

1 A bill to be entitled
 2 An act relating to the Long-Term Care Ombudsman Program;
 3 amending ss. 400.0060 and 400.0067, F.S.; removing
 4 references to onsite administrative assessments and
 5 conforming cross-references to changes made by the act;
 6 amending s. 400.0061, F.S.; revising legislative intent;
 7 amending s. 400.0069, F.S.; providing additional duties of
 8 the local long-term care ombudsman councils; amending s.
 9 400.0071, F.S.; revising rules relating to State Long-Term
 10 Care Ombudsman Program complaint procedures; repealing s.
 11 400.0074, F.S., relating to a requirement that local
 12 ombudsman councils conduct onsite administrative
 13 assessments; amending s. 400.0081, F.S.; requiring written
 14 consent of a resident of a long-term care facility for
 15 release of medical records; repealing s. 400.0089, F.S.,
 16 relating to data reports regarding complaints about and
 17 conditions in long-term care facilities; amending s.
 18 400.19, F.S.; revising conditions under which the Agency
 19 for Health Care Administration is required to conduct
 20 unannounced onsite facility reviews; amending s. 400.235,
 21 F.S.; eliminating the role of the State Long-Term Care
 22 Ombudsman Council in evaluating a nursing facility for the
 23 Gold Seal Program; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Subsections (2) through (10) of section
 28 400.0060, Florida Statutes, are renumbered as subsections (1)

29 through (9), respectively, and present subsection (1) of that
 30 section is amended to read:

31 400.0060 Definitions.—When used in this part, unless the
 32 context clearly dictates otherwise, the term:

33 ~~(1) "Administrative assessment" means a review of~~
 34 ~~conditions in a long-term care facility which impact the rights,~~
 35 ~~health, safety, and welfare of residents with the purpose of~~
 36 ~~noting needed improvement and making recommendations to enhance~~
 37 ~~the quality of life for residents.~~

38 Section 2. Subsection (2) of section 400.0061, Florida
 39 Statutes, is amended to read:

40 400.0061 Legislative findings and intent; long-term care
 41 facilities.—

42 (2) It is the intent of the Legislature, therefore, to
 43 utilize voluntary citizen ombudsman councils under the
 44 leadership of the ombudsman, and through them to operate an
 45 ombudsman program which shall, without interference by any
 46 executive agency, undertake to discover, investigate, and
 47 determine the presence of conditions or individuals which
 48 constitute a threat to the rights, health, safety, or welfare of
 49 the residents of long-term care facilities. To ensure that the
 50 effectiveness and efficiency of such investigations are not
 51 impeded by advance notice or delay, the Legislature intends that
 52 the ombudsman and ombudsman councils and their designated
 53 representatives not be required to obtain warrants in order to
 54 enter into a long-term care facility to conduct the duties of
 55 the Office of State Long-Term Care Ombudsman, the State Long-
 56 Term Care Ombudsman Council, or a local long-term care ombudsman

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57 ~~council or conduct investigations or onsite administrative~~
 58 ~~assessments of long-term care facilities.~~ It is the further
 59 intent of the Legislature that the environment in long-term care
 60 facilities be conducive to the dignity and independence of
 61 residents and that investigations by ombudsman councils shall
 62 further the enforcement of laws, rules, and regulations that
 63 safeguard the health, safety, and welfare of residents.

64 Section 3. Paragraph (b) of subsection (2) of section
 65 400.0067, Florida Statutes, is amended to read:

66 400.0067 State Long-Term Care Ombudsman Council; duties;
 67 membership.—

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

69 (b) Serve as an appellate body in receiving from the local
 70 councils complaints not resolved at the local level. Any
 71 individual member or members of the state council may enter any
 72 long-term care facility involved in an appeal, ~~pursuant to the~~
 73 ~~conditions specified in s. 400.0074(2).~~

74 Section 4. Subsection (3) of section 400.0069, Florida
 75 Statutes, is amended, and paragraphs (h) and (i) are added to
 76 subsection (2) of that section, to read:

77 400.0069 Local long-term care ombudsman councils; duties;
 78 membership.—

79 (2) The duties of the local councils are to:

80 (h) Ensure that residents have regular, timely access to
 81 the ombudsman through visitations and that residents and
 82 complainants receive timely responses to their complaints.

83 (i) Provide technical support for the development of
 84 resident and family councils to protect the well-being and

85 rights of residents.

86 (3) In order to carry out the duties specified in
 87 subsection (2), a member of a local council is authorized to
 88 enter any long-term care facility without notice or first
 89 obtaining a warrant, ~~subject to the provisions of s.~~
 90 ~~400.0074(2).~~

91 Section 5. Section 400.0071, Florida Statutes, is amended
 92 to read:

93 400.0071 State Long-Term Care Ombudsman Program complaint
 94 procedures.—The department shall adopt rules implementing state
 95 and local complaint procedures. The rules must include
 96 procedures for:

97 (1) Receiving complaints made by or on behalf of long-term
 98 care facility residents ~~against a long-term care facility or an~~
 99 ~~employee of a long-term care facility.~~

100 (2) Conducting complaint investigations on behalf of long-
 101 term care facility residents ~~of a long-term care facility or an~~
 102 ~~employee of a long-term care facility subsequent to receiving a~~
 103 ~~complaint.~~

104 ~~(3) Conducting onsite administrative assessments of long-~~
 105 ~~term care facilities.~~

106 Section 6. Section 400.0074, Florida Statutes, is
 107 repealed.

108 Section 7. Paragraph (b) of subsection (1) of section
 109 400.0081, Florida Statutes, is amended to read:

110 400.0081 Access to facilities, residents, and records.—

111 (1) A long-term care facility shall provide the office,
 112 the state council and its members, and the local councils and

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113 their members access to:

114 (b) Medical and social records of a resident for review as
 115 necessary to investigate or resolve a complaint, if:

116 1. The office has the written permission of the resident
 117 or the legal representative of the resident and presents that
 118 permission to the long-term care facility; or

119 2. The resident is unable to consent to the review and has
 120 no legal representative.

121 Section 8. Section 400.0089, Florida Statutes, is
 122 repealed.

123 Section 9. Subsection (4) of section 400.19, Florida
 124 Statutes, is amended to read:

125 400.19 Right of entry and inspection.—

126 (4) The agency shall conduct unannounced onsite facility
 127 reviews ~~following written verification of licensee noncompliance~~
 128 ~~in instances in which a long-term care ombudsman council,~~
 129 ~~pursuant to ss. 400.0071 and 400.0075, has received a complaint~~
 130 ~~and has documented deficiencies in resident care or in the~~
 131 ~~physical plant of the facility that threaten the health, safety,~~
 132 ~~or security of residents, or when the agency documents through~~
 133 inspection that conditions in a facility present a direct or
 134 indirect threat to the health, safety, or security of residents.
 135 However, the agency shall conduct unannounced onsite reviews
 136 every 3 months of each facility while the facility has a
 137 conditional license. Deficiencies related to physical plant do
 138 not require followup reviews after the agency has determined
 139 that correction of the deficiency has been accomplished and that
 140 the correction is of the nature that continued compliance can be

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141 reasonably expected.

142 Section 10. Paragraphs (f) and (g) of subsection (5) of
 143 section 400.235, Florida Statutes, are amended to read:

144 400.235 Nursing home quality and licensure status; Gold
 145 Seal Program.—

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

148 ~~(f) Evidence an outstanding record regarding the number~~
 149 ~~and types of substantiated complaints reported to the State~~
 150 ~~Long Term Care Ombudsman Council within the 30 months preceding~~
 151 ~~application for the program.~~

152 (f) ~~(g)~~ Provide targeted inservice training provided to
 153 meet training needs identified by internal or external quality
 154 assurance efforts.

155
 156 A facility assigned a conditional licensure status may not
 157 qualify for consideration for the Gold Seal Program until after
 158 it has operated for 30 months with no class I or class II
 159 deficiencies and has completed a regularly scheduled relicensure
 160 survey.

161 Section 11. This act shall take effect July 1, 2011.