

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 state and local ombudsman councils;  
12          establishing districts; requiring the state ombudsman  
13          to submit an annual report to the Governor, the  
14          Legislature, and specified agencies and entities;  
15          amending s. 400.0067, F.S.; revising duties and  
16          membership of the State Long-Term Care Ombudsman  
17          Council; amending s. 400.0069, F.S.; requiring the  
18          state ombudsman to designate and direct program  
19          districts; providing duties of representatives of the  
20          office in the districts; providing for appointment and  
21          qualifications of district ombudsmen; prohibiting  
22          certain individuals from serving as ombudsmen;  
23          amending s. 400.0070, F.S.; providing conditions under  
24          which a representative of the office could be found to  
25          have a conflict of interest; amending s. 400.0071,  
26          F.S.; requiring the Department of Elderly Affairs to  
27          consult with the state ombudsman before adopting rules  
28          pertaining to complaint resolution; amending s.

29 | 400.0073, F.S.; providing procedures for investigation  
 30 | of complaints; amending s. 400.0074, F.S.; revising  
 31 | procedures for conducting onsite administrative  
 32 | assessments; authorizing the department to adopt  
 33 | rules; amending s. 400.0075, F.S.; revising complaint  
 34 | notification and resolution procedures; amending s.  
 35 | 400.0078, F.S.; providing for a resident or  
 36 | representative of a resident to receive additional  
 37 | information regarding resident rights; amending s.  
 38 | 400.0079, F.S.; providing immunity from liability for  
 39 | a representative of the office under certain  
 40 | circumstances; amending s. 400.0081, F.S.; requiring  
 41 | long-term care facilities to provide representatives  
 42 | of the office with access to facilities, residents,  
 43 | and records for certain purposes; amending s.  
 44 | 400.0083, F.S.; conforming provisions to changes made  
 45 | by the act; amending s. 400.0087, F.S.; providing for  
 46 | the office to coordinate ombudsman services with  
 47 | Disability Rights Florida; amending s. 400.0089, F.S.;  
 48 | conforming provisions to changes made by the act;  
 49 | amending s. 400.0091, F.S.; revising training  
 50 | requirements for representatives of the office and  
 51 | ombudsmen; amending ss. 20.41, 400.021, 400.022,  
 52 | 400.0255, 400.1413, 400.162, 400.19, 400.191, 400.23,  
 53 | 400.235, 415.1034, 415.104, 415.1055, 415.106,  
 54 | 415.107, 429.02, 429.07, 429.19, 429.26, 429.28,  
 55 | 429.34, 429.35, 429.85, and 744.444, F.S.; conforming  
 56 | provisions to changes made by the act; providing an

57 | effective date.

58 |

59 | Be It Enacted by the Legislature of the State of Florida:

60 |

61 | Section 1. Section 400.0060, Florida Statutes, is amended  
62 | to read:

63 | 400.0060 Definitions.—When used in this part, unless the  
64 | context clearly dictates otherwise, the term:

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

70 | (2) "Agency" means the Agency for Health Care  
71 | Administration.

72 | (3) "Department" means the Department of Elderly Affairs.

73 | (4) "District" means a geographical area designated by the  
74 | state ombudsman in which individuals certified as ombudsmen  
75 | carry out the duties of the state ombudsman program. ~~"Local~~  
76 | ~~council" means a local long-term care ombudsman council~~  
77 | ~~designated by the ombudsman pursuant to s. 400.0069. Local~~  
78 | ~~councils are also known as district long-term care ombudsman~~  
79 | ~~councils or district councils.~~

80 | (5) "Long-term care facility" means a nursing home  
81 | facility, assisted living facility, adult family-care home,  
82 | board and care facility, facility where continuing long-term  
83 | care is provided, or any other similar residential adult care  
84 | facility.

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

87 (7) "Ombudsman" means an individual who has been certified  
 88 by the state ombudsman as meeting the requirements of ss.  
 89 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~  
 90 ~~Secretary of Elderly Affairs to head the Office of State Long-~~  
 91 ~~Term Care Ombudsman.~~

92 (8) "Representative of the office" means the state  
 93 ombudsman, an employee of the office, or an individual certified  
 94 as an ombudsman.

95 (9)~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age  
 96 or older who resides in a long-term care facility.

97 (10)~~(9)~~ "Secretary" means the Secretary of Elderly  
 98 Affairs.

99 (11)~~(10)~~ "State council" means the State Long-Term Care  
 100 Ombudsman Council created by s. 400.0067.

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

104 (13) "State ombudsman program" means the program operating  
 105 under the direction of the office.

106 Section 2. Section 400.0061, Florida Statutes, is amended  
 107 to read:

108 400.0061 Legislative findings and intent; long-term care  
 109 facilities.—

110 (1) The Legislature finds that conditions in long-term  
 111 care facilities in this state are such that the rights, health,  
 112 safety, and welfare of residents are not fully ensured by rules

113 of the Department of Elderly Affairs or the Agency for Health  
114 Care Administration or by the good faith of owners or operators  
115 of long-term care facilities. Furthermore, there is a need for a  
116 formal mechanism whereby a long-term care facility resident, a  
117 representative of a long-term care facility resident, or any  
118 other concerned citizen may make a complaint against the  
119 facility or its employees, or against other persons who are in a  
120 position to restrict, interfere with, or threaten the rights,  
121 health, safety, or welfare of a long-term care facility  
122 resident. The Legislature finds that concerned citizens are  
123 often more effective advocates for the rights of others than  
124 governmental agencies. The Legislature further finds that in  
125 order to be eligible to receive an allotment of funds authorized  
126 and appropriated under the federal Older Americans Act, the  
127 state must establish and operate an Office of State Long-Term  
128 Care Ombudsman, to be headed by the state ~~Long-Term Care~~  
129 ombudsman, and carry out a state ~~long-term care~~ ombudsman  
130 program.

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

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

151 Section 3. Section 400.0063, Florida Statutes, is amended  
152 to read:

153 400.0063 Establishment of Office of State Long-Term Care  
154 Ombudsman; designation of ombudsman and legal advocate.—

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

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

163 (b) The state ombudsman shall be appointed by and shall  
164 serve at the pleasure of the Secretary of Elderly Affairs. The  
165 secretary shall appoint a person who has expertise and  
166 experience in the fields of long-term care and advocacy to serve  
167 as state ombudsman.

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

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

174 1. Assisting the state ombudsman in carrying out the  
175 duties of the office with respect to the abuse, neglect,  
176 exploitation, or violation of rights of residents of long-term  
177 care facilities.

178 2. Assisting the state council and representatives of the  
179 office ~~local councils~~ in carrying out their responsibilities  
180 under this part.

181 3. Pursuing administrative, legal, and other appropriate  
182 remedies on behalf of residents.

183 4. Serving as legal counsel to the state council and  
184 representatives of the office ~~local councils, or individual~~  
185 ~~members thereof~~, against whom any suit or other legal action is  
186 initiated in connection with the performance of the official  
187 duties of the state ombudsman program ~~councils or an individual~~  
188 ~~member~~.

189 Section 4. Section 400.0065, Florida Statutes, is amended  
190 to read:

191 400.0065 Office of State Long-Term Care Ombudsman; duties  
192 and responsibilities.—

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

195 (a) Identify, investigate, and resolve complaints made by  
 196 or on behalf of residents of long-term care facilities relating  
 197 to actions or omissions by providers or representatives of  
 198 providers of long-term care services, other public or private  
 199 agencies, guardians, or representative payees that may adversely  
 200 affect the health, safety, welfare, or rights of the residents.

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

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

206 (d) Ensure that residents have regular and timely access  
 207 to the services provided through the office and that residents  
 208 and complainants receive timely responses from representatives  
 209 of the office to their complaints.

210 (e) Represent the interests of residents before  
 211 governmental agencies and seek administrative, legal, and other  
 212 remedies to protect the health, safety, welfare, and rights of  
 213 the residents.

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

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

223 (h) Provide technical support for the development of  
224 resident and family councils to protect the well-being and  
225 rights of residents.

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

228 (a) Establish and coordinate districts ~~local councils~~  
229 throughout the state.

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

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

246 (d) Contract for services necessary to carry out the  
247 activities of the office.

248 (e) Apply for, receive, and accept grants, gifts, or other  
249 payments, including, but not limited to, real property, personal  
250 property, and services from a governmental entity or other

251 public or private entity or person, and make arrangements for  
 252 the use of such grants, gifts, or payments.

253 (f) Coordinate, to the greatest extent possible, state and  
 254 local ombudsman services with the protection and advocacy  
 255 systems for individuals with developmental disabilities and  
 256 mental illnesses and with legal assistance programs for the poor  
 257 through adoption of memoranda of understanding and other means.

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

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

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

278 1. Contain and analyze data collected concerning  
 279 complaints about and conditions in long-term care facilities and  
 280 the disposition of such complaints.

281 2. Evaluate the problems experienced by residents.

282 3. Analyze the successes of the state ombudsman program  
 283 during the preceding year, including an assessment of how  
 284 successfully the office ~~program~~ has carried out its  
 285 responsibilities under the Older Americans Act.

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

292 5. Contain recommendations from the state ~~Long-Term Care~~  
 293 ~~Ombudsman~~ council regarding program functions and activities and  
 294 recommendations for policy, regulatory, and statutory changes  
 295 designed to protect residents' rights, health, safety, and  
 296 welfare.

297 6. Contain any relevant recommendations from  
 298 representatives of the office ~~local councils~~ regarding program  
 299 functions and activities.

300 Section 5. Section 400.0067, Florida Statutes, is amended  
 301 to read:

302 400.0067 State Long-Term Care Ombudsman Council; duties;  
 303 membership.-

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

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

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

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

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

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

323 (e) Elicit and coordinate state, district ~~local~~, and  
 324 voluntary organizational assistance for the purpose of improving  
 325 the care received by residents.

326 (f) Assist the state ombudsman in preparing the annual  
 327 report described in s. 400.0065.

328 (3) The state ~~Long-Term Care Ombudsman~~ council shall be  
 329 composed of one active certified ombudsman from each district  
 330 ~~local council member~~ elected by each ~~local council~~ plus three  
 331 at-large members appointed by the secretary ~~Governor~~.

332 (a) Each district manager, in consultation with the  
 333 district ombudsmen, shall select a district ombudsman ~~local~~

334 ~~council shall elect by majority vote a representative from among~~  
335 ~~the council members to represent the interests of the district~~  
336 ~~local council on the state council. A local council chair may~~  
337 ~~not serve as the representative of the local council on the~~  
338 ~~state council.~~

339 (b)1. The state ombudsman ~~secretary, after consulting with~~  
340 ~~the ombudsman,~~ shall submit to the secretary ~~Governor~~ a list of  
341 individuals ~~persons~~ recommended for appointment to the at-large  
342 positions on the state council. The list shall not include the  
343 name of any individual ~~person~~ who is currently serving in a  
344 district ~~on a local council.~~

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

347 3. If the secretary ~~Governor~~ does not appoint an at-large  
348 member to fill a vacant position within 60 days after the list  
349 is submitted, the state ~~secretary, after consulting with the~~  
350 ~~ombudsman,~~ shall appoint an at-large member to fill that vacant  
351 position.

352 ~~(4) (a) (e) 1.~~ All State council members shall serve 3-year  
353 terms.

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

356 ~~(b) 3.~~ A district manager, in consultation with the  
357 district ombudsmen, local council may recommend replacement  
358 ~~removal~~ of its selected ombudsman ~~elected representative~~ from  
359 the state council ~~by a majority vote~~. If the district manager,  
360 in consultation with the district ombudsmen, selects a  
361 replacement ombudsman, ~~council votes to remove its~~

362 ~~representative, the local council chair shall immediately notify~~  
363 ~~the state ombudsman must be notified. The secretary shall advise~~  
364 ~~the Governor of the local council's vote upon receiving notice~~  
365 ~~from the ombudsman.~~

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

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

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

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

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

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

390 chair shall begin immediately. The replacement chair shall serve  
 391 for the remainder of the term and is eligible to serve two  
 392 subsequent consecutive terms.

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

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

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

404 (g)~~(f)~~ Members shall receive no compensation but shall,  
 405 with approval from the state ombudsman, be reimbursed for per  
 406 diem and travel expenses as provided in s. 112.061.

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

409 400.0069 ~~Local~~ Long-term care ombudsman districts  
 410 ~~councils~~; duties; appointment ~~membership~~.

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

416 (b) The state ombudsman shall ensure that there are  
 417 representatives of the office ~~is at least one local council~~

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

425 |         (2) The duties of the representatives of the office in the  
426 | districts ~~local councils~~ are to:

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

430 |             (b) Discover, investigate, and determine the existence of  
431 | abuse, ~~or~~ neglect, or exploitation using in any long-term care  
432 | facility and to use the procedures provided for in ss. 415.101-  
433 | 415.113 when applicable.

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

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

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

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

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

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

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

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

467 (a) Upon good cause shown, the state ombudsman, in his or  
 468 her sole discretion, may appoint an ombudsman to another  
 469 district. ~~The ombudsman shall strive to ensure that each local~~  
 470 ~~council include the following persons as members:~~

471 1. ~~At least one medical or osteopathic physician whose~~  
 472 ~~practice includes or has included a substantial number of~~

473 ~~geriatric patients and who may practice in a long-term care~~  
 474 ~~facility;~~

475 ~~2. At least one registered nurse who has geriatric~~  
 476 ~~experience;~~

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

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

479 ~~5. At least six nursing home residents or representative~~  
 480 ~~consumer advocates for nursing home residents;~~

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

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

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

486 (b) The following individuals may not be appointed as  
 487 ombudsmen:

488 1. The owner or representative of a long-term care  
 489 facility.

490 2. A provider or representative of a provider of long-term  
 491 care services.

492 3. An employee of the agency.

493 4. An employee of the department, except for a  
 494 representative of the office.

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

496 6. An employee of the Agency for Persons with  
 497 Disabilities. ~~In no case shall the medical director of a long-~~  
 498 ~~term care facility or an employee of the agency, the department,~~  
 499 ~~the Department of Children and Family Services, or the Agency~~

500 ~~for Persons with Disabilities serve as a member or as an ex~~  
501 ~~officio member of a council.~~

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

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

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

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

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

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

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

550        ~~(b) The chair shall select a vice chair from among the~~  
551 ~~members of the council. The vice chair shall preside over the~~  
552 ~~council in the absence of the chair.~~

553        ~~(c) The chair may create additional executive positions as~~  
554 ~~necessary to carry out the duties of the local council. Any~~  
555 ~~person appointed to an executive position shall serve at the~~

556 ~~pleasure of the chair, and his or her term shall expire on the~~  
557 ~~same day as the term of the chair.~~

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

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

570 ~~(6)(8) An ombudsman~~ A member of a local council shall  
571 receive no compensation but shall, with approval from the state  
572 ombudsman, be reimbursed for travel expenses ~~both within and~~  
573 ~~outside the jurisdiction of the local council~~ in accordance with  
574 ~~the provisions of s. 112.061.~~

575 ~~(7)(9) The representatives of the office~~ local councils  
576 are authorized to call upon appropriate state agencies ~~of state~~  
577 ~~government~~ for such professional assistance as ~~may be~~ needed in  
578 the discharge of their duties, and such. ~~All~~ state agencies  
579 shall cooperate ~~with the local councils~~ in providing requested  
580 information and agency representation ~~at council meetings.~~

581 Section 7. Section 400.0070, Florida Statutes, is amended  
582 to read:

583 400.0070 Conflicts of interest.-

584 (1) A representative of the office ~~The ombudsman~~ shall  
 585 not:

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

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

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

596 (2) Each representative ~~employee~~ of the office, ~~each state~~  
 597 ~~council member, and each local council member~~ shall certify that  
 598 he or she has no conflict of interest.

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

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

607 (b) The procedure by which an individual ~~a person~~ listed  
 608 in subsection (2) shall certify that he or she has no conflict  
 609 of interest.

610 Section 8. Section 400.0071, Florida Statutes, is amended  
 611 to read:

612 400.0071 State ~~Long-Term Care~~ ombudsman program complaint  
 613 procedures.—The department, in consultation with the state  
 614 ombudsman, shall adopt rules implementing state and local  
 615 complaint procedures. The rules must include procedures for  
 616 receiving, investigating, identifying, and resolving complaints  
 617 concerning the health, safety, welfare, and rights of residents;

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

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

623 ~~(3) Conducting onsite administrative assessments of long-~~  
 624 ~~term care facilities.~~

625 Section 9. Section 400.0073, Florida Statutes, is amended  
 626 to read:

627 400.0073 Complaint State and local ombudsman council  
 628 investigations.—

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

- 636 (a) Contrary to law;
- 637 (b) Unreasonable, unfair, oppressive, or unnecessarily
- 638 discriminatory, even though in accordance with law;
- 639 (c) Based on a mistake of fact;

- 640 (d) Based on improper or irrelevant grounds;
- 641 (e) Unaccompanied by an adequate statement of reasons;
- 642 (f) Performed in an inefficient manner; or
- 643 (g) Otherwise adversely affecting the health, safety,
- 644 welfare, or rights of a resident.

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

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

650 (2) ~~(4)~~ If a representative of the office ~~the ombudsman or~~  
 651 ~~any state or local council member~~ is not allowed to enter a  
 652 long-term care facility, the administrator of the facility shall  
 653 be considered to have interfered with a representative of the  
 654 office, ~~the state council, or the local council~~ in the  
 655 performance of official duties as described in s. 400.0083(1)  
 656 and to have committed a violation of this part. The  
 657 representative of the office ~~ombudsman~~ shall report a facility's  
 658 refusal to allow entry to the facility to the state ombudsman or  
 659 his or her designee, who shall then report the incident to the  
 660 agency, and the agency shall record the report and take it into  
 661 consideration when determining actions allowable under s.  
 662 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
 663 429.71.

664 Section 10. Section 400.0074, Florida Statutes, is amended  
 665 to read:

666 400.0074 ~~Local ombudsman council~~ Onsite administrative  
 667 assessments.-

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

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

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

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

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

693           (d) A representative of the office ~~local council member~~  
694 ~~physically~~ present for the administrative assessment must ~~shall~~  
695 identify himself or herself to the administrator ~~and cite the~~

696 ~~specific statutory authority for his or her assessment of the~~  
697 ~~facility or his or her designee.~~

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

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

705 (g) An administrative assessment must be conducted in a  
706 manner that will impose no unreasonable burden on a long-term  
707 care facility.

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

712 (3)~~(4)~~ An onsite administrative assessment may not be  
713 accomplished by forcible entry. However, if a representative of  
714 the office ~~ombudsman or a state or local council member~~ is not  
715 allowed to enter a long-term care facility, the administrator of  
716 the facility shall be considered to have interfered with a  
717 representative of the office, ~~the state council, or the local~~  
718 ~~council~~ in the performance of official duties as described in s.  
719 400.0083(1) and to have committed a violation of this part. The  
720 representative of the office ~~ombudsman~~ shall report the refusal  
721 by a facility to allow entry to the state ombudsman or his or  
722 her designee, who shall then report the incident to the agency,  
723 and the agency shall record the report and take it into

724 consideration when determining actions allowable under s.  
 725 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
 726 429.71.

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

731 Section 11. Section 400.0075, Florida Statutes, is amended  
 732 to read:

733 400.0075 Complaint notification and resolution  
 734 procedures.-

735 (1) (a) Any complaint ~~or problem~~ verified by a  
 736 representative of the office ~~an ombudsman council~~ as a result of  
 737 an investigation may ~~or onsite administrative assessment, which~~  
 738 ~~complaint or problem is determined to require remedial action by~~  
 739 ~~the local council, shall~~ be identified and brought to the  
 740 attention of the long-term care facility administrator subject  
 741 to the confidentiality provisions of s. 400.0077 ~~in writing.~~  
 742 Upon receipt of the information ~~such document~~, the  
 743 administrator, with the concurrence of the representative of the  
 744 office ~~local council chair~~, shall establish target dates for  
 745 taking appropriate remedial action. If, by the target date, the  
 746 remedial action is not completed or forthcoming, the  
 747 representative may extend the target date if there is reason to  
 748 believe such action would facilitate the resolution of the  
 749 complaint, or the representative may refer the complaint to the  
 750 district manager ~~local council chair may, after obtaining~~

751 ~~approval from the ombudsman and a majority of the members of the~~  
752 ~~local council.~~

753 ~~1. Extend the target date if the chair has reason to~~  
754 ~~believe such action would facilitate the resolution of the~~  
755 ~~complaint.~~

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

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

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

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

776 (2)(a) Upon referral from a district local council, the  
777 state ombudsman or his or her designee council shall assume the  
778 responsibility for the disposition of the complaint. If a long-

779 term care facility fails to take action to resolve or remedy the  
780 ~~on a~~ complaint ~~by the state council~~, the state ombudsman council  
781 ~~may, after obtaining approval from the ombudsman and a majority~~  
782 ~~of the state council members:~~

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

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

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

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

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

805 (3)(e) If the state ombudsman, after consultation with the  
806 legal advocate, has reason to believe that the long-term care

807 facility or an employee of the facility has committed a criminal  
 808 act, the office ~~ombudsman~~ shall provide local law enforcement  
 809 with the relevant information to initiate an investigation of  
 810 the case.

811 Section 12. Section 400.0078, Florida Statutes, is amended  
 812 to read:

813 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman  
 814 program services.—

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

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

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

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

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

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

832  
 833 Residents or their representatives must be furnished additional  
 834 copies of this information upon request.

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

837 400.0079 Immunity.—

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

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

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

850 400.0081 Access to facilities, residents, and records.—

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

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

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

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

862           2. The resident is unable to consent to the review and has  
863 no legal representative.

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

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

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

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

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

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

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

882           Section 15. Section 400.0083, Florida Statutes, is amended  
883 to read:

884           400.0083 Interference; retaliation; penalties.—

885           (1) It shall be unlawful for any person, long-term care  
886 facility, or other entity to willfully interfere with a  
887 representative of the office or, ~~the state council,~~ ~~or a local~~  
888 ~~council~~ in the performance of official duties.

889 (2) It shall be unlawful for any person, long-term care  
 890 facility, or other entity to knowingly or willfully take action  
 891 or retaliate against any resident, employee, or other person for  
 892 filing a complaint with, providing information to, or otherwise  
 893 cooperating with any representative of the office or, the state  
 894 council, ~~or a local council.~~

895 (3) Any person, long-term care facility, or other entity  
 896 that violates this section:

897 (a) Shall be liable for damages and equitable relief as  
 898 determined by law.

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

901 Section 16. Section 400.0087, Florida Statutes, is amended  
 902 to read:

903 400.0087 Department oversight; funding.—

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

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

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

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

920 (3) The department is responsible for ensuring that the  
 921 office:

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

924 (b) Provides information to public and private agencies,  
 925 legislators, and others.

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

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

932 (4) The department shall also:

933 (a) Receive and disburse state and federal funds for  
 934 purposes that the state ombudsman has formulated in accordance  
 935 with the Older Americans Act.

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

939 Section 17. Section 400.0089, Florida Statutes, is amended  
 940 to read:

941 400.0089 Complaint data reports.—The office shall maintain  
 942 a statewide uniform reporting system to collect and analyze data  
 943 relating to complaints and conditions in long-term care  
 944 facilities and to residents for the purpose of identifying and

945 resolving significant complaints ~~problems~~. The office shall  
946 publish quarterly and make readily available information  
947 pertaining to the number and types of complaints received by the  
948 state ~~Long-Term-Care~~ ombudsman program and shall include such  
949 information in the annual report required under s. 400.0065.

950 Section 18. Section 400.0091, Florida Statutes, is amended  
951 to read:

952 400.0091 Training.—The state ombudsman shall ensure that  
953 appropriate training is provided to all representatives  
954 ~~employees~~ of the office ~~and to the members of the state and~~  
955 ~~local councils~~.

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

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

- 965 (a) Resident confidentiality.  
966 (b) Guardianships and powers of attorney.  
967 (c) Medication administration.  
968 (d) Care and medication of residents with dementia and  
969 Alzheimer's disease.  
970 (e) Accounting for residents' funds.  
971 (f) Discharge rights and responsibilities.  
972 (g) Cultural sensitivity.

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

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

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

986 20.41 Department of Elderly Affairs.—There is created a  
 987 Department of Elderly Affairs.

988 (4) The department shall administer the Office of State  
 989 Long-Term Care Ombudsman Council, created by s. 400.0063  
 990 ~~400.0067, and the local long-term care ombudsman councils,~~  
 991 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the  
 992 federal Older Americans Act of 1965, ensure that ~~both~~ the state  
 993 office operates ~~and local long-term care ombudsman councils~~  
 994 ~~operate~~ in compliance with the Older Americans Act.

995 Section 20. Subsections (11) through (19) of section  
 996 400.021, Florida Statutes, are renumbered as subsections (10)  
 997 through (18), respectively, and present subsections (10) and  
 998 (18) are amended to read:

999 400.021 Definitions.—When used in this part, unless the  
 1000 context otherwise requires, the term:

1001 ~~(10) "Local ombudsman council" means a local long-term~~  
 1002 ~~care ombudsman council established pursuant to s. 400.0069,~~  
 1003 ~~located within the Older Americans Act planning and service~~  
 1004 ~~areas.~~

1005 (17)~~(18)~~ "State ombudsman program ~~council~~" means the  
 1006 Office of State Long-Term Care Ombudsman ~~Council~~ established  
 1007 pursuant to s. 400.0063 ~~400.0067~~.

1008 Section 21. Paragraph (c) of subsection (1) and  
 1009 subsections (2) and (3) of section 400.022, Florida Statutes,  
 1010 are amended to read:

1011 400.022 Residents' rights.—

1012 (1) All licensees of nursing home facilities shall adopt  
 1013 and make public a statement of the rights and responsibilities  
 1014 of the residents of such facilities and shall treat such  
 1015 residents in accordance with the provisions of that statement.  
 1016 The statement shall assure each resident the following:

1017 (c) Any entity or individual that provides health, social,  
 1018 legal, or other services to a resident has the right to have  
 1019 reasonable access to the resident. The resident has the right to  
 1020 deny or withdraw consent to access at any time by any entity or  
 1021 individual. Notwithstanding the visiting policy of the facility,  
 1022 the following individuals must be permitted immediate access to  
 1023 the resident:

1024 1. Any representative of the federal or state government,  
 1025 including, but not limited to, representatives of the Department  
 1026 of Children and Family Services, the Department of Health, the  
 1027 Agency for Health Care Administration, the Office of the  
 1028 Attorney General, and the Department of Elderly Affairs; any law

1029 enforcement officer; representatives ~~members~~ of the state ~~or~~  
 1030 ~~local~~ ombudsman program ~~council~~; and the resident's individual  
 1031 physician.

1032 2. Subject to the resident's right to deny or withdraw  
 1033 consent, immediate family or other relatives of the resident.

1034  
 1035 The facility must allow representatives of the state ~~Long-Term~~  
 1036 ~~Care~~ ombudsman program ~~Council~~ to examine a resident's clinical  
 1037 records with the permission of the resident or the resident's  
 1038 legal representative and consistent with state law.

1039 (2) The licensee for each nursing home shall orally inform  
 1040 the resident of the resident's rights and provide a copy of the  
 1041 statement required by subsection (1) to each resident or the  
 1042 resident's legal representative at or before the resident's  
 1043 admission to a facility. The licensee shall provide a copy of  
 1044 the resident's rights to each staff member of the facility. Each  
 1045 such licensee shall prepare a written plan and provide  
 1046 appropriate staff training to implement ~~the provisions of this~~  
 1047 section. The written statement of rights must include a  
 1048 statement that a resident may file a complaint with the agency  
 1049 or state ~~local~~ ombudsman program ~~council~~. The statement must be  
 1050 in boldfaced type and shall include the ~~name, address, and~~  
 1051 telephone number and e-mail address of the state ~~numbers of the~~  
 1052 ~~local~~ ombudsman program ~~council~~ and the telephone number of the  
 1053 central abuse hotline where complaints may be lodged.

1054 (3) Any violation of the resident's rights set forth in  
 1055 this section shall constitute grounds for action by the agency  
 1056 under ~~the provisions of~~ s. 400.102, s. 400.121, or part II of

1057 chapter 408. In order to determine whether the licensee is  
 1058 adequately protecting residents' rights, the licensure  
 1059 inspection of the facility shall include private informal  
 1060 conversations with a sample of residents to discuss residents'  
 1061 experiences within the facility with respect to rights specified  
 1062 in this section and general compliance with standards, and  
 1063 consultation with the state ombudsman program ~~council in the~~  
 1064 ~~local planning and service area of the Department of Elderly~~  
 1065 ~~Affairs in which the nursing home is located.~~

1066 Section 22. Subsections (8) and (9) and (11) through (14)  
 1067 of section 400.0255, Florida Statutes, are amended to read:

1068 400.0255 Resident transfer or discharge; requirements and  
 1069 procedures; hearings.—

1070 (8) The notice required by subsection (7) must be in  
 1071 writing and must contain all information required by state and  
 1072 federal law, rules, or regulations applicable to Medicaid or  
 1073 Medicare cases. The agency shall develop a standard document to  
 1074 be used by all facilities licensed under this part for purposes  
 1075 of notifying residents of a discharge or transfer. Such document  
 1076 must include a means for a resident to request the state ~~local~~  
 1077 ~~long-term care~~ ombudsman program ~~council~~ to review the notice  
 1078 and request information about or assistance with initiating a  
 1079 fair hearing with the department's Office of Appeals Hearings.  
 1080 In addition to any other pertinent information included, the  
 1081 form shall specify the reason allowed under federal or state law  
 1082 that the resident is being discharged or transferred, with an  
 1083 explanation to support this action. Further, the form shall  
 1084 state the effective date of the discharge or transfer and the

1085 location to which the resident is being discharged or  
 1086 transferred. The form shall clearly describe the resident's  
 1087 appeal rights and the procedures for filing an appeal, including  
 1088 the right to request the state ~~local~~ ombudsman program ~~council~~  
 1089 to review the notice of discharge or transfer. A copy of the  
 1090 notice must be placed in the resident's clinical record, and a  
 1091 copy must be transmitted to the resident's legal guardian or  
 1092 representative and to the state ~~local~~ ombudsman program ~~council~~  
 1093 within 5 business days after signature by the resident or  
 1094 resident designee.

1095 (9) A resident may request that the state ~~local~~ ombudsman  
 1096 program ~~council~~ review any notice of discharge or transfer given  
 1097 to the resident. When requested by a resident to review a notice  
 1098 of discharge or transfer, the state ~~local~~ ombudsman program  
 1099 ~~council~~ shall do so within 7 days after receipt of the request.  
 1100 The nursing home administrator, or the administrator's designee,  
 1101 must forward the request for review contained in the notice to  
 1102 the state ~~local~~ ombudsman program ~~council~~ within 24 hours after  
 1103 such request is submitted. Failure to forward the request within  
 1104 24 hours after the request is submitted shall toll the running  
 1105 of the 30-day advance notice period until the request has been  
 1106 forwarded.

1107 (11) Notwithstanding paragraph (10) (b), an emergency  
 1108 discharge or transfer may be implemented as necessary pursuant  
 1109 to state or federal law during the period of time after the  
 1110 notice is given and before the time a hearing decision is  
 1111 rendered. Notice of an emergency discharge or transfer to the  
 1112 resident, the resident's legal guardian or representative, and

1113 the state ~~local~~ ombudsman program ~~council~~ if requested pursuant  
1114 to subsection (9) must be by telephone or in person. This notice  
1115 shall be given before the transfer, if possible, or as soon  
1116 thereafter as practicable. A representative of the state ~~local~~  
1117 ombudsman program ~~council~~ conducting a review under this  
1118 subsection shall do so within 24 hours after receipt of the  
1119 request. The resident's file must be documented to show who was  
1120 contacted, whether the contact was by telephone or in person,  
1121 and the date and time of the contact. If the notice is not given  
1122 in writing, written notice meeting the requirements of  
1123 subsection (8) must be given the next working day.

1124 (12) After receipt of any notice required under this  
1125 section, the state ~~local~~ ombudsman program ~~council~~ may request a  
1126 private informal conversation with a resident to whom the notice  
1127 is directed, and, if known, a family member or the resident's  
1128 legal guardian or designee, to ensure that the facility is  
1129 proceeding with the discharge or transfer in accordance with ~~the~~  
1130 ~~requirements of~~ this section. If requested, the state ~~local~~  
1131 ombudsman program ~~council~~ shall assist the resident with filing  
1132 an appeal of the proposed discharge or transfer.

1133 (13) The following persons must be present at all hearings  
1134 authorized under this section:

1135 (a) The resident, or the resident's legal representative  
1136 or designee.

1137 (b) The facility administrator, or the facility's legal  
1138 representative or designee.

1139

1140 A representative of the state ~~local long-term care~~ ombudsman  
 1141 program council may be present at all hearings authorized by  
 1142 this section.

1143 (14) In any hearing under this section, the following  
 1144 information concerning the parties shall be confidential and  
 1145 exempt from ~~the provisions of~~ s. 119.07(1):

- 1146 (a) Names and addresses.
- 1147 (b) Medical services provided.
- 1148 (c) Social and economic conditions or circumstances.
- 1149 (d) Evaluation of personal information.
- 1150 (e) Medical data, including diagnosis and past history of  
 1151 disease or disability.

1152 (f) Any information received verifying income eligibility  
 1153 and amount of medical assistance payments. Income information  
 1154 received from the Social Security Administration or the Internal  
 1155 Revenue Service must be safeguarded according to the  
 1156 requirements of the agency that furnished the data.

1157  
 1158 The exemption created by this subsection does not prohibit  
 1159 access to such information by the state ombudsman program ~~a~~  
 1160 ~~local long-term care ombudsman council~~ upon request, by a  
 1161 reviewing court if such information is required to be part of  
 1162 the record upon subsequent review, or as specified in s. 24(a),  
 1163 Art. I of the State Constitution.

1164 Section 23. Subsection (2) of section 400.1413, Florida  
 1165 Statutes, is amended to read:

1166 400.1413 Volunteers in nursing homes.—

1167 (2) This section does not affect the activities of the  
 1168 ~~state or local long-term care~~ ombudsman program ~~councils~~  
 1169 authorized under part I.

1170 Section 24. Paragraph (d) of subsection (5) of section  
 1171 400.162, Florida Statutes, is amended to read:

1172 400.162 Property and personal affairs of residents.—

1173 (5)

1174 (d) If, at any time during the period for which a license  
 1175 is issued, a licensee that has not purchased a surety bond or  
 1176 entered into a self-insurance agreement, as provided in  
 1177 paragraphs (b) and (c), is requested to provide safekeeping for  
 1178 the personal funds of a resident, the licensee shall notify the  
 1179 agency of the request and make application for a surety bond or  
 1180 for participation in a self-insurance agreement within 7 days  
 1181 after ~~of~~ the request, exclusive of weekends and holidays. Copies  
 1182 of the application, along with written documentation of related  
 1183 correspondence with an insurance agency or group, shall be  
 1184 maintained by the licensee for review by the agency and the  
 1185 state ~~Nursing Home and Long-Term Care Facility~~ ombudsman program  
 1186 ~~Council~~.

1187 Section 25. Subsections (1) and (4) of section 400.19,  
 1188 Florida Statutes, are amended to read:

1189 400.19 Right of entry and inspection.—

1190 (1) In accordance with part II of chapter 408, the agency  
 1191 and any duly designated officer or employee thereof or a  
 1192 representative member of the state ~~Long-Term Care~~ ombudsman  
 1193 program ~~Council or the local long-term care ombudsman council~~  
 1194 shall have the right to enter upon and into the premises of any

1195 facility licensed pursuant to this part, or any distinct nursing  
 1196 home unit of a hospital licensed under chapter 395 or any  
 1197 freestanding facility licensed under chapter 395 that provides  
 1198 extended care or other long-term care services, at any  
 1199 reasonable time in order to determine the state of compliance  
 1200 with ~~the provisions of~~ this part, part II of chapter 408, and  
 1201 applicable rules in force pursuant thereto. The agency shall,  
 1202 within 60 days after receipt of a complaint made by a resident  
 1203 or resident's representative, complete its investigation and  
 1204 provide to the complainant its findings and resolution.

1205 (4) The agency shall conduct unannounced onsite facility  
 1206 reviews following written verification of licensee noncompliance  
 1207 in instances in which the state ombudsman program ~~a long-term~~  
 1208 ~~care ombudsman council~~, pursuant to ss. 400.0071 and 400.0075,  
 1209 has received a complaint and has documented deficiencies in  
 1210 resident care or in the physical plant of the facility that  
 1211 threaten the health, safety, or security of residents, or when  
 1212 the agency documents through inspection that conditions in a  
 1213 facility present a direct or indirect threat to the health,  
 1214 safety, or security of residents. However, the agency shall  
 1215 conduct unannounced onsite reviews every 3 months of each  
 1216 facility while the facility has a conditional license.  
 1217 Deficiencies related to physical plant do not require followup  
 1218 reviews after the agency has determined that correction of the  
 1219 deficiency has been accomplished and that the correction is of  
 1220 the nature that continued compliance can be reasonably expected.

1221 Section 26. Subsection (1) of section 400.191, Florida  
 1222 Statutes, is amended to read:

1223 400.191 Availability, distribution, and posting of reports  
1224 and records.—

1225 (1) The agency shall provide information to the public  
1226 about all of the licensed nursing home facilities operating in  
1227 the state. The agency shall, within 60 days after a licensure  
1228 inspection visit or within 30 days after any interim visit to a  
1229 facility, send copies of the inspection reports to the state  
1230 ~~local long-term care~~ ombudsman program ~~council~~, the agency's  
1231 local office, and a public library or the county seat for the  
1232 county in which the facility is located. The agency may provide  
1233 electronic access to inspection reports as a substitute for  
1234 sending copies.

1235 Section 27. Subsection (6) and paragraph (c) of subsection  
1236 (7) of section 400.23, Florida Statutes, is amended to read:

1237 400.23 Rules; evaluation and deficiencies; licensure  
1238 status.—

1239 (6) Before ~~Prior to~~ conducting a survey of the facility,  
1240 the survey team shall obtain a copy of the state ~~local long-term~~  
1241 ~~care~~ ombudsman program ~~council~~ report on the facility. Problems  
1242 noted in the report shall be incorporated into and followed up  
1243 through the agency's inspection process. This procedure does not  
1244 preclude the state ~~local long-term care~~ ombudsman program  
1245 ~~council~~ from requesting the agency to conduct a followup visit  
1246 to the facility.

1247 (7) The agency shall, at least every 15 months, evaluate  
1248 all nursing home facilities and make a determination as to the  
1249 degree of compliance by each licensee with the established rules  
1250 adopted under this part as a basis for assigning a licensure

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1251 status to that facility. The agency shall base its evaluation on  
1252 the most recent inspection report, taking into consideration  
1253 findings from other official reports, surveys, interviews,  
1254 investigations, and inspections. In addition to license  
1255 categories authorized under part II of chapter 408, the agency  
1256 shall assign a licensure status of standard or conditional to  
1257 each nursing home.

1258 (c) In evaluating the overall quality of care and services  
1259 and determining whether the facility will receive a conditional  
1260 or standard license, the agency shall consider the needs and  
1261 limitations of residents in the facility and the results of  
1262 interviews and surveys of a representative sampling of  
1263 residents, families of residents, representatives of the state  
1264 ombudsman program ~~council members in the planning and service~~  
1265 ~~area in which the facility is located~~, guardians of residents,  
1266 and staff of the nursing home facility.

1267 Section 28. Paragraph (a) of subsection (3), paragraph (f)  
1268 of subsection (5), and subsection (6) of section 400.235,  
1269 Florida Statutes, are amended to read:

1270 400.235 Nursing home quality and licensure status; Gold  
1271 Seal Program.—

1272 (3) (a) The Gold Seal Program shall be developed and  
1273 implemented by the Governor's Panel on Excellence in Long-Term  
1274 Care which shall operate under the authority of the Executive  
1275 Office of the Governor. The panel shall be composed of three  
1276 persons appointed by the Governor, to include a consumer  
1277 advocate for senior citizens and two persons with expertise in  
1278 the fields of quality management, service delivery excellence,

1279 or public sector accountability; three persons appointed by the  
 1280 Secretary of Elderly Affairs, to include an active member of a  
 1281 nursing facility family and resident care council and a member  
 1282 of the University Consortium on Aging; a representative of the  
 1283 Office of State Long-Term Care Ombudsman; one person appointed  
 1284 by the Florida Life Care Residents Association; one person  
 1285 appointed by the State Surgeon General; two persons appointed by  
 1286 the Secretary of Health Care Administration; one person  
 1287 appointed by the Florida Association of Homes for the Aging; and  
 1288 one person appointed by the Florida Health Care Association.  
 1289 Vacancies on the panel shall be filled in the same manner as the  
 1290 original appointments.

1291 (5) Facilities must meet the following additional criteria  
 1292 for recognition as a Gold Seal Program facility:

1293 (f) Evidence an outstanding record regarding the number  
 1294 and types of substantiated complaints reported to the Office of  
 1295 State Long-Term Care Ombudsman ~~Council~~ within the 30 months  
 1296 preceding application for the program.

1297  
 1298 A facility assigned a conditional licensure status may not  
 1299 qualify for consideration for the Gold Seal Program until after  
 1300 it has operated for 30 months with no class I or class II  
 1301 deficiencies and has completed a regularly scheduled relicensure  
 1302 survey.

1303 (6) The agency, nursing facility industry organizations,  
 1304 consumers, Office of State Long-Term Care Ombudsman ~~Council~~, and  
 1305 members of the community may recommend to the Governor  
 1306 facilities that meet the established criteria for consideration

1307 for and award of the Gold Seal. The panel shall review nominees  
 1308 and make a recommendation to the Governor for final approval and  
 1309 award. The decision of the Governor is final and is not subject  
 1310 to appeal.

1311 Section 29. Paragraph (a) of subsection (1) of section  
 1312 415.1034, Florida Statutes, is amended to read:

1313 415.1034 Mandatory reporting of abuse, neglect, or  
 1314 exploitation of vulnerable adults; mandatory reports of death.-

1315 (1) MANDATORY REPORTING.-

1316 (a) Any person, including, but not limited to, any:

1317 1. Physician, osteopathic physician, medical examiner,  
 1318 chiropractic physician, nurse, paramedic, emergency medical  
 1319 technician, or hospital personnel engaged in the admission,  
 1320 examination, care, or treatment of vulnerable adults;

1321 2. Health professional or mental health professional other  
 1322 than one listed in subparagraph 1.;

1323 3. Practitioner who relies solely on spiritual means for  
 1324 healing;

1325 4. Nursing home staff; assisted living facility staff;  
 1326 adult day care center staff; adult family-care home staff;  
 1327 social worker; or other professional adult care, residential, or  
 1328 institutional staff;

1329 5. State, county, or municipal criminal justice employee  
 1330 or law enforcement officer;

1331 6. ~~An~~ Employee of the Department of Business and  
 1332 Professional Regulation conducting inspections of public lodging  
 1333 establishments under s. 509.032;

1334 7. Florida advocacy council member or representative of  
 1335 the Office of State Long-Term Care Ombudsman ~~council member~~; or

1336 8. Bank, savings and loan, or credit union officer,  
 1337 trustee, or employee,

1338  
 1339 who knows, or has reasonable cause to suspect, that a vulnerable  
 1340 adult has been or is being abused, neglected, or exploited shall  
 1341 immediately report such knowledge or suspicion to the central  
 1342 abuse hotline.

1343 Section 30. Subsection (1) of section 415.104, Florida  
 1344 Statutes, is amended to read:

1345 415.104 Protective investigations of cases of abuse,  
 1346 neglect, or exploitation of vulnerable adults; transmittal of  
 1347 records to state attorney.—

1348 (1) The department shall, upon receipt of a report  
 1349 alleging abuse, neglect, or exploitation of a vulnerable adult,  
 1350 begin within 24 hours a protective investigation of the facts  
 1351 alleged therein. If a caregiver refuses to allow the department  
 1352 to begin a protective investigation or interferes with the  
 1353 conduct of such an investigation, the appropriate law  
 1354 enforcement agency shall be contacted for assistance. If, during  
 1355 the course of the investigation, the department has reason to  
 1356 believe that the abuse, neglect, or exploitation is perpetrated  
 1357 by a second party, the appropriate law enforcement agency and  
 1358 state attorney shall be orally notified. The department and the  
 1359 law enforcement agency shall cooperate to allow the criminal  
 1360 investigation to proceed concurrently with, and not be hindered  
 1361 by, the protective investigation. The department shall make a

1362 preliminary written report to the law enforcement agencies  
1363 within 5 working days after the oral report. The department  
1364 shall, within 24 hours after receipt of the report, notify the  
1365 appropriate Florida local advocacy council, or state long-term  
1366 ~~care~~ ombudsman program ~~council~~, when appropriate, that an  
1367 alleged abuse, neglect, or exploitation perpetrated by a second  
1368 party has occurred. Notice to the Florida local advocacy council  
1369 or state long-term care ombudsman program ~~council~~ may be  
1370 accomplished orally or in writing and shall include the name and  
1371 location of the vulnerable adult alleged to have been abused,  
1372 neglected, or exploited and the nature of the report.

1373 Section 31. Subsection (8) of section 415.1055, Florida  
1374 Statutes, is amended to read:

1375 415.1055 Notification to administrative entities.—

1376 (8) At the conclusion of a protective investigation at a  
1377 facility, the department shall notify either the Florida local  
1378 advocacy council or state long-term care ombudsman program  
1379 ~~council~~ of the results of the investigation. This notification  
1380 must be in writing.

1381 Section 32. Subsection (2) of section 415.106, Florida  
1382 Statutes, is amended to read:

1383 415.106 Cooperation by the department and criminal justice  
1384 and other agencies.—

1385 (2) To ensure coordination, communication, and cooperation  
1386 with the investigation of abuse, neglect, or exploitation of  
1387 vulnerable adults, the department shall develop and maintain  
1388 interprogram agreements or operational procedures among  
1389 appropriate departmental programs and the Office of State Long-

1390 Term Care Ombudsman ~~Council~~, the Florida Statewide Advocacy  
 1391 Council, and other agencies that provide services to vulnerable  
 1392 adults. These agreements or procedures must cover such subjects  
 1393 as the appropriate roles and responsibilities of the department  
 1394 in identifying and responding to reports of abuse, neglect, or  
 1395 exploitation of vulnerable adults; the provision of services;  
 1396 and related coordinated activities.

1397 Section 33. Paragraph (g) of subsection (3) of section  
 1398 415.107, Florida Statutes, is amended to read:

1399 415.107 Confidentiality of reports and records.—

1400 (3) Access to all records, excluding the name of the  
 1401 reporter which shall be released only as provided in subsection  
 1402 (6), shall be granted only to the following persons, officials,  
 1403 and agencies:

1404 (g) Any appropriate official of the Florida advocacy  
 1405 council or state long-term care ombudsman program ~~council~~  
 1406 investigating a report of known or suspected abuse, neglect, or  
 1407 exploitation of a vulnerable adult.

1408 Section 34. Subsection (20) of section 429.02, Florida  
 1409 Statutes, is amended to read:

1410 429.02 Definitions.—When used in this part, the term:

1411 (20) "Resident's representative or designee" means a  
 1412 person other than the owner, or an agent or employee of the  
 1413 facility, designated in writing by the resident, if legally  
 1414 competent, to receive notice of changes in the contract executed  
 1415 pursuant to s. 429.24; to receive notice of and to participate  
 1416 in meetings between the resident and the facility owner,  
 1417 administrator, or staff concerning the rights of the resident;

1418 to assist the resident in contacting the state ombudsman program  
1419 ~~council~~ if the resident has a complaint against the facility; or  
1420 to bring legal action on behalf of the resident pursuant to s.  
1421 429.29.

1422 Section 35. Paragraph (b) of subsection (3) of section  
1423 429.07, Florida Statutes, is amended to read:

1424 429.07 License required; fee.—

1425 (3) In addition to the requirements of s. 408.806, each  
1426 license granted by the agency must state the type of care for  
1427 which the license is granted. Licenses shall be issued for one  
1428 or more of the following categories of care: standard, extended  
1429 congregate care, limited nursing services, or limited mental  
1430 health.

1431 (b) An extended congregate care license shall be issued to  
1432 facilities providing, directly or through contract, services  
1433 beyond those authorized in paragraph (a), including services  
1434 performed by persons licensed under part I of chapter 464 and  
1435 supportive services, as defined by rule, to persons who would  
1436 otherwise be disqualified from continued residence in a facility  
1437 licensed under this part.

1438 1. In order for extended congregate care services to be  
1439 provided, the agency must first determine that all requirements  
1440 established in law and rule are met and must specifically  
1441 designate, on the facility's license, that such services may be  
1442 provided and whether the designation applies to all or part of  
1443 the facility. Such designation may be made at the time of  
1444 initial licensure or relicensure, or upon request in writing by  
1445 a licensee under this part and part II of chapter 408. The

1446 notification of approval or the denial of the request shall be  
1447 made in accordance with part II of chapter 408. Existing  
1448 facilities qualifying to provide extended congregate care  
1449 services must have maintained a standard license and may not  
1450 have been subject to administrative sanctions during the  
1451 previous 2 years, or since initial licensure if the facility has  
1452 been licensed for less than 2 years, for any of the following  
1453 reasons:

- 1454 a. A class I or class II violation;
- 1455 b. Three or more repeat or recurring class III violations  
1456 of identical or similar resident care standards from which a  
1457 pattern of noncompliance is found by the agency;
- 1458 c. Three or more class III violations that were not  
1459 corrected in accordance with the corrective action plan approved  
1460 by the agency;
- 1461 d. Violation of resident care standards which results in  
1462 requiring the facility to employ the services of a consultant  
1463 pharmacist or consultant dietitian;
- 1464 e. Denial, suspension, or revocation of a license for  
1465 another facility licensed under this part in which the applicant  
1466 for an extended congregate care license has at least 25 percent  
1467 ownership interest; or
- 1468 f. Imposition of a moratorium pursuant to this part or  
1469 part II of chapter 408 or initiation of injunctive proceedings.

1470 2. A facility that is licensed to provide extended  
1471 congregate care services shall maintain a written progress  
1472 report on each person who receives services which describes the  
1473 type, amount, duration, scope, and outcome of services that are

1474 rendered and the general status of the resident's health. A  
1475 registered nurse, or appropriate designee, representing the  
1476 agency shall visit the facility at least quarterly to monitor  
1477 residents who are receiving extended congregate care services  
1478 and to determine whether ~~if~~ the facility is in compliance with  
1479 this part, part II of chapter 408, and relevant rules. One of  
1480 the visits may be in conjunction with the regular survey. The  
1481 monitoring visits may be provided through contractual  
1482 arrangements with appropriate community agencies. A registered  
1483 nurse shall serve as part of the team that inspects the  
1484 facility. The agency may waive one of the required yearly  
1485 monitoring visits for a facility that has been licensed for at  
1486 least 24 months to provide extended congregate care services,  
1487 if, during the inspection, the registered nurse determines that  
1488 extended congregate care services are being provided  
1489 appropriately, and if the facility has no class I or class II  
1490 violations and no uncorrected class III violations. The agency  
1491 must first consult with the state long-term care ~~ombudsman~~  
1492 program council for the area in which the facility is located to  
1493 determine whether ~~if~~ any complaints have been made and  
1494 substantiated about the quality of services or care. The agency  
1495 may not waive one of the required yearly monitoring visits if  
1496 complaints have been made and substantiated.

1497 3. A facility that is licensed to provide extended  
1498 congregate care services must:

1499 a. Demonstrate the capability to meet unanticipated  
1500 resident service needs.

1501           b. Offer a physical environment that promotes a homelike  
1502 setting, provides for resident privacy, promotes resident  
1503 independence, and allows sufficient congregate space as defined  
1504 by rule.

1505           c. Have sufficient staff available, taking into account  
1506 the physical plant and firesafety features of the building, to  
1507 assist with the evacuation of residents in an emergency.

1508           d. Adopt and follow policies and procedures that maximize  
1509 resident independence, dignity, choice, and decisionmaking to  
1510 permit residents to age in place, so that moves due to changes  
1511 in functional status are minimized or avoided.

1512           e. Allow residents or, if applicable, a resident's  
1513 representative, designee, surrogate, guardian, or attorney in  
1514 fact to make a variety of personal choices, participate in  
1515 developing service plans, and share responsibility in  
1516 decisionmaking.

1517           f. Implement the concept of managed risk.

1518           g. Provide, directly or through contract, the services of  
1519 a person licensed under part I of chapter 464.

1520           h. In addition to the training mandated in s. 429.52,  
1521 provide specialized training as defined by rule for facility  
1522 staff.

1523           4. A facility that is licensed to provide extended  
1524 congregate care services is exempt from the criteria for  
1525 continued residency set forth in rules adopted under s. 429.41.  
1526 A licensed facility must adopt its own requirements within  
1527 guidelines for continued residency set forth by rule. However,  
1528 the facility may not serve residents who require 24-hour nursing

1529 supervision. A licensed facility that provides extended  
1530 congregate care services must also provide each resident with a  
1531 written copy of facility policies governing admission and  
1532 retention.

1533 5. The primary purpose of extended congregate care  
1534 services is to allow residents, as they become more impaired,  
1535 the option of remaining in a familiar setting from which they  
1536 would otherwise be disqualified for continued residency. A  
1537 facility licensed to provide extended congregate care services  
1538 may also admit an individual who exceeds the admission criteria  
1539 for a facility with a standard license, if the individual is  
1540 determined appropriate for admission to the extended congregate  
1541 care facility.

1542 6. Before the admission of an individual to a facility  
1543 licensed to provide extended congregate care services, the  
1544 individual must undergo a medical examination as provided in s.  
1545 429.26(4) and the facility must develop a preliminary service  
1546 plan for the individual.

1547 7. When a facility can no longer provide or arrange for  
1548 services in accordance with the resident's service plan and  
1549 needs and the facility's policy, the facility shall make  
1550 arrangements for relocating the person in accordance with s.  
1551 429.28(1)(k).

1552 8. Failure to provide extended congregate care services  
1553 may result in denial of extended congregate care license  
1554 renewal.

1555 Section 36. Subsection (9) of section 429.19, Florida  
1556 Statutes, is amended to read:

1557 429.19 Violations; imposition of administrative fines;  
 1558 grounds.—

1559 (9) The agency shall develop and disseminate an annual  
 1560 list of all facilities sanctioned or fined for violations of  
 1561 state standards, the number and class of violations involved,  
 1562 the penalties imposed, and the current status of cases. The list  
 1563 shall be disseminated, at no charge, to the Department of  
 1564 Elderly Affairs, the Department of Health, the Department of  
 1565 Children and Families ~~Family Services~~, the Agency for Persons  
 1566 with Disabilities, the area agencies on aging, the Florida  
 1567 Statewide Advocacy Council, and the state ~~and local~~ ombudsman  
 1568 program councils. The Department of Children and Families ~~Family~~  
 1569 ~~Services~~ shall disseminate the list to service providers under  
 1570 contract to the department who are responsible for referring  
 1571 persons to a facility for residency. The agency may charge a fee  
 1572 commensurate with the cost of printing and postage to other  
 1573 interested parties requesting a copy of this list. This  
 1574 information may be provided electronically or through the  
 1575 agency's Internet site.

1576 Section 37. Subsection (8) of section 429.26, Florida  
 1577 Statutes, is amended to read:

1578 429.26 Appropriateness of placements; examinations of  
 1579 residents.—

1580 (8) The Department of Children and Families ~~Family~~  
 1581 ~~Services~~ may require an examination for supplemental security  
 1582 income and optional state supplementation recipients residing in  
 1583 facilities at any time and shall provide the examination  
 1584 whenever a resident's condition requires it. Any facility

1585 administrator; personnel of the agency, the department, or the  
 1586 Department of Children and Families ~~Family Services~~; or  
 1587 representative of the state long-term care ombudsman program  
 1588 ~~council member~~ who believes a resident needs to be evaluated  
 1589 shall notify the resident's case manager, who shall take  
 1590 appropriate action. A report of the examination findings shall  
 1591 be provided to the resident's case manager and the facility  
 1592 administrator to help the administrator meet his or her  
 1593 responsibilities under subsection (1).

1594 Section 38. Subsection (2) and paragraph (b) of subsection  
 1595 (3) of section 429.28, Florida Statutes, are amended to read:

1596 429.28 Resident bill of rights.—

1597 (2) The administrator of a facility shall ensure that a  
 1598 written notice of the rights, obligations, and prohibitions set  
 1599 forth in this part is posted in a prominent place in each  
 1600 facility and read or explained to residents who cannot read.  
 1601 This notice shall include the statewide toll-free telephone  
 1602 number and e-mail address ~~name, address, and telephone numbers~~  
 1603 of the state local ~~ombudsman program council~~ and central abuse  
 1604 hotline and, when applicable, the Advocacy Center for Persons  
 1605 with Disabilities, Inc., and the Florida local advocacy council,  
 1606 where complaints may be lodged. The facility must ensure a  
 1607 resident's access to a telephone to call the state local  
 1608 ombudsman program council, central abuse hotline, Advocacy  
 1609 Center for Persons with Disabilities, Inc., and the Florida  
 1610 local advocacy council.

1611 (3)

1612 (b) In order to determine whether the facility is  
 1613 adequately protecting residents' rights, the biennial survey  
 1614 shall include private informal conversations with a sample of  
 1615 residents and consultation with the state ombudsman program  
 1616 ~~council~~ in the planning and service area in which the facility  
 1617 is located to discuss residents' experiences within the  
 1618 facility.

1619 Section 39. Section 429.34, Florida Statutes, is amended  
 1620 to read:

1621 429.34 Right of entry and inspection.—In addition to the  
 1622 requirements of s. 408.811, any duly designated officer or  
 1623 employee of the department, the Department of Children and  
 1624 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the  
 1625 Office of the Attorney General, the state or local fire marshal,  
 1626 or a representative member of the state ~~or local long-term care~~  
 1627 ombudsman program council shall have the right to enter  
 1628 unannounced upon and into the premises of any facility licensed  
 1629 pursuant to this part in order to determine the state of  
 1630 compliance with ~~the provisions of~~ this part, part II of chapter  
 1631 408, and applicable rules. Data collected by the state ~~or local~~  
 1632 ~~long-term care~~ ombudsman program councils or the state or local  
 1633 advocacy councils may be used by the agency in investigations  
 1634 involving violations of regulatory standards.

1635 Section 40. Subsection (2) of section 429.35, Florida  
 1636 Statutes, is amended to read:

1637 429.35 Maintenance of records; reports.—

1638 (2) Within 60 days after the date of the biennial  
 1639 inspection visit required under s. 408.811 or within 30 days

1640 after the date of any interim visit, the agency shall forward  
 1641 the results of the inspection to the state ~~local~~ ombudsman  
 1642 program council ~~in whose planning and service area, as defined~~  
 1643 ~~in part II of chapter 400, the facility is located;~~ to at least  
 1644 one public library or, in the absence of a public library, the  
 1645 county seat in the county in which the inspected assisted living  
 1646 facility is located; and, when appropriate, to the district  
 1647 Adult Services and Mental Health Program Offices.

1648 Section 41. Subsection (2) of section 429.85, Florida  
 1649 Statutes, is amended to read:

1650 429.85 Residents' bill of rights.—

1651 (2) The provider shall ensure that residents and their  
 1652 legal representatives are made aware of the rights, obligations,  
 1653 and prohibitions set forth in this part. Residents must also be  
 1654 given the statewide toll-free telephone number and e-mail  
 1655 address of the state ombudsman program and the telephone number  
 1656 of ~~names, addresses, and telephone numbers of the local~~  
 1657 ~~ombudsman council~~ and the central abuse hotline where they may  
 1658 lodge complaints.

1659 Section 42. Subsection (17) of section 744.444, Florida  
 1660 Statutes, is amended to read:

1661 744.444 Power of guardian without court approval.—Without  
 1662 obtaining court approval, a plenary guardian of the property, or  
 1663 a limited guardian of the property within the powers granted by  
 1664 the order appointing the guardian or an approved annual or  
 1665 amended guardianship report, may:

1666 (17) Provide confidential information about a ward that is  
 1667 related to an investigation arising under part I of chapter 400

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1668 | to a representative of the local or state ombudsman program  
1669 | ~~council member~~ conducting such an investigation. Any such  
1670 | ombudsman shall have a duty to maintain the confidentiality of  
1671 | such information.

1672 |       Section 43. This act shall take effect July 1, 2013.