigations, and inspections. In addition to license
1295 categories authorized under part II of chapter 408, the agency
1296 shall assign a licensure status of standard or conditional to
1297 each nursing home.

1298 (c) In evaluating the overall quality of care and services
1299 and determining whether the facility will receive a conditional
1300 or standard license, the agency shall consider the needs and
1301 limitations of residents in the facility and the results of
1302 interviews and surveys of a representative sampling of
1303 residents, families of residents, representatives of the office
1304 ~~ombudsman council members in the planning and service area in~~
1305 ~~which the facility is located~~, guardians of residents, and staff

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1306 of the nursing home facility.

1307 Section 28. Paragraph (a) of subsection (3), paragraph (f)
1308 of subsection (5), and subsection (6) of section 400.235,
1309 Florida Statutes, are amended to read:

1310 400.235 Nursing home quality and licensure status; Gold
1311 Seal Program.—

1312 (3) (a) The Gold Seal Program shall be developed and
1313 implemented by the Governor's Panel on Excellence in Long-Term
1314 Care which shall operate under the authority of the Executive
1315 Office of the Governor. The panel shall be composed of three
1316 persons appointed by the Governor, to include a consumer
1317 advocate for senior citizens and two persons with expertise in
1318 the fields of quality management, service delivery excellence,
1319 or public sector accountability; three persons appointed by the
1320 Secretary of Elderly Affairs, to include an active member of a
1321 nursing facility family and resident care council and a member
1322 of the University Consortium on Aging; a representative of the
1323 Office of State Long-Term Care Ombudsman; one person appointed
1324 by the Florida Life Care Residents Association; one person
1325 appointed by the State Surgeon General; two persons appointed by
1326 the Secretary of Health Care Administration; one person
1327 appointed by the Florida Association of Homes for the Aging; and
1328 one person appointed by the Florida Health Care Association.
1329 Vacancies on the panel shall be filled in the same manner as the
1330 original appointments.

1331 (5) Facilities must meet the following additional criteria
1332 for recognition as a Gold Seal Program facility:

1333 (f) Evidence that verified ~~an outstanding record regarding~~
1334 ~~the number and types of substantiated~~ complaints reported to the

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1335 Office of State Long-Term Care Ombudsman Council within the 30
1336 months preceding application for the program have been resolved
1337 or, if they have not been resolved, that the facility has made a
1338 good faith effort to resolve the complaints.

1339

1340 A facility assigned a conditional licensure status may not
1341 qualify for consideration for the Gold Seal Program until after
1342 it has operated for 30 months with no class I or class II
1343 deficiencies and has completed a regularly scheduled relicensure
1344 survey.

1345 (6) The agency, nursing facility industry organizations,
1346 consumers, Office of State Long-Term Care Ombudsman Council, and
1347 members of the community may recommend to the Governor
1348 facilities that meet the established criteria for consideration
1349 for and award of the Gold Seal. The panel shall review nominees
1350 and make a recommendation to the Governor for final approval and
1351 award. The decision of the Governor is final and is not subject
1352 to appeal.

1353 Section 29. Present subsections (18) through (28) of
1354 section 415.102, Florida Statutes, are redesignated as
1355 subsections (19) through (29), respectively, and a new
1356 subsection (18) is added to that section, to read:

1357 415.102 Definitions of terms used in ss. 415.101-415.113.—
1358 As used in ss. 415.101-415.113, the term:

1359 (18) "Office" has the same meaning as in s. 400.0060.

1360 Section 30. Paragraph (a) of subsection (1) of section
1361 415.1034, Florida Statutes, is amended to read:

1362 415.1034 Mandatory reporting of abuse, neglect, or
1363 exploitation of vulnerable adults; mandatory reports of death.—

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- 1364 (1) MANDATORY REPORTING.—
- 1365 (a) Any person, including, but not limited to, any:
- 1366 1. Physician, osteopathic physician, medical examiner,
- 1367 chiropractic physician, nurse, paramedic, emergency medical
- 1368 technician, or hospital personnel engaged in the admission,
- 1369 examination, care, or treatment of vulnerable adults;
- 1370 2. Health professional or mental health professional other
- 1371 than one listed in subparagraph 1.;
- 1372 3. Practitioner who relies solely on spiritual means for
- 1373 healing;
- 1374 4. Nursing home staff; assisted living facility staff;
- 1375 adult day care center staff; adult family-care home staff;
- 1376 social worker; or other professional adult care, residential, or
- 1377 institutional staff;
- 1378 5. State, county, or municipal criminal justice employee or
- 1379 law enforcement officer;
- 1380 6. ~~An~~ Employee of the Department of Business and
- 1381 Professional Regulation conducting inspections of public lodging
- 1382 establishments under s. 509.032;
- 1383 7. Florida advocacy council member or representative of the
- 1384 Office of State Long-Term Care Ombudsman ~~council member~~; or
- 1385 8. Bank, savings and loan, or credit union officer,
- 1386 trustee, or employee,
- 1387
- 1388 who knows, or has reasonable cause to suspect, that a vulnerable
- 1389 adult has been or is being abused, neglected, or exploited shall
- 1390 immediately report such knowledge or suspicion to the central
- 1391 abuse hotline.
- 1392 Section 31. Subsection (1) of section 415.104, Florida

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1393 Statutes, is amended to read:

1394 415.104 Protective investigations of cases of abuse,
1395 neglect, or exploitation of vulnerable adults; transmittal of
1396 records to state attorney.-

1397 (1) The department shall, upon receipt of a report alleging
1398 abuse, neglect, or exploitation of a vulnerable adult, begin
1399 within 24 hours a protective investigation of the facts alleged
1400 therein. If a caregiver refuses to allow the department to begin
1401 a protective investigation or interferes with the conduct of
1402 such an investigation, the appropriate law enforcement agency
1403 shall be contacted for assistance. If, during the course of the
1404 investigation, the department has reason to believe that the
1405 abuse, neglect, or exploitation is perpetrated by a second
1406 party, the appropriate law enforcement agency and state attorney
1407 shall be orally notified. The department and the law enforcement
1408 agency shall cooperate to allow the criminal investigation to
1409 proceed concurrently with, and not be hindered by, the
1410 protective investigation. The department shall make a
1411 preliminary written report to the law enforcement agencies
1412 within 5 working days after the oral report. The department
1413 shall, within 24 hours after receipt of the report, notify the
1414 appropriate Florida local advocacy council, or the office long-
1415 ~~term care ombudsman council~~, when appropriate, that an alleged
1416 abuse, neglect, or exploitation perpetrated by a second party
1417 has occurred. Notice to the Florida local advocacy council or
1418 the office long-term care ombudsman council may be accomplished
1419 orally or in writing and shall include the name and location of
1420 the vulnerable adult alleged to have been abused, neglected, or
1421 exploited and the nature of the report.

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1422 Section 32. Subsection (8) of section 415.1055, Florida
1423 Statutes, is amended to read:

1424 415.1055 Notification to administrative entities.—

1425 (8) At the conclusion of a protective investigation at a
1426 facility, the department shall notify ~~either~~ the Florida local
1427 advocacy council or the office ~~long-term care ombudsman council~~
1428 of the results of the investigation. This notification must be
1429 in writing.

1430 Section 33. Subsection (2) of section 415.106, Florida
1431 Statutes, is amended to read:

1432 415.106 Cooperation by the department and criminal justice
1433 and other agencies.—

1434 (2) To ensure coordination, communication, and cooperation
1435 with the investigation of abuse, neglect, or exploitation of
1436 vulnerable adults, the department shall develop and maintain
1437 interprogram agreements or operational procedures among
1438 appropriate departmental programs and the Office of State Long-
1439 Term Care Ombudsman Council, the Florida Statewide Advocacy
1440 Council, and other agencies that provide services to vulnerable
1441 adults. These agreements or procedures must cover such subjects
1442 as the appropriate roles and responsibilities of the department
1443 in identifying and responding to reports of abuse, neglect, or
1444 exploitation of vulnerable adults; the provision of services;
1445 and related coordinated activities.

1446 Section 34. Paragraph (g) of subsection (3) of section
1447 415.107, Florida Statutes, is amended to read:

1448 415.107 Confidentiality of reports and records.—

1449 (3) Access to all records, excluding the name of the
1450 reporter which shall be released only as provided in subsection

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1451 (6), shall be granted only to the following persons, officials,
1452 and agencies:

1453 (g) Any appropriate official of the Florida advocacy
1454 council or the office ~~long-term care ombudsman council~~
1455 investigating a report of known or suspected abuse, neglect, or
1456 exploitation of a vulnerable adult.

1457 Section 35. Present subsections (16) through (26) of
1458 section 429.02, Florida Statutes, are redesignated as
1459 subsections (17) through (27), respectively, present subsections
1460 (11) and (20) are amended, and a new subsection (16) is added to
1461 that section, to read:

1462 429.02 Definitions.—When used in this part, the term:

1463 (11) "Extended congregate care" means acts beyond those
1464 authorized in subsection (17) ~~(16)~~ that may be performed
1465 pursuant to part I of chapter 464 by persons licensed thereunder
1466 while carrying out their professional duties, and other
1467 supportive services which may be specified by rule. The purpose
1468 of such services is to enable residents to age in place in a
1469 residential environment despite mental or physical limitations
1470 that might otherwise disqualify them from residency in a
1471 facility licensed under this part.

1472 (16) "Office" has the same meaning as in s. 400.0060.

1473 (21) ~~(20)~~ "Resident's representative or designee" means a
1474 person other than the owner, or an agent or employee of the
1475 facility, designated in writing by the resident, if legally
1476 competent, to receive notice of changes in the contract executed
1477 pursuant to s. 429.24; to receive notice of and to participate
1478 in meetings between the resident and the facility owner,
1479 administrator, or staff concerning the rights of the resident;

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1480 to assist the resident in contacting the office ombudsman
1481 ~~council~~ if the resident has a complaint against the facility; or
1482 to bring legal action on behalf of the resident pursuant to s.
1483 429.29.

1484 Section 36. Paragraph (b) of subsection (3) of section
1485 429.07, Florida Statutes, is amended to read:

1486 429.07 License required; fee.—

1487 (3) In addition to the requirements of s. 408.806, each
1488 license granted by the agency must state the type of care for
1489 which the license is granted. Licenses shall be issued for one
1490 or more of the following categories of care: standard, extended
1491 congregate care, limited nursing services, or limited mental
1492 health.

1493 (b) An extended congregate care license shall be issued to
1494 facilities providing, directly or through contract, services
1495 beyond those authorized in paragraph (a), including services
1496 performed by persons licensed under part I of chapter 464 and
1497 supportive services, as defined by rule, to persons who would
1498 otherwise be disqualified from continued residence in a facility
1499 licensed under this part.

1500 1. In order for extended congregate care services to be
1501 provided, the agency must first determine that all requirements
1502 established in law and rule are met and must specifically
1503 designate, on the facility's license, that such services may be
1504 provided and whether the designation applies to all or part of
1505 the facility. Such designation may be made at the time of
1506 initial licensure or relicensure, or upon request in writing by
1507 a licensee under this part and part II of chapter 408. The
1508 notification of approval or the denial of the request shall be

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1509 made in accordance with part II of chapter 408. Existing
1510 facilities qualifying to provide extended congregate care
1511 services must have maintained a standard license and may not
1512 have been subject to administrative sanctions during the
1513 previous 2 years, or since initial licensure if the facility has
1514 been licensed for less than 2 years, for any of the following
1515 reasons:

1516 a. A class I or class II violation;

1517 b. Three or more repeat or recurring class III violations
1518 of identical or similar resident care standards from which a
1519 pattern of noncompliance is found by the agency;

1520 c. Three or more class III violations that were not
1521 corrected in accordance with the corrective action plan approved
1522 by the agency;

1523 d. Violation of resident care standards which results in
1524 requiring the facility to employ the services of a consultant
1525 pharmacist or consultant dietitian;

1526 e. Denial, suspension, or revocation of a license for
1527 another facility licensed under this part in which the applicant
1528 for an extended congregate care license has at least 25 percent
1529 ownership interest; or

1530 f. Imposition of a moratorium pursuant to this part or part
1531 II of chapter 408 or initiation of injunctive proceedings.

1532 2. A facility that is licensed to provide extended
1533 congregate care services shall maintain a written progress
1534 report on each person who receives services which describes the
1535 type, amount, duration, scope, and outcome of services that are
1536 rendered and the general status of the resident's health. A
1537 registered nurse, or appropriate designee, representing the

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1538 agency shall visit the facility at least quarterly to monitor
1539 residents who are receiving extended congregate care services
1540 and to determine whether ~~if~~ the facility is in compliance with
1541 this part, part II of chapter 408, and relevant rules. One of
1542 the visits may be in conjunction with the regular survey. The
1543 monitoring visits may be provided through contractual
1544 arrangements with appropriate community agencies. A registered
1545 nurse shall serve as part of the team that inspects the
1546 facility. The agency may waive one of the required yearly
1547 monitoring visits for a facility that has been licensed for at
1548 least 24 months to provide extended congregate care services,
1549 if, during the inspection, the registered nurse determines that
1550 extended congregate care services are being provided
1551 appropriately, ~~and if~~ the facility has no class I or class II
1552 violations and no uncorrected class III violations. The agency
1553 must first consult with the office ~~long-term care ombudsman~~
1554 ~~council~~ for the area in which the facility is located to
1555 determine whether ~~if~~ any complaints have been made and
1556 substantiated about the quality of services or care. The agency
1557 may not waive one of the required yearly monitoring visits if
1558 complaints have been made and substantiated.

1559 3. A facility that is licensed to provide extended
1560 congregate care services must:

1561 a. Demonstrate the capability to meet unanticipated
1562 resident service needs.

1563 b. Offer a physical environment that promotes a homelike
1564 setting, provides for resident privacy, promotes resident
1565 independence, and allows sufficient congregate space as defined
1566 by rule.

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1567 c. Have sufficient staff available, taking into account the
1568 physical plant and firesafety features of the building, to
1569 assist with the evacuation of residents in an emergency.

1570 d. Adopt and follow policies and procedures that maximize
1571 resident independence, dignity, choice, and decisionmaking to
1572 permit residents to age in place, so that moves due to changes
1573 in functional status are minimized or avoided.

1574 e. Allow residents or, if applicable, a resident's
1575 representative, designee, surrogate, guardian, or attorney in
1576 fact to make a variety of personal choices, participate in
1577 developing service plans, and share responsibility in
1578 decisionmaking.

1579 f. Implement the concept of managed risk.

1580 g. Provide, directly or through contract, the services of a
1581 person licensed under part I of chapter 464.

1582 h. In addition to the training mandated in s. 429.52,
1583 provide specialized training as defined by rule for facility
1584 staff.

1585 4. A facility that is licensed to provide extended
1586 congregate care services is exempt from the criteria for
1587 continued residency set forth in rules adopted under s. 429.41.
1588 A licensed facility must adopt its own requirements within
1589 guidelines for continued residency set forth by rule. However,
1590 the facility may not serve residents who require 24-hour nursing
1591 supervision. A licensed facility that provides extended
1592 congregate care services must also provide each resident with a
1593 written copy of facility policies governing admission and
1594 retention.

1595 5. The primary purpose of extended congregate care services

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1596 is to allow residents, as they become more impaired, the option
1597 of remaining in a familiar setting from which they would
1598 otherwise be disqualified for continued residency. A facility
1599 licensed to provide extended congregate care services may also
1600 admit an individual who exceeds the admission criteria for a
1601 facility with a standard license, if the individual is
1602 determined appropriate for admission to the extended congregate
1603 care facility.

1604 6. Before the admission of an individual to a facility
1605 licensed to provide extended congregate care services, the
1606 individual must undergo a medical examination as provided in s.
1607 429.26(4) and the facility must develop a preliminary service
1608 plan for the individual.

1609 7. When a facility can no longer provide or arrange for
1610 services in accordance with the resident's service plan and
1611 needs and the facility's policy, the facility shall make
1612 arrangements for relocating the person in accordance with s.
1613 429.28(1)(k).

1614 8. Failure to provide extended congregate care services may
1615 result in denial of extended congregate care license renewal.

1616 Section 37. Subsection (9) of section 429.19, Florida
1617 Statutes, is amended to read:

1618 429.19 Violations; imposition of administrative fines;
1619 grounds.—

1620 (9) The agency shall develop and disseminate an annual list
1621 of all facilities sanctioned or fined for violations of state
1622 standards, the number and class of violations involved, the
1623 penalties imposed, and the current status of cases. The list
1624 shall be disseminated, at no charge, to the Department of

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1625 Elderly Affairs, the Department of Health, the Department of
1626 Children and Families, the Agency for Persons with Disabilities,
1627 the area agencies on aging, the Florida Statewide Advocacy
1628 Council, and the office ~~state and local ombudsman councils~~. The
1629 Department of Children and Families shall disseminate the list
1630 to service providers under contract to the department who are
1631 responsible for referring persons to a facility for residency.
1632 The agency may charge a fee commensurate with the cost of
1633 printing and postage to other interested parties requesting a
1634 copy of this list. This information may be provided
1635 electronically or through the agency's Internet site.

1636 Section 38. Subsection (8) of section 429.26, Florida
1637 Statutes, is amended to read:

1638 429.26 Appropriateness of placements; examinations of
1639 residents.—

1640 (8) The Department of Children and Families may require an
1641 examination for supplemental security income and optional state
1642 supplementation recipients residing in facilities at any time
1643 and shall provide the examination whenever a resident's
1644 condition requires it. Any facility administrator; personnel of
1645 the agency, the department, or the Department of Children and
1646 Families; or representative of the Office of the State Long-Term
1647 Care Ombudsman ~~long-term care ombudsman council member~~ who
1648 believes a resident needs to be evaluated shall notify the
1649 resident's case manager, who shall take appropriate action. A
1650 report of the examination findings shall be provided to the
1651 resident's case manager and the facility administrator to help
1652 the administrator meet his or her responsibilities under
1653 subsection (1).

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1654 Section 39. Subsection (2) and paragraph (b) of subsection
1655 (3) of section 429.28, Florida Statutes, are amended to read:
1656 429.28 Resident bill of rights.—

1657 (2) The administrator of a facility shall ensure that a
1658 written notice of the rights, obligations, and prohibitions set
1659 forth in this part is posted in a prominent place in each
1660 facility and read or explained to residents who cannot read.
1661 This notice must ~~shall~~ include the statewide toll-free telephone
1662 number and e-mail address of the state ombudsman program and the
1663 telephone number of the ~~name, address, and telephone numbers of~~
1664 ~~the local ombudsman council~~ and central abuse hotline and, when
1665 applicable, the Advocacy Center for Persons with Disabilities,
1666 Inc., and the Florida local advocacy council, where complaints
1667 may be lodged. The facility must ensure a resident's access to a
1668 telephone to call the state local ~~ombudsman~~ program or local
1669 council, the central abuse hotline, the Advocacy Center for
1670 Persons with Disabilities, Inc., and the Florida local advocacy
1671 council.

1672 (3)

1673 (b) In order to determine whether the facility is
1674 adequately protecting residents' rights, the biennial survey
1675 shall include private informal conversations with a sample of
1676 residents and consultation with the state ombudsman program
1677 ~~council~~ in the planning and service area in which the facility
1678 is located to discuss residents' experiences within the
1679 facility.

1680 Section 40. Section 429.34, Florida Statutes, is amended to
1681 read:

1682 429.34 Right of entry and inspection.—In addition to the

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1683 requirements of s. 408.811, a ~~any~~ duly designated officer or
1684 employee of the department, the Department of Children and
1685 Families, the Medicaid Fraud Control Unit of the Office of the
1686 Attorney General, the state or local fire marshal, or a
1687 representative member of the Office of the State Long-Term Care
1688 Ombudsman ~~may state or local long-term care ombudsman council~~
1689 ~~shall have the right to~~ enter unannounced upon and into the
1690 premises of any facility licensed under ~~pursuant to~~ this part in
1691 order to determine the state of compliance with ~~the provisions~~
1692 ~~of~~ this part, part II of chapter 408, and applicable rules. Data
1693 collected by the office ~~state or local long-term care ombudsman~~
1694 ~~councils~~ or the state or local advocacy councils may be used by
1695 the agency in investigations involving violations of regulatory
1696 standards.

1697 Section 41. Subsection (2) of section 429.35, Florida
1698 Statutes, is amended to read:

1699 429.35 Maintenance of records; reports.—

1700 (2) Within 60 days after the date of the biennial
1701 inspection visit required under s. 408.811 or within 30 days
1702 after the date of any interim visit, the agency shall forward
1703 the results of the inspection to the office ~~local ombudsman~~
1704 ~~council in whose planning and service area, as defined in part~~
1705 ~~II of chapter 400, the facility is located;~~ to at least one
1706 public library or, in the absence of a public library, the
1707 county seat in the county in which the inspected assisted living
1708 facility is located; and, when appropriate, to the district
1709 Adult Services and Mental Health Program Offices.

1710 Section 42. Subsection (6) of section 429.67, Florida
1711 Statutes, is amended to read:

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1712 429.67 Licensure.—

1713 (6) In addition to the requirements of s. 408.811, access
1714 to a licensed adult family-care home must be provided at
1715 reasonable times for the appropriate officials of the
1716 department, the Department of Health, the Department of Children
1717 and Families, the agency, and the State Fire Marshal, who are
1718 responsible for the development and maintenance of fire, health,
1719 sanitary, and safety standards, to inspect the facility to
1720 assure compliance with these standards. In addition, access to a
1721 licensed adult family-care home must be provided at reasonable
1722 times to representatives of the Office of State ~~for the local~~
1723 Long-Term Care Ombudsman ~~council~~.

1724 Section 43. Subsection (2) of section 429.85, Florida
1725 Statutes, is amended to read:

1726 429.85 Residents' bill of rights.—

1727 (2) The provider shall ensure that residents and their
1728 legal representatives are made aware of the rights, obligations,
1729 and prohibitions set forth in this part. Residents must also be
1730 given the statewide toll-free telephone number and e-mail
1731 address of the state ombudsman program and the telephone number
1732 of names, addresses, and telephone numbers of the local
1733 ~~ombudsman council~~ and the central abuse hotline where they may
1734 lodge complaints.

1735 Section 44. Subsection (17) of section 744.444, Florida
1736 Statutes, is amended to read:

1737 744.444 Power of guardian without court approval.—Without
1738 obtaining court approval, a plenary guardian of the property, or
1739 a limited guardian of the property within the powers granted by
1740 the order appointing the guardian or an approved annual or

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1741 amended guardianship report, may:

1742 (17) Provide confidential information about a ward which
1743 ~~that~~ is related to an investigation arising under part I of
1744 chapter 400 to a representative of the Office of the State Long-
1745 Term Care Ombudsman ~~local or state ombudsman council member~~
1746 conducting such an investigation. Any such ombudsman shall have
1747 a duty to maintain the confidentiality of such information.

1748 Section 45. This act shall take effect July 1, 2015.