

20157018er

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

20157018er

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

20157018er

59 conforming provisions to changes made by the act;
60 amending s. 400.235, F.S.; conforming provisions to
61 changes made by the act; revising the additional
62 criteria for recognition as a Gold Seal Program
63 facility; amending ss. 415.102, 415.1034, 415.104,
64 415.1055, 415.106, 415.107, 429.02, 429.19, 429.26,
65 429.28, 429.34, 429.35, 429.67, and 429.85, F.S.;
66 conforming provisions to changes made by the act;
67 providing an effective date.
68

69 Be It Enacted by the Legislature of the State of Florida:
70

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

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

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

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

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

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

20157018er

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

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

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

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

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

20157018er

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

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

20157018er

204 ~~member.~~

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

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

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

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

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

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

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

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

231 (f) Administer the state and local councils.

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

20157018er

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

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

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

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

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

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

20157018er

262 Ombudsman Program for purposes of this part.

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

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

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

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

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

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

20157018er

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

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

299 2. Evaluate the problems experienced by residents.

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

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

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

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

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

20157018er

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

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

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

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

330 (b) Serve as an appellate body in receiving from the
331 districts or local councils complaints not resolved at the
332 district or local level. Any individual member or members of the
333 state council may enter any long-term care facility involved in
334 an appeal, pursuant to the conditions specified in s.
335 400.0074(2).

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

20157018er

407 subsequent consecutive terms.

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

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

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

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

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

493 1. At least one medical or osteopathic physician whose

20157018er

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

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

499 3. At least one licensed pharmacist;

500 4. At least one registered dietitian;

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

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

506 7. At least one attorney; and

507 8. At least one professional social worker.

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

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

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

514 3. An employee of the agency.

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

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

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

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

20157018er

523 ~~of a council.~~

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

525 1. Individuals wishing to join a local council shall Submit
526 an application to the state ombudsman or his or her designee.
527 ~~The ombudsman shall review the individual's application and~~
528 ~~advise the secretary of his or her recommendation for approval~~
529 ~~or disapproval of the candidate's membership on the local~~
530 ~~council. If the secretary approves of the individual's~~
531 ~~membership, the individual shall be appointed as a member of the~~
532 ~~local council.~~

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

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

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

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

20157018er

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

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

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

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

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

20157018er

581 same day as the term of the chair.

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

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

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

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

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

608 400.0070 Conflicts of interest.—

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

20157018er

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

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

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

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

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

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

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

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

20157018er

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

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

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

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

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

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

657 400.0073 State and local ombudsman council investigations.—

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

20157018er

668 ~~care facility which might be:~~

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

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

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

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

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

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

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

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

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

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

20157018er

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

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

700 400.0074 Local ombudsman council onsite administrative
701 assessments.—

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

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

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

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

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

20157018er

726 followup assessments on specific problems may be provided.

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

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

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

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

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

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

20157018er

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

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

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

769 400.0075 Complaint notification and resolution procedures.-

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

20157018er

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

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

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

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

870 (d) Other relevant information regarding how to contact

20157018er

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

873
874 Residents or their representatives must be furnished additional
875 copies of this information upon request.

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

878 400.0079 Immunity.—

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

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

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

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

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

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

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

20157018er

929 400.0083 Interference; retaliation; penalties.—

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

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

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

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

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

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

950 400.0087 Department oversight; funding.—

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

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

20157018er

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

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

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

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

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

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

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

981 (4) The department shall also:

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

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

20157018er

987 Long-Term Care Ombudsman Program.

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

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

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

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

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

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

20157018er

1016 minimum, address:

1017 (a) Resident confidentiality.

1018 (b) Guardianships and powers of attorney.

1019 (c) Medication administration.

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

1022 (e) Accounting for residents' funds.

1023 (f) Discharge rights and responsibilities.

1024 (g) Cultural sensitivity.

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

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

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

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

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

20157018er

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

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

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

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

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

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

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

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

20157018er

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

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

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

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

1089 400.022 Residents' rights.—

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

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

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

20157018er

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

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

1112
1113 The facility must allow representatives of the State Long-Term
1114 Care Ombudsman Program Council to examine a resident's clinical
1115 records with the permission of the resident or the resident's
1116 legal representative and consistent with state law.

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

20157018er

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

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

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

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

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

20157018er

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

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

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

20157018er

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

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

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

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

20157018er

1219 designee.

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

1222

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

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

1229 (a) Names and addresses.

1230 (b) Medical services provided.

1231 (c) Social and economic conditions or circumstances.

1232 (d) Evaluation of personal information.

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

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

1240

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

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

20157018er

1248 400.162, Florida Statutes, is amended to read:

1249 400.162 Property and personal affairs of residents.—

1250 (5)

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

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

1266 400.19 Right of entry and inspection.—

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

20157018er

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

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

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

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

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

20157018er

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

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

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

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

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

20157018er

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

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

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

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

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

20157018er

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

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

1372 (f) Evidence that verified ~~an outstanding record regarding~~
1373 ~~the number and types of substantiated~~ complaints reported to the
1374 State Long-Term Care Ombudsman Program Council within the 30
1375 months preceding application for the program have not resulted
1376 in a citation for licensure.

1377
1378 A facility assigned a conditional licensure status may not
1379 qualify for consideration for the Gold Seal Program until after
1380 it has operated for 30 months with no class I or class II
1381 deficiencies and has completed a regularly scheduled relicensure
1382 survey.

1383 (6) The agency, nursing facility industry organizations,
1384 consumers, State Long-Term Care Ombudsman Program Council, and
1385 members of the community may recommend to the Governor
1386 facilities that meet the established criteria for consideration
1387 for and award of the Gold Seal. The panel shall review nominees
1388 and make a recommendation to the Governor for final approval and
1389 award. The decision of the Governor is final and is not subject
1390 to appeal.

1391 Section 28. Present subsections (18) through (28) of
1392 section 415.102, Florida Statutes, are redesignated as

20157018er

1393 subsections (19) through (29), respectively, and a new
1394 subsection (18) is added to that section, to read:

1395 415.102 Definitions of terms used in ss. 415.101-415.113.-

1396 As used in ss. 415.101-415.113, the term:

1397 (18) "Office" has the same meaning as in s. 400.0060.

1398 Section 29. Paragraph (a) of subsection (1) of section
1399 415.1034, Florida Statutes, is amended to read:

1400 415.1034 Mandatory reporting of abuse, neglect, or
1401 exploitation of vulnerable adults; mandatory reports of death.-

1402 (1) MANDATORY REPORTING.-

1403 (a) Any person, including, but not limited to, any:

1404 1. Physician, osteopathic physician, medical examiner,
1405 chiropractic physician, nurse, paramedic, emergency medical
1406 technician, or hospital personnel engaged in the admission,
1407 examination, care, or treatment of vulnerable adults;

1408 2. Health professional or mental health professional other
1409 than one listed in subparagraph 1.;

1410 3. Practitioner who relies solely on spiritual means for
1411 healing;

1412 4. Nursing home staff; assisted living facility staff;
1413 adult day care center staff; adult family-care home staff;
1414 social worker; or other professional adult care, residential, or
1415 institutional staff;

1416 5. State, county, or municipal criminal justice employee or
1417 law enforcement officer;

1418 6. ~~An~~ Employee of the Department of Business and
1419 Professional Regulation conducting inspections of public lodging
1420 establishments under s. 509.032;

1421 7. Florida advocacy council or Disability Rights Florida

20157018er

1422 member or a representative of the State Long-Term Care Ombudsman
1423 Program ~~long-term care ombudsman council member~~; or

1424 8. Bank, savings and loan, or credit union officer,
1425 trustee, or employee,

1426
1427 who knows, or has reasonable cause to suspect, that a vulnerable
1428 adult has been or is being abused, neglected, or exploited shall
1429 immediately report such knowledge or suspicion to the central
1430 abuse hotline.

1431 Section 30. Subsection (1) of section 415.104, Florida
1432 Statutes, is amended to read:

1433 415.104 Protective investigations of cases of abuse,
1434 neglect, or exploitation of vulnerable adults; transmittal of
1435 records to state attorney.—

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

20157018er

1451 within 5 working days after the oral report. The department
1452 shall, within 24 hours after receipt of the report, notify the
1453 appropriate Florida local advocacy council, or the State Long-
1454 Term Care Ombudsman Program ~~long-term care ombudsman council~~,
1455 when appropriate, that an alleged abuse, neglect, or
1456 exploitation perpetrated by a second party has occurred. Notice
1457 to the Florida local advocacy council or the State Long-Term
1458 Care Ombudsman Program ~~long-term care ombudsman council~~ may be
1459 accomplished orally or in writing and shall include the name and
1460 location of the vulnerable adult alleged to have been abused,
1461 neglected, or exploited and the nature of the report.

1462 Section 31. Subsection (8) of section 415.1055, Florida
1463 Statutes, is amended to read:

1464 415.1055 Notification to administrative entities.—

1465 (8) At the conclusion of a protective investigation at a
1466 facility, the department shall notify either the Florida local
1467 advocacy council or the State Long-Term Care Ombudsman Program
1468 or the long-term care ombudsman council of the results of the
1469 investigation. This notification must be in writing.

1470 Section 32. Subsection (2) of section 415.106, Florida
1471 Statutes, is amended to read:

1472 415.106 Cooperation by the department and criminal justice
1473 and other agencies.—

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

20157018er

1480 Council, and other agencies that provide services to vulnerable
1481 adults. These agreements or procedures must cover such subjects
1482 as the appropriate roles and responsibilities of the department
1483 in identifying and responding to reports of abuse, neglect, or
1484 exploitation of vulnerable adults; the provision of services;
1485 and related coordinated activities.

1486 Section 33. Paragraph (g) of subsection (3) of section
1487 415.107, Florida Statutes, is amended to read:

1488 415.107 Confidentiality of reports and records.—

1489 (3) Access to all records, excluding the name of the
1490 reporter which shall be released only as provided in subsection
1491 (6), shall be granted only to the following persons, officials,
1492 and agencies:

1493 (g) Any appropriate official of the Florida advocacy
1494 council, State Long-Term Care Ombudsman Program or long-term
1495 care ombudsman council investigating a report of known or
1496 suspected abuse, neglect, or exploitation of a vulnerable adult.

1497 Section 34. Present subsections (16) through (26) of
1498 section 429.02, Florida Statutes, are redesignated as
1499 subsections (17) through (27), respectively, present subsections
1500 (11) and (20) are amended, and a new subsection (16) is added to
1501 that section, to read:

1502 429.02 Definitions.—When used in this part, the term:

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

20157018er

1509 residential environment despite mental or physical limitations
1510 that might otherwise disqualify them from residency in a
1511 facility licensed under this part.

1512 (16) "Office" has the same meaning as in s. 400.0060.

1513 (17)~~(16)~~ "Personal services" means direct physical
1514 assistance with or supervision of the activities of daily living
1515 and the self-administration of medication and other similar
1516 services which the department may define by rule. "Personal
1517 services" shall not be construed to mean the provision of
1518 medical, nursing, dental, or mental health services.

1519 (18)~~(17)~~ "Physical restraint" means a device which
1520 physically limits, restricts, or deprives an individual of
1521 movement or mobility, including, but not limited to, a half-bed
1522 rail, a full-bed rail, a geriatric chair, and a posey restraint.
1523 The term "physical restraint" shall also include any device
1524 which was not specifically manufactured as a restraint but which
1525 has been altered, arranged, or otherwise used for this purpose.
1526 The term shall not include bandage material used for the purpose
1527 of binding a wound or injury.

1528 (19)~~(18)~~ "Relative" means an individual who is the father,
1529 mother, stepfather, stepmother, son, daughter, brother, sister,
1530 grandmother, grandfather, great-grandmother, great-grandfather,
1531 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1532 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1533 daughter-in-law, brother-in-law, sister-in-law, stepson,
1534 stepdaughter, stepbrother, stepsister, half brother, or half
1535 sister of an owner or administrator.

1536 (20)~~(19)~~ "Resident" means a person 18 years of age or
1537 older, residing in and receiving care from a facility.

20157018er

1538 (21)~~(20)~~ "Resident's representative or designee" means a
1539 person other than the owner, or an agent or employee of the
1540 facility, designated in writing by the resident, if legally
1541 competent, to receive notice of changes in the contract executed
1542 pursuant to s. 429.24; to receive notice of and to participate
1543 in meetings between the resident and the facility owner,
1544 administrator, or staff concerning the rights of the resident;
1545 to assist the resident in contacting the State Long-Term Care
1546 Ombudsman Program or local ombudsman council if the resident has
1547 a complaint against the facility; or to bring legal action on
1548 behalf of the resident pursuant to s. 429.29.

1549 (22)~~(21)~~ "Service plan" means a written plan, developed and
1550 agreed upon by the resident and, if applicable, the resident's
1551 representative or designee or the resident's surrogate,
1552 guardian, or attorney in fact, if any, and the administrator or
1553 designee representing the facility, which addresses the unique
1554 physical and psychosocial needs, abilities, and personal
1555 preferences of each resident receiving extended congregate care
1556 services. The plan shall include a brief written description, in
1557 easily understood language, of what services shall be provided,
1558 who shall provide the services, when the services shall be
1559 rendered, and the purposes and benefits of the services.

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

20157018er

1567 service plan which best meets the resident's needs and seeks to
1568 improve the resident's quality of life.

1569 (24)~~(23)~~ "Supervision" means reminding residents to engage
1570 in activities of daily living and the self-administration of
1571 medication, and, when necessary, observing or providing verbal
1572 cuing to residents while they perform these activities.

1573 (25)~~(24)~~ "Supplemental security income," Title XVI of the
1574 Social Security Act, means a program through which the Federal
1575 Government guarantees a minimum monthly income to every person
1576 who is age 65 or older, or disabled, or blind and meets the
1577 income and asset requirements.

1578 (26)~~(25)~~ "Supportive services" means services designed to
1579 encourage and assist aged persons or adults with disabilities to
1580 remain in the least restrictive living environment and to
1581 maintain their independence as long as possible.

1582 (27)~~(26)~~ "Twenty-four-hour nursing supervision" means
1583 services that are ordered by a physician for a resident whose
1584 condition requires the supervision of a physician and continued
1585 monitoring of vital signs and physical status. Such services
1586 shall be: medically complex enough to require constant
1587 supervision, assessment, planning, or intervention by a nurse;
1588 required to be performed by or under the direct supervision of
1589 licensed nursing personnel or other professional personnel for
1590 safe and effective performance; required on a daily basis; and
1591 consistent with the nature and severity of the resident's
1592 condition or the disease state or stage.

1593 Section 35. Subsection (9) of section 429.19, Florida
1594 Statutes, is amended to read:

1595 429.19 Violations; imposition of administrative fines;

20157018er

1596 grounds.—

1597 (9) The agency shall develop and disseminate an annual list
1598 of all facilities sanctioned or fined for violations of state
1599 standards, the number and class of violations involved, the
1600 penalties imposed, and the current status of cases. The list
1601 shall be disseminated, at no charge, to the Department of
1602 Elderly Affairs, the Department of Health, the Department of
1603 Children and Families, the Agency for Persons with Disabilities,
1604 the area agencies on aging, the Florida Statewide Advocacy
1605 Council, ~~and~~ the State Long-Term Care Ombudsman Program and
1606 state and local ombudsman councils. The Department of Children
1607 and Families shall disseminate the list to service providers
1608 under contract to the department who are responsible for
1609 referring persons to a facility for residency. The agency may
1610 charge a fee commensurate with the cost of printing and postage
1611 to other interested parties requesting a copy of this list. This
1612 information may be provided electronically or through the
1613 agency's Internet site.

1614 Section 36. Subsection (8) of section 429.26, Florida
1615 Statutes, is amended to read:

1616 429.26 Appropriateness of placements; examinations of
1617 residents.—

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

20157018er

1625 Ombudsman Program ~~long-term care ombudsman council member~~ who
1626 believes a resident needs to be evaluated shall notify the
1627 resident's case manager, who shall take appropriate action. A
1628 report of the examination findings shall be provided to the
1629 resident's case manager and the facility administrator to help
1630 the administrator meet his or her responsibilities under
1631 subsection (1).

1632 Section 37. Subsection (2) and paragraph (b) of subsection
1633 (3) of section 429.28, Florida Statutes, are amended to read:

1634 429.28 Resident bill of rights.—

1635 (2) The administrator of a facility shall ensure that a
1636 written notice of the rights, obligations, and prohibitions set
1637 forth in this part is posted in a prominent place in each
1638 facility and read or explained to residents who cannot read.
1639 This notice must ~~shall~~ include the statewide toll-free telephone
1640 number and e-mail address of the State Long-Term Care Ombudsman
1641 Program and the telephone number of ~~name, address, and telephone~~
1642 ~~numbers of~~ the local ombudsman council and the Elder Abuse
1643 Hotline operated by the Department of Children and Families
1644 ~~central abuse hotline~~ and, when applicable, the Advocacy Center
1645 for Persons with Disabilities, Inc., and the Florida local
1646 advocacy council, where complaints may be lodged. The facility
1647 must ensure a resident's access to a telephone to call the State
1648 Long-Term Care Ombudsman Program or local ombudsman council, the
1649 Elder Abuse Hotline operated by the Department of Children and
1650 Families ~~central abuse hotline~~, Advocacy Center for Persons with
1651 Disabilities, Inc., and the Florida local advocacy council.

1652 (3)

1653 (b) In order to determine whether the facility is

20157018er

1654 adequately protecting residents' rights, the biennial survey
1655 shall include private informal conversations with a sample of
1656 residents and consultation with the ombudsman council in the
1657 district ~~planning and service area~~ in which the facility is
1658 located to discuss residents' experiences within the facility.

1659 Section 38. Section 429.34, Florida Statutes, is amended to
1660 read:

1661 429.34 Right of entry and inspection.—In addition to the
1662 requirements of s. 408.811, a ~~any~~ duly designated officer or
1663 employee of the department, the Department of Children and
1664 Families, the Medicaid Fraud Control Unit of the Office of the
1665 Attorney General, the state or local fire marshal, or a
1666 representative of the State Long-Term Care Ombudsman Program or
1667 a member of the state or local long-term care ombudsman council
1668 may ~~shall have the right to~~ enter unannounced upon and into the
1669 premises of any facility licensed under ~~pursuant to~~ this part in
1670 order to determine the state of compliance with ~~the provisions~~
1671 ~~of~~ this part, part II of chapter 408, and applicable rules. Data
1672 collected by the State Long-Term Care Ombudsman Program, ~~state~~
1673 ~~or~~ local long-term care ombudsman councils or the state or local
1674 advocacy councils may be used by the agency in investigations
1675 involving violations of regulatory standards.

1676 Section 39. Subsection (2) of section 429.35, Florida
1677 Statutes, is amended to read:

1678 429.35 Maintenance of records; reports.—

1679 (2) Within 60 days after the date of the biennial
1680 inspection visit required under s. 408.811 or within 30 days
1681 after the date of any interim visit, the agency shall forward
1682 the results of the inspection to the local ombudsman council in

20157018er

1683 in the district ~~whose planning and service area, as defined in~~
1684 ~~part II of chapter 400, where~~ the facility is located; to at
1685 least one public library or, in the absence of a public library,
1686 the county seat in the county in which the inspected assisted
1687 living facility is located; and, when appropriate, to the
1688 district Adult Services and Mental Health Program Offices.

1689 Section 40. Subsection (6) of section 429.67, Florida
1690 Statutes, is amended to read:

1691 429.67 Licensure.—

1692 (6) In addition to the requirements of s. 408.811, access
1693 to a licensed adult family-care home must be provided at
1694 reasonable times for the appropriate officials of the
1695 department, the Department of Health, the Department of Children
1696 and Families, the agency, and the State Fire Marshal, who are
1697 responsible for the development and maintenance of fire, health,
1698 sanitary, and safety standards, to inspect the facility to
1699 assure compliance with these standards. In addition, access to a
1700 licensed adult family-care home must be provided at reasonable
1701 times to representatives of the State Long-Term Care Ombudsman
1702 Program ~~for the local long-term care ombudsman council.~~

1703 Section 41. Subsection (2) of section 429.85, Florida
1704 Statutes, is amended to read:

1705 429.85 Residents' bill of rights.—

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

20157018er

1712 local ombudsman council and the Elder Abuse Hotline operated by
1713 the Department of Children and Families ~~the central abuse~~
1714 ~~hotline~~ where they may lodge complaints.

1715 Section 42. This act shall take effect July 1, 2015.