

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

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

53 amending s. 400.0091, F.S.; revising training
 54 requirements for representatives of the office and
 55 ombudsmen; amending s. 400.235, F.S.; revising
 56 criteria for recognition as a Gold Seal Program
 57 facility; conforming provisions to changes made by the
 58 act; amending ss. ss. 20.41, 400.021, 400.022,
 59 400.0255, 400.162, 400.19, 400.191, 400.23, 415.102,
 60 415.1034, 415.104, 415.1055, 415.106, 415.107, 429.02,
 61 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, and
 62 429.85, F.S.; conforming provisions to changes made by
 63 the act; providing an effective date.
 64

65 Be It Enacted by the Legislature of the State of Florida:
 66

67 Section 1. Section 400.0060, Florida Statutes, is amended
 68 to read:

69 400.0060 Definitions.—When used in this part, unless the
 70 context clearly dictates otherwise, the term:

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

76 (2) "Agency" means the Agency for Health Care
 77 Administration.

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

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

83 (5)~~(4)~~ "Local council" means a local long-term care
 84 ombudsman council designated by the ombudsman pursuant to s.
 85 400.0069. Local councils are also known as district long-term
 86 care ombudsman councils or district councils.

87 (6)~~(5)~~ "Long-term care facility" means a nursing home
 88 facility, assisted living facility, adult family-care home,
 89 board and care facility, or any other similarly licensed ~~similar~~
 90 residential adult care facility.

91 (7)~~(6)~~ "Office" means the Office of the State Long-Term
 92 Care Ombudsman Program created by s. 400.0063.

93 (8)~~(7)~~ "Ombudsman" means an individual who has been
 94 certified by the state ombudsman as meeting the requirements of
 95 ss. 400.0069, 400.0070, and 400.0091 ~~the individual appointed by~~
 96 ~~the Secretary of Elderly Affairs to head the Office of State~~
 97 ~~Long-Term Care Ombudsman.~~

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

103 (10)~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age
 104 or older who resides in a long-term care facility.

105 ~~(11)-(9)~~ "Secretary" means the Secretary of Elderly
 106 Affairs.

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

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

113 (14) "State ombudsman program" means the State Long-Term
 114 Care Ombudsman Program operating under the direction of the
 115 State Long Term Care Ombudsman.

116 Section 2. Section 400.0061, Florida Statutes, is amended
 117 to read:

118 400.0061 Legislative findings and intent; long-term care
 119 facilities.-

120 (1) The Legislature finds that conditions in long-term
 121 care facilities in this state are such that the rights, health,
 122 safety, and welfare of residents are not fully ensured by rules
 123 of the Department of Elderly Affairs or the Agency for Health
 124 Care Administration or by the good faith of owners or operators
 125 of long-term care facilities. Furthermore, there is a need for a
 126 formal mechanism whereby a long-term care facility resident, a
 127 representative of a long-term care facility resident, or any
 128 other concerned citizen may make a complaint against the
 129 facility or its employees, or against other persons who are in a
 130 position to restrict, interfere with, or threaten the rights,

131 health, safety, or welfare of a long-term care facility
 132 resident. The Legislature finds that concerned citizens are
 133 often more effective advocates for the rights of others than
 134 governmental agencies. The Legislature further finds that in
 135 order to be eligible to receive an allotment of funds authorized
 136 and appropriated under the federal Older Americans Act, the
 137 state must establish and operate an Office of State Long-Term
 138 Care Ombudsman, to be headed by the State Long-Term Care
 139 Ombudsman, and carry out a long-term care ombudsman program.

140 (2) It is the intent of the Legislature, therefore, to use
 141 ~~utilize~~ voluntary citizen ombudsman councils under the
 142 leadership of the State Long-Term Care Ombudsman, and, through
 143 them, to operate a state ~~an~~ ombudsman program, which shall,
 144 without interference by any executive agency, undertake to
 145 discover, investigate, and determine the presence of conditions
 146 or individuals that ~~which~~ constitute a threat to the rights,
 147 health, safety, or welfare of the residents of long-term care
 148 facilities. To ensure that the effectiveness and efficiency of
 149 such investigations are not impeded by advance notice or delay,
 150 the Legislature intends that the representatives of the State
 151 Long-Term Care Ombudsman Program ~~ombudsman and ombudsman~~
 152 ~~councils and their designated representatives~~ not be required to
 153 obtain warrants in order to enter into or conduct investigations
 154 or onsite administrative assessments of long-term care
 155 facilities. It is the further intent of the Legislature that the
 156 environment in long-term care facilities be conducive to the

157 dignity and independence of residents and that investigations by
 158 representatives of the State Long-Term Care Ombudsman Program
 159 ~~ombudsman councils~~ shall further the enforcement of laws, rules,
 160 and regulations that safeguard the health, safety, and welfare
 161 of residents.

162 Section 3. Section 400.0063, Florida Statutes, is amended
 163 to read:

164 400.0063 Establishment of the ~~Office of~~ State Long-Term
 165 Care Ombudsman Program; designation of ombudsman and legal
 166 advocate.—

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

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

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

180 (3) (a) There is created in the office the position of
 181 legal advocate, who shall be selected by and serve at the

182 | pleasure of the state ombudsman and shall be a member in good
 183 | standing of The Florida Bar.

184 | (b) The duties of the legal advocate shall include, but
 185 | not be limited to:

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

190 | 2. Assisting the representatives of the State Long-Term
 191 | Care Ombudsman Program ~~state and local councils~~ in carrying out
 192 | their responsibilities under this part.

193 | 3. Pursuing administrative, legal, and other appropriate
 194 | remedies on behalf of residents.

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

202 | Section 4. Section 400.0065, Florida Statutes, is amended
 203 | to read:

204 | 400.0065 State Long-Term Care Ombudsman Program; duties
 205 | and responsibilities.—

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

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

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

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

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

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

228 (f) Administer the state and local councils.

229 (g) Analyze, comment on, and monitor the development and
 230 implementation of federal, state, and local laws, rules, and
 231 regulations, and other governmental policies and actions, that
 232 pertain to the health, safety, welfare, and rights of the
 233 residents, with respect to the adequacy of long-term care

234 facilities and services in the state, and recommend any changes
235 in such laws, rules, regulations, policies, and actions as the
236 office determines to be appropriate and necessary.

237 (h) Provide technical support for the development of
238 resident and family councils to protect the well-being and
239 rights of residents.

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

242 (a) Establish and coordinate districts and local councils
243 throughout the state.

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

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

260 (d) Contract for services necessary to carry out the
 261 activities of the office.

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

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

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

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

278 (h) ~~(i)~~ Prepare an annual report describing the activities
 279 carried out by the office, the state council, the districts and
 280 the local councils in the year for which the report is prepared.
 281 The state ombudsman shall submit the report to the secretary,
 282 the United States Assistant Secretary for Aging, the Governor,
 283 the President of the Senate, the Speaker of the House of
 284 Representatives, the Secretary of Children and Families, and the
 285 Secretary of the Agency for Health Care Administration at least

286 30 days before the convening of the regular session of the
287 Legislature. ~~The secretary shall in turn submit the report to~~
288 ~~the United States Assistant Secretary for Aging, the Governor,~~
289 ~~the President of the Senate, the Speaker of the House of~~
290 ~~Representatives, the Secretary of Children and Families, and the~~
291 ~~Secretary of Health Care Administration.~~ The report must shall,
292 at a minimum:

293 1. Contain and analyze data collected concerning
294 complaints about and conditions in long-term care facilities and
295 the disposition of such complaints.

296 2. Evaluate the problems experienced by residents.

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

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

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

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

315 Section 5. Section 400.0067, Florida Statutes, is amended
 316 to read:

317 400.0067 State Long-Term Care Ombudsman Council; duties;
 318 membership.-

319 (1) There is created within the ~~Office of~~ State Long-Term
 320 Care Ombudsman Program, the State Long-Term Care Ombudsman
 321 Council.

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

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

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

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

337 (d) Assist the ombudsman in eliciting, receiving,
 338 responding to, and resolving complaints made by or on behalf of
 339 residents.

340 (e) Elicit and coordinate state, district, local, and
 341 voluntary organizational assistance for the purpose of improving
 342 the care received by residents.

343 (f) Assist the state ombudsman in preparing the annual
 344 report described in s. 400.0065.

345 (3) The State Long-Term Care Ombudsman Council consists
 346 ~~shall be composed~~ of one active certified ombudsman from each
 347 local council in a district ~~member elected by each local council~~
 348 plus three at-large members ~~appointed by the Governor~~.

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

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

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

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

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

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

371 3. A local council may recommend replacement ~~removal~~ of
372 its selected ~~elected~~ representative from the state council ~~by a~~
373 ~~majority vote~~. If the council votes to replace ~~remove~~ its
374 representative, the local council chair shall immediately notify
375 the state ombudsman. ~~The secretary shall advise the Governor of~~
376 ~~the local council's vote upon receiving notice from the~~
377 ~~ombudsman.~~

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

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

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

387 2. The chair shall select a vice chair from among the
388 members. The vice chair shall preside over the state council in
389 the absence of the chair.

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

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

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

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

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

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

421 Section 6. Section 400.0069, Florida Statutes, is amended
 422 to read:

423 400.0069 Long-term care ombudsman districts; local long-
 424 term care ombudsman councils; duties; appointment ~~membership.~~

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

431 (b) The state ombudsman shall ensure that there is at
 432 least one employee of the department certified as a long-term
 433 care ombudsman and a least one local council operating in each
 434 district ~~of the department's planning and service areas~~. The
 435 state ombudsman may create additional local councils as
 436 necessary to ensure that residents throughout the state have
 437 adequate access to State Long-Term Care Ombudsman Program

438 services. ~~The ombudsman, after approval from the secretary,~~
439 ~~shall designate the jurisdictional boundaries of each local~~
440 ~~council.~~

441 (c) Each district shall convene a public meeting at least
442 quarterly.

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

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

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

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

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

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

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

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

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

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

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

486 (a) Upon good cause shown and with the consent of the
 487 ombudsman, the state ombudsman may appoint an ombudsman to

488 another district. The ombudsman shall strive to ensure that each
 489 local council include the following persons as members:

490 1. At least one medical or osteopathic physician whose
 491 practice includes or has included a substantial number of
 492 geriatric patients and who may practice in a long-term care
 493 facility;

494 2. At least one registered nurse who has geriatric
 495 experience;

496 3. At least one licensed pharmacist;

497 4. At least one registered dietitian;

498 5. At least six nursing home residents or representative
 499 consumer advocates for nursing home residents;

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

503 7. At least one attorney; and

504 8. At least one professional social worker.

505 (b) The following individuals may not be appointed as
 506 ombudsmen:

507 1. The owner or representative of a long-term care
 508 facility.

509 2. A provider or representative of a provider of long-term
 510 care service.

511 3. An employee of the agency.

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

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

515 6. An employee of the Agency for Persons with
516 Disabilities.

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

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

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

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

534 (b) The state ombudsman shall approve or deny the
535 appointment of the individual as an ombudsman ~~secretary may~~
536 ~~rescind the ombudsman's approval of a member on a local council~~
537 ~~at any time. If the state ombudsman secretary rescinds the~~
538 ~~approval of a member on a local council, the state ombudsman~~
539 ~~shall ensure that the individual is immediately removed from the~~

540 local council on which he or she serves and the individual may
541 no longer represent the State Long-Term Care Ombudsman Program
542 until the state ombudsman ~~secretary~~ provides his or her
543 approval.

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

549 (d) The state ombudsman may rescind the appointment of an
550 individual as an ombudsman for good cause shown, such as
551 development of a conflict of interest, failure to adhere to the
552 policies and procedures established by the State Long-Term Care
553 Ombudsman Program, or demonstrative inability to carry out the
554 responsibilities of the State Long-Term Care Ombudsman Program.
555 After the appointment is rescinded, the individual may not
556 conduct any duties as an ombudsman and may not represent the
557 State Long-Term Care Ombudsman Program.

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

566 | ombudsman shall review the recommendation of the local council
567 | and advise the district manager and local council chair
568 | ~~secretary~~ of his or her decision ~~recommendation~~ regarding
569 | removal of the council member or members.

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

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

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

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

589 | (7) Each local council shall meet upon the call of its
590 | chair or upon the call of the ombudsman. Each local council

591 shall meet at least once a month but may meet more frequently if
 592 necessary.

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

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

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

607 400.0070 Conflicts of interest.—

608 (1) A representative of the State Long-Term Care Ombudsman
 609 Program may ~~The ombudsman shall~~ not:

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

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

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

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

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

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

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

636 Section 8. Section 400.0071, Florida Statutes, is amended
 637 to read:

638 400.0071 State Long-Term Care Ombudsman Program complaint
 639 procedures.—The department, in consultation with the state
 640 ombudsman, shall adopt rules implementing state and local
 641 complaint procedures. The rules must include procedures for

642 receiving, investigating, identifying, and resolving complaints
643 concerning the health, safety, welfare, and rights of
644 residents.‡

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

647 ~~(2) Conducting investigations of a long-term care facility~~
648 ~~or an employee of a long-term care facility subsequent to~~
649 ~~receiving a complaint.~~

650 ~~(3) Conducting onsite administrative assessments of long-~~
651 ~~term care facilities.~~

652 Section 9. Section 400.0073, Florida Statutes, is amended
653 to read:

654 400.0073 State and local ombudsman council
655 investigations.—

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

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

668 ~~(b) Unreasonable, unfair, oppressive, or unnecessarily~~
 669 ~~discriminatory, even though in accordance with law;~~
 670 ~~(c) Based on a mistake of fact;~~
 671 ~~(d) Based on improper or irrelevant grounds;~~
 672 ~~(e) Unaccompanied by an adequate statement of reasons;~~
 673 ~~(f) Performed in an inefficient manner; or~~
 674 ~~(g) Otherwise adversely affecting the health, safety,~~
 675 ~~welfare, or rights of a resident.~~

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

678 (2)~~(3)~~ Subsequent to an appeal from a local council, the
 679 state council may investigate any complaint received by the
 680 local council involving a long-term care facility or a resident.

681 (3)~~(4)~~ If a representative of the State Long-Term Care
 682 Ombudsman Program ~~the ombudsman or any state or local council~~
 683 ~~member~~ is not allowed to enter a long-term care facility, the
 684 administrator of the facility shall be considered to have
 685 interfered with a representative of the State Long-Term Care
 686 Ombudsman Program ~~office, the state council, or the local~~
 687 ~~council~~ in the performance of official duties as described in s.
 688 400.0083(1) and to have violated ~~committed a violation of this~~
 689 ~~part.~~ The representative of the State Long-Term Care Ombudsman
 690 Program ~~ombudsman~~ shall report a facility's refusal to allow
 691 entry to the state ombudsman or his or her designee, who shall
 692 report the incident to the agency, and the agency shall record
 693 the report and take it into consideration when determining

694 actions allowable under s. 400.102, s. 400.121, s. 429.14, s.
695 429.19, s. 429.69, or s. 429.71.

696 Section 10. Section 400.0074, Florida Statutes, is amended
697 to read:

698 400.0074 Local ombudsman council onsite administrative
699 assessments.—

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

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

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

718 (b) An administrative assessment shall be conducted at a
719 time and for a duration necessary to produce the information

720 required to complete the assessment ~~carry out the duties of the~~
 721 ~~local council.~~

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

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

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

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

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

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

745 (4) An onsite administrative assessment may not be
 746 accomplished by forcible entry. However, if a representative of
 747 the State Long-Term Care Ombudsman Program ~~the ombudsman or a~~
 748 ~~state or local council member~~ is not allowed to enter a long-
 749 term care facility, the administrator of the facility shall be
 750 considered to have interfered with a representative of the State
 751 Long-Term Care Ombudsman Program ~~office, the state council, or~~
 752 ~~the local council~~ in the performance of official duties as
 753 described in s. 400.0083(1) and to have committed a violation of
 754 this part. The representative of the State Long-Term Care
 755 Ombudsman Program ~~ombudsman~~ shall report the refusal by a
 756 facility to allow entry to the state ombudsman or his or her
 757 designee, who shall report the incident to the agency, and the
 758 agency shall record the report and take it into consideration
 759 when determining actions allowable under s. 400.102, s. 400.121,
 760 s. 429.14, s. 429.19, s. 429.69, or s. 429.71.

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

765 Section 11. Section 400.0075, Florida Statutes, is amended
 766 to read:

767 400.0075 Complaint notification and resolution
 768 procedures.—

769 (1) (a) Any complaint ~~or problem~~ verified by a
 770 representative of the State Long-Term Care Ombudsman Program ~~an~~

771 ~~ombudsman council~~ as a result of an investigation which is
772 determined by the local council to require remedial action may
773 ~~or onsite administrative assessment, which complaint or problem~~
774 ~~is determined to require remedial action by the local council,~~
775 ~~shall~~ be identified and brought to the attention of the long-
776 term care facility administrator subject to the confidentiality
777 provisions of s. 400.0077 in writing. Upon receipt of the
778 information ~~such document,~~ the administrator, with the
779 concurrence of the representative of the State Long-Term Care
780 Ombudsman Program ~~local council chair,~~ shall establish target
781 dates for taking appropriate remedial action. If, by the target
782 date, the remedial action is not completed or forthcoming, the
783 representative of the State Long-Term Care Ombudsman Program may
784 extend the target date if there is reason to believe such action
785 would facilitate the resolution of the complaint, or the
786 representative of the State Long-Term Care Ombudsman Program may
787 refer the complaint to the district manager who may refer the
788 complaint to the state council. ~~local council chair may, after~~
789 ~~obtaining approval from the ombudsman and a majority of the~~
790 ~~members of the local council:~~

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

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

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

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

810 (c) If the state ombudsman or legal advocate has reason to
 811 believe that the long-term care facility or an employee of the
 812 facility has committed a criminal act, the state ombudsman or
 813 legal advocate shall provide the local law enforcement agency
 814 with the relevant information to initiate an investigation of
 815 the case.

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

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

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

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

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

838 ~~(b) If the state council chair believes that the health,
839 safety, welfare, or rights of the resident are in imminent
840 danger, the chair shall notify the ombudsman or legal advocate,
841 who, after verifying that such imminent danger exists, shall
842 seek immediate legal or administrative remedies to protect the
843 resident.~~

844 (3)(e) If the state ombudsman, after consultation with the
845 legal advocate, has reason to believe that the long-term care
846 facility or an employee of the facility has committed a criminal
847 act, the state ombudsman shall provide the local law enforcement

848 agency with the relevant information to initiate an
849 investigation of the case.

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

852 400.0078 Citizen access to State Long-Term Care Ombudsman
853 Program services.—

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

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

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

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

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

869 (d) Other relevant information regarding how to contact
870 representatives of the State Long Term Care Ombudsman Program
871 ~~the program.~~

872

873 Residents or their representatives must be furnished additional
874 copies of the this information provided in this subsection upon
875 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
880 who does so in good faith shall be immune from any liability,
881 civil or criminal, that otherwise might be incurred or imposed
882 as a 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
893 representatives of the State Long-Term Care Ombudsman Program
894 with ~~the office, the state council and its members, and the~~
895 ~~local councils and their 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
 900 resident for review ~~as necessary to investigate or resolve a~~
 901 ~~complaint,~~ if:

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

905 2. The resident is unable to consent to the review and
 906 does 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
 912 Ombudsman Program ~~office~~ has reasonable cause to believe that
 913 the legal representative or guardian is not acting in the best
 914 interests of the resident; and

915 3. The representative of the State Long-Term Care
 916 Ombudsman Program ~~state or local council member~~ obtains the
 917 approval of 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
 921 certification records maintained by the state with respect to a
 922 long-term care 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:

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
 952 the State Long-Term Care Ombudsman Program from funds
 953 appropriated 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.

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, subject to the confidentiality
 974 provisions of s. 400.0077.

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

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

982 (4) The department shall also:

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

986 (b) Whenever necessary, act as liaison between agencies
 987 and branches of the federal and state governments and the State
 988 Long-Term Care Ombudsman Program.

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

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

1000 made readily available and shall include such information in the
 1001 annual report required under s. 400.0065.

1002 Section 18. Section 400.0091, Florida Statutes, is amended
 1003 to read:

1004 400.0091 Training.—The state ombudsman shall ensure that
 1005 appropriate training is provided to all representatives of the
 1006 State Long-Term Care Ombudsman Program ~~employees of the office~~
 1007 ~~and to the members of the state and local councils.~~

1008 (1) All representatives of the State Long-Term Care
 1009 Ombudsman Program ~~state and local council members and employees~~
 1010 ~~of the office~~ shall be given a minimum of 20 hours of training
 1011 upon employment with the State Long-Term Care Ombudsman Program
 1012 ~~office~~ or appointment as an ombudsman. Ten approval as a state
 1013 ~~or local council member and 10~~ hours of training in the form of
 1014 continuing education is required annually thereafter.

1015 (2) The state ombudsman shall approve the curriculum for
 1016 the initial and continuing education training, which must, at a
 1017 minimum, address:

- 1018 (a) Resident confidentiality.
- 1019 (b) Guardianships and powers of attorney.
- 1020 (c) Medication administration.
- 1021 (d) Care and medication of residents with dementia and
 1022 Alzheimer's disease.
- 1023 (e) Accounting for residents' funds.
- 1024 (f) Discharge rights and responsibilities.
- 1025 (g) Cultural sensitivity.

1026 (h) Any other topic related to residency in a long-term
 1027 care facility ~~recommended by the secretary.~~

1028 (3) An individual ~~No employee, officer, or representative~~
 1029 ~~of the office or of the state or local councils,~~ other than the
 1030 state ombudsman, may not hold himself or herself out as a
 1031 representative of the State Long-Term Care Ombudsman Program or
 1032 conduct any authorized program duty described in this part
 1033 unless the individual ~~person~~ has received the training required
 1034 by this section and has been certified by the state ombudsman as
 1035 qualified to carry out ombudsman activities on behalf of the
 1036 office or the state or local councils.

1037 Section 19. Subsection (4) of section 20.41, Florida
 1038 Statutes, is amended to read:

1039 20.41 Department of Elderly Affairs.—There is created a
 1040 Department of Elderly Affairs.

1041 (4) The department shall administer the State Long-Term
 1042 Care Ombudsman Program Council, created by s. 400.0063 ~~400.0067~~,
 1043 ~~and the local long-term care ombudsman councils, created by s.~~
 1044 ~~400.0069~~ and shall, as required by s. 712 of the federal Older
 1045 Americans Act of 1965, ensure that ~~both~~ the State Long Term Care
 1046 Ombudsman Program operates ~~state and local long-term care~~
 1047 ~~ombudsman councils operate~~ in compliance with the Older
 1048 Americans Act.

1049 Section 20. Subsections (14) through (19) of section
 1050 400.021, Florida Statutes, are amended to read:

1051 400.021 Definitions.—When used in this part, unless the
 1052 context otherwise requires, the term:

1053 (14) "Office" has the same meaning as provided in s.
 1054 400.0060.

1055 (15)~~(14)~~ "Planning and service area" means the geographic
 1056 area in which the Older Americans Act programs are administered
 1057 and services are delivered by the Department of Elderly Affairs.

1058 (16) "Representative of the State Long-Term Care Ombudsman
 1059 Program" has the same meaning as provided in s. 400.0060.

1060 (17)~~(15)~~ "Respite care" means admission to a nursing home
 1061 for the purpose of providing a short period of rest or relief or
 1062 emergency alternative care for the primary caregiver of an
 1063 individual receiving care at home who, without home-based care,
 1064 would otherwise require institutional care.

1065 (18)~~(16)~~ "Resident care plan" means a written plan
 1066 developed, maintained, and reviewed not less than quarterly by a
 1067 registered nurse, with participation from other facility staff
 1068 and the resident or his or her designee or legal representative,
 1069 which includes a comprehensive assessment of the needs of an
 1070 individual resident; the type and frequency of services required
 1071 to provide the necessary care for the resident to attain or
 1072 maintain the highest practicable physical, mental, and
 1073 psychosocial well-being; a listing of services provided within
 1074 or outside the facility to meet those needs; and an explanation
 1075 of service goals.

1076 (19)~~(17)~~ "Resident designee" means a person, other than
 1077 the owner, administrator, or employee of the facility,
 1078 designated in writing by a resident or a resident's guardian, if
 1079 the resident is adjudicated incompetent, to be the resident's
 1080 representative for a specific, limited purpose.

1081 (20)~~(18)~~ "State Long-Term Care Ombudsman Program" has the
 1082 same meaning as provided in s. 400.0060 ~~ombudsman council" means~~
 1083 ~~the State Long-Term Care Ombudsman Council established pursuant~~
 1084 ~~to s. 400.0067.~~

1085 (21)~~(19)~~ "Therapeutic spa services" means bathing, nail,
 1086 and hair care services and other similar services related to
 1087 personal hygiene.

1088 Section 21. Paragraph (c) of subsection (1) and
 1089 subsections (2) and (3) of section 400.022, Florida Statutes,
 1090 are amended to read:

1091 400.022 Residents' rights.—

1092 (1) All licensees of nursing home facilities shall adopt
 1093 and make public a statement of the rights and responsibilities
 1094 of the residents of such facilities and shall treat such
 1095 residents in accordance with the provisions of that statement.
 1096 The statement shall assure each resident the following:

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

1102 the following individuals must be permitted immediate access to
 1103 the resident:

1104 1. Any representative of the federal or state government,
 1105 including, but not limited to, representatives of the Department
 1106 of Children and Families, the Department of Health, the Agency
 1107 for Health Care Administration, the Office of the Attorney
 1108 General, and the Department of Elderly Affairs; any law
 1109 enforcement officer; any representative of the State Long-Term
 1110 Care Ombudsman Program ~~members of the state or local ombudsman~~
 1111 ~~council~~; and the resident's individual physician.

1112 2. Subject to the resident's right to deny or withdraw
 1113 consent, immediate family or other relatives of the resident.

1114
 1115 The facility must allow representatives of the State Long-Term
 1116 Care Ombudsman Program Council to examine a resident's clinical
 1117 records with the permission of the resident or the resident's
 1118 legal representative and consistent with state law.

1119 (2) The licensee for each nursing home shall orally inform
 1120 the resident of the resident's rights and provide a copy of the
 1121 statement required by subsection (1) to each resident or the
 1122 resident's legal representative at or before the resident's
 1123 admission to a facility. The licensee shall provide a copy of
 1124 the resident's rights to each staff member of the facility. Each
 1125 such licensee shall prepare a written plan and provide
 1126 appropriate staff training to implement the provisions of this
 1127 section. The written statement of rights must include a

1128 statement that a resident may file a complaint with the agency,
1129 the State Long-Term Care Ombudsman Program, or the local
1130 ombudsman council. The statement must be in boldfaced type and
1131 ~~shall~~ include the statewide toll-free name, address, and
1132 telephone number and e-mail address of the State Long-Term Care
1133 Ombudsman Program, the telephone numbers of the local ombudsman
1134 council and the Elder Abuse Hotline operated by the Department
1135 of Children and Families ~~central abuse hotline where complaints~~
1136 ~~may be lodged.~~

1137 (3) Any violation of the resident's rights set forth in
1138 this section constitutes ~~shall constitute~~ grounds for action by
1139 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or
1140 part II of chapter 408. In order to determine whether the
1141 licensee is adequately protecting residents' rights, the
1142 licensure inspection of the facility must ~~shall~~ include private
1143 informal conversations with a sample of residents to discuss
1144 residents' experiences within the facility with respect to
1145 rights specified in this section and general compliance with
1146 standards, and consultation with the State Long-Term Care
1147 Ombudsman Program ~~ombudsman council in the local planning and~~
1148 ~~service area of the Department of Elderly Affairs in which the~~
1149 ~~nursing home is located.~~

1150 Section 22. Subsections (8), (9), and (11) through (14) of
1151 section 400.0255, Florida Statutes, are amended to read:

1152 400.0255 Resident transfer or discharge; requirements and
1153 procedures; hearings.—

1154 (8) The notice required by subsection (7) must be in
1155 writing and must contain all information required by state and
1156 federal law, rules, or regulations applicable to Medicaid or
1157 Medicare cases. The agency shall develop a standard document to
1158 be used by all facilities licensed under this part for purposes
1159 of notifying residents of a discharge or transfer. Such document
1160 must include a means for a resident to request the local long-
1161 term care ombudsman council to review the notice and request
1162 information about or assistance with initiating a fair hearing
1163 with the department's Office of Appeals Hearings. In addition to
1164 any other pertinent information included, the form shall specify
1165 the reason allowed under federal or state law that the resident
1166 is being discharged or transferred, with an explanation to
1167 support this action. Further, the form must ~~shall~~ state the
1168 effective date of the discharge or transfer and the location to
1169 which the resident is being discharged or transferred. The form
1170 must ~~shall~~ clearly describe the resident's appeal rights and the
1171 procedures for filing an appeal, including the right to request
1172 the local ombudsman council ~~to~~ review the notice of discharge or
1173 transfer. A copy of the notice must be placed in the resident's
1174 clinical record, and a copy must be transmitted to the
1175 resident's legal guardian or representative and to the local
1176 ombudsman council within 5 business days after signature by the
1177 resident or resident designee.

1178 (9) A resident may request that the State Long-Term Care
1179 Ombudsman Program or local ombudsman council review any notice

1180 of discharge or transfer given to the resident. When requested
1181 by a resident to review a notice of discharge or transfer, the
1182 local ombudsman council shall do so within 7 days after receipt
1183 of the request. The nursing home administrator, or the
1184 administrator's designee, must forward the request for review
1185 contained in the notice to the State Long-Term Care Ombudsman
1186 Program or local ombudsman council within 24 hours after such
1187 request is submitted. Failure to forward the request within 24
1188 hours after the request is submitted shall toll the running of
1189 the 30-day advance notice period until the request has been
1190 forwarded.

1191 (11) Notwithstanding paragraph (10) (b), an emergency
1192 discharge or transfer may be implemented as necessary pursuant
1193 to state or federal law during the ~~period of~~ time after the
1194 notice is given and before the time a hearing decision is
1195 rendered. Notice of an emergency discharge or transfer to the
1196 resident, the resident's legal guardian or representative, and
1197 the State Long-Term Care Ombudsman Program or the local
1198 ombudsman council if requested pursuant to subsection (9) must
1199 be by telephone or in person. This notice shall be given before
1200 the transfer, if possible, or as soon thereafter as practicable.
1201 The State Long-Term Care Ombudsman Program or a local ombudsman
1202 council conducting a review under this subsection shall do so
1203 within 24 hours after receipt of the request. The resident's
1204 file must be documented to show who was contacted, whether the
1205 contact was by telephone or in person, and the date and time of

1206 the contact. If the notice is not given in writing, written
 1207 notice meeting the requirements of subsection (8) must be given
 1208 the next working day.

1209 (12) After receipt of any notice required under this
 1210 section, the State Long-Term Care Ombudsman Program or the local
 1211 ombudsman council may request a private informal conversation
 1212 with a resident to whom the notice is directed, and, if known, a
 1213 family member or the resident's legal guardian or designee, to
 1214 ensure that the facility is proceeding with the discharge or
 1215 transfer in accordance with ~~the requirements of~~ this section. If
 1216 requested, the State Long-Term Care Ombudsman Program or the
 1217 local ombudsman council shall assist the resident with filing an
 1218 appeal of the proposed discharge or transfer.

1219 (13) The following persons must be present at all hearings
 1220 authorized under this section:

1221 (a) The resident, or the resident's legal representative
 1222 or designee.

1223 (b) The facility administrator, or the facility's legal
 1224 representative or designee.

1225
 1226 A representative of the State Long-Term Care Ombudsman Program
 1227 or the local long-term care ombudsman council may be present at
 1228 all hearings authorized by this section.

1229 (14) In any hearing under this section, the following
 1230 information concerning the parties shall be confidential and
 1231 exempt from ~~the provisions of~~ s. 119.07(1):

1232 (a) Names and addresses.

1233 (b) Medical services provided.

1234 (c) Social and economic conditions or circumstances.

1235 (d) Evaluation of personal information.

1236 (e) Medical data, including diagnosis and past history of

1237 disease or disability.

1238 (f) Any information received verifying income eligibility

1239 and amount of medical assistance payments. Income information

1240 received from the Social Security Administration or the Internal

1241 Revenue Service must be safeguarded according to the

1242 requirements of the agency that furnished the data.

1243

1244 The exemption created by this subsection does not prohibit

1245 access to such information by the State Long-Term Care Ombudsman

1246 Program or a local long-term care ombudsman council upon

1247 request, by a reviewing court if such information is required to

1248 be part of the record upon subsequent review, or as specified in

1249 s. 24(a), Art. I of the State Constitution.

1250 Section 23. Paragraph (d) of subsection (5) of section

1251 400.162, Florida Statutes, is amended to read:

1252 400.162 Property and personal affairs of residents.—

1253 (5)

1254 (d) If, at any time during the period for which a license

1255 is issued, a licensee that has not purchased a surety bond or

1256 entered into a self-insurance agreement, as provided in

1257 paragraphs (b) and (c), is requested to provide safekeeping for

1258 the personal funds of a resident, the licensee shall notify the
 1259 agency of the request and make application for a surety bond or
 1260 for participation in a self-insurance agreement within 7 days
 1261 after ~~of~~ the request, exclusive of weekends and holidays. Copies
 1262 of the application, along with written documentation of related
 1263 correspondence with an insurance agency or group, shall be
 1264 maintained by the licensee for review by the agency and the
 1265 State ~~Nursing Home and Long-Term Care Facility~~ Ombudsman Program
 1266 ~~Council~~.

1267 Section 24. Subsections (1) and (4) of section 400.19,
 1268 Florida Statutes, are amended to read:

1269 400.19 Right of entry and inspection.—

1270 (1) In accordance with part II of chapter 408, the agency
 1271 and any of its ~~duly~~ designated officers ~~officer~~ or employees
 1272 ~~employee thereof~~ or a representative of ~~member of~~ the State
 1273 Long-Term Care Ombudsman Program Council or the local long-term
 1274 care ombudsman council shall have the right to enter upon and
 1275 into the premises of any facility licensed pursuant to this
 1276 part, or any distinct nursing home unit of a hospital licensed
 1277 under chapter 395 or any freestanding facility licensed under
 1278 chapter 395 which ~~that~~ provides extended care or other long-term
 1279 care services, at any reasonable time in order to determine the
 1280 state of compliance with ~~the provisions of~~ this part, part II of
 1281 chapter 408, and applicable rules in force pursuant thereto. The
 1282 agency shall, within 60 days after receipt of a complaint made
 1283 by a resident or resident's representative, complete its

1284 investigation and provide to the complainant its findings and
 1285 resolution.

1286 (4) The agency shall conduct unannounced onsite facility
 1287 reviews following written verification of licensee noncompliance
 1288 in instances in which a representative of the State Long-Term
 1289 Care Ombudsman Program or a long-term care ombudsman council,
 1290 pursuant to ss. 400.0071 and 400.0075, has received a complaint
 1291 and has documented deficiencies in resident care or in the
 1292 physical plant of the facility that threaten the health, safety,
 1293 or security of residents, or when the agency documents through
 1294 inspection that conditions in a facility present a direct or
 1295 indirect threat to the health, safety, or security of residents.
 1296 However, the agency shall conduct unannounced onsite reviews
 1297 every 3 months of each facility while the facility has a
 1298 conditional license. Deficiencies related to physical plant do
 1299 not require followup reviews after the agency has determined
 1300 that correction of the deficiency has been accomplished and that
 1301 the correction is of the nature that continued compliance can be
 1302 reasonably expected.

1303 Section 25. Subsection (6) and paragraph (c) of subsection
 1304 (7) of section 400.23, Florida Statutes, are amended to read:

1305 400.23 Rules; evaluation and deficiencies; licensure
 1306 status.—

1307 (6) Before ~~Prior to~~ conducting a survey of the facility,
 1308 the survey team shall obtain a copy of the local long-term care
 1309 ombudsman council report on the facility. Problems noted in the

1310 report shall be incorporated into and followed up through the
 1311 agency's inspection process. This procedure does not preclude
 1312 the State Long-Term Care Ombudsman Program or the local long-
 1313 term care ombudsman council from requesting the agency to
 1314 conduct a followup visit to the facility.

1315 (7) The agency shall, at least every 15 months, evaluate
 1316 all nursing home facilities and make a determination as to the
 1317 degree of compliance by each licensee with the established rules
 1318 adopted under this part as a basis for assigning a licensure
 1319 status to that facility. The agency shall base its evaluation on
 1320 the most recent inspection report, taking into consideration
 1321 findings from other official reports, surveys, interviews,
 1322 investigations, and inspections. In addition to license
 1323 categories authorized under part II of chapter 408, the agency
 1324 shall assign a licensure status of standard or conditional to
 1325 each nursing home.

1326 (c) In evaluating the overall quality of care and services
 1327 and determining whether the facility will receive a conditional
 1328 or standard license, the agency shall consider the needs and
 1329 limitations of residents in the facility and the results of
 1330 interviews and surveys of a representative sampling of
 1331 residents, families of residents, representatives of the State
 1332 Long-Term Care Ombudsman Program ~~ombudsman council members in~~
 1333 ~~the planning and service area in which the facility is located,~~
 1334 guardians of residents, and staff of the nursing home facility.

1335 Section 26. Paragraph (a) of subsection (3), paragraph (f)
1336 of subsection (5), and subsection (6) of section 400.235,
1337 Florida Statutes, is amended to read:

1338 400.235 Nursing home quality and licensure status; Gold
1339 Seal Program.—

1340 (3)(a) The Gold Seal Program shall be developed and
1341 implemented by the Governor's Panel on Excellence in Long-Term
1342 Care which shall operate under the authority of the Executive
1343 Office of the Governor. The panel shall be composed of three
1344 persons appointed by the Governor, to include a consumer
1345 advocate for senior citizens and two persons with expertise in
1346 the fields of quality management, service delivery excellence,
1347 or public sector accountability; three persons appointed by the
1348 Secretary of Elderly Affairs, to include an active member of a
1349 nursing facility family and resident care council and a member
1350 of the University Consortium on Aging; a representative of the
1351 State Long-Term Care Ombudsman Program; one person appointed by
1352 the Florida Life Care Residents Association; one person
1353 appointed by the State Surgeon General; two persons appointed by
1354 the Secretary of Health Care Administration; one person
1355 appointed by the Florida Association of Homes for the Aging; and
1356 one person appointed by the Florida Health Care Association.
1357 Vacancies on the panel shall be filled in the same manner as the
1358 original appointments.

1359 (5) Facilities must meet the following additional criteria
1360 for recognition as a Gold Seal Program facility:

1361 (f) Evidence that ~~an outstanding record regarding the~~
1362 ~~number and types of substantiated complaints~~ received and
1363 verified by ~~reported to~~ the State Long-Term Care Ombudsman
1364 Program Council within the 30 months preceding application have
1365 been resolved or the facility made a good faith effort to
1366 resolve the complaints ~~for the program.~~

1367

1368 A facility assigned a conditional licensure status may not
1369 qualify for consideration for the Gold Seal Program until after
1370 it has operated for 30 months with no class I or class II
1371 deficiencies and has completed a regularly scheduled relicensure
1372 survey.

1373 (6) The agency, nursing facility industry organizations,
1374 consumers, State Long-Term Care Ombudsman Program Council, and
1375 members of the community may recommend to the Governor
1376 facilities that meet the established criteria for consideration
1377 for and award of the Gold Seal. The panel shall review nominees
1378 and make a recommendation to the Governor for final approval and
1379 award. The decision of the Governor is final and is not subject
1380 to appeal.

1381 Section 27. Subsections (18) through (28) of section
1382 415.102, Florida Statutes, are renumbered as subsections (19)
1383 through and (29), respectively, and a new subsection (18) is
1384 added to that section, to read:

1385 415.102 Definitions of terms used in ss. 415.101-415.113.—
1386 As used in ss. 415.101-415.113, the term:

1387 (18) "Office" has the same meaning as provided in s.
 1388 400.0060.

1389 Section 28. Paragraph (a) of subsection (1) of section
 1390 415.1034, Florida Statutes, is amended to read:

1391 415.1034 Mandatory reporting of abuse, neglect, or
 1392 exploitation of vulnerable adults; mandatory reports of death.—

1393 (1) MANDATORY REPORTING.—

1394 (a) Any person, including, but not limited to, any:

1395 1. Physician, osteopathic physician, medical examiner,
 1396 chiropractic physician, nurse, paramedic, emergency medical
 1397 technician, or hospital personnel engaged in the admission,
 1398 examination, care, or treatment of vulnerable adults;

1399 2. Health professional or mental health professional other
 1400 than one listed in subparagraph 1.;

1401 3. Practitioner who relies solely on spiritual means for
 1402 healing;

1403 4. Nursing home staff; assisted living facility staff;
 1404 adult day care center staff; adult family-care home staff;
 1405 social worker; or other professional adult care, residential, or
 1406 institutional staff;

1407 5. State, county, or municipal criminal justice employee
 1408 or law enforcement officer;

1409 6. ~~An~~ Employee of the Department of Business and
 1410 Professional Regulation conducting inspections of public lodging
 1411 establishments under s. 509.032;

1412 7. Florida advocacy council or Disability Rights Florida
 1413 member or a representative of the State Long-Term Care Ombudsman
 1414 Program ~~long-term care ombudsman council member~~; or

1415 8. Bank, savings and loan, or credit union officer,
 1416 trustee, or employee,
 1417
 1418 who knows, or has reasonable cause to suspect, that a vulnerable
 1419 adult has been or is being abused, neglected, or exploited shall
 1420 immediately report such knowledge or suspicion to the central
 1421 abuse hotline.

1422 Section 29. Subsection (1) of section 415.104, Florida
 1423 Statutes, is amended to read:

1424 415.104 Protective investigations of cases of abuse,
 1425 neglect, or exploitation of vulnerable adults; transmittal of
 1426 records to state attorney.-

1427 (1) The department shall, upon receipt of a report
 1428 alleging abuse, neglect, or exploitation of a vulnerable adult,
 1429 begin within 24 hours a protective investigation of the facts
 1430 alleged therein. If a caregiver refuses to allow the department
 1431 to begin a protective investigation or interferes with the
 1432 conduct of such an investigation, the appropriate law
 1433 enforcement agency shall be contacted for assistance. If, during
 1434 the course of the investigation, the department has reason to
 1435 believe that the abuse, neglect, or exploitation is perpetrated
 1436 by a second party, the appropriate law enforcement agency and
 1437 state attorney shall be orally notified. The department and the

1438 law enforcement agency shall cooperate to allow the criminal
1439 investigation to proceed concurrently with, and not be hindered
1440 by, the protective investigation. The department shall make a
1441 preliminary written report to the law enforcement agencies
1442 within 5 working days after the oral report. The department
1443 shall, within 24 hours after receipt of the report, notify the
1444 appropriate Florida local advocacy council, or the State Long-
1445 Term Care Ombudsman Program ~~long-term care ombudsman council~~,
1446 when appropriate, that an alleged abuse, neglect, or
1447 exploitation perpetrated by a second party has occurred. Notice
1448 to the Florida local advocacy council or the State Long-Term
1449 Care Ombudsman Program ~~long-term care ombudsman council~~ may be
1450 accomplished orally or in writing and shall include the name and
1451 location of the vulnerable adult alleged to have been abused,
1452 neglected, or exploited and the nature of the report.

1453 Section 30. Subsection (8) of section 415.1055, Florida
1454 Statutes, is amended to read:

1455 415.1055 Notification to administrative entities.—

1456 (8) At the conclusion of a protective investigation at a
1457 facility, the department shall notify either the Florida local
1458 advocacy council or the State Long-Term Care Ombudsman Program
1459 ~~long-term care ombudsman council~~ of the results of the
1460 investigation. This notification must be in writing.

1461 Section 31. Subsection (2) of section 415.106, Florida
1462 Statutes, is amended to read:

1463 415.106 Cooperation by the department and criminal justice
 1464 and other agencies.—

1465 (2) To ensure coordination, communication, and cooperation
 1466 with the investigation of abuse, neglect, or exploitation of
 1467 vulnerable adults, the department shall develop and maintain
 1468 interprogram agreements or operational procedures among
 1469 appropriate departmental programs and the State Long-Term Care
 1470 Ombudsman Program Council, the Florida Statewide Advocacy
 1471 Council, and other agencies that provide services to vulnerable
 1472 adults. These agreements or procedures must cover such subjects
 1473 as the appropriate roles and responsibilities of the department
 1474 in identifying and responding to reports of abuse, neglect, or
 1475 exploitation of vulnerable adults; the provision of services;
 1476 and related coordinated activities.

1477 Section 32. Paragraph (g) of subsection (3) of section
 1478 415.107, Florida Statutes, is amended to read:

1479 415.107 Confidentiality of reports and records.—

1480 (3) Access to all records, excluding the name of the
 1481 reporter which shall be released only as provided in subsection
 1482 (6), shall be granted only to the following persons, officials,
 1483 and agencies:

1484 (g) Any appropriate official of the Florida advocacy
 1485 council, the State Long-Term Care Ombudsman Program, or the
 1486 local long-term care ombudsman council investigating a report of
 1487 known or suspected abuse, neglect, or exploitation of a
 1488 vulnerable adult.

1489 Section 33. Subsections (16) through (26) of section
1490 429.02, Florida Statutes, are renumbered as subsections (17)
1491 through (27), respectively, present subsections (11) and (20)
1492 are amended, and a new subsection (16) is added to that section,
1493 to read:

1494 429.02 Definitions.—When used in this part, the term:

1495 (11) "Extended congregate care" means acts beyond those
1496 authorized in subsection (17) ~~(16)~~ that may be performed
1497 pursuant to part I of chapter 464 by persons licensed thereunder
1498 while carrying out their professional duties, and other
1499 supportive services which may be specified by rule. The purpose
1500 of such services is to enable residents to age in place in a
1501 residential environment despite mental or physical limitations
1502 that might otherwise disqualify them from residency in a
1503 facility licensed under this part.

1504 (16) "Office" has the same meaning as provided in s.
1505 400.0060.

1506 (17)~~(16)~~ "Personal services" means direct physical
1507 assistance with or supervision of the activities of daily living
1508 and the self-administration of medication and other similar
1509 services which the department may define by rule. "Personal
1510 services" shall not be construed to mean the provision of
1511 medical, nursing, dental, or mental health services.

1512 (18)~~(17)~~ "Physical restraint" means a device which
1513 physically limits, restricts, or deprives an individual of
1514 movement or mobility, including, but not limited to, a half-bed

1515 rail, a full-bed rail, a geriatric chair, and a posey restraint.
 1516 The term "physical restraint" shall also include any device
 1517 which was not specifically manufactured as a restraint but which
 1518 has been altered, arranged, or otherwise used for this purpose.
 1519 The term shall not include bandage material used for the purpose
 1520 of binding a wound or injury.

1521 (19)~~(18)~~ "Relative" means an individual who is the father,
 1522 mother, stepfather, stepmother, son, daughter, brother, sister,
 1523 grandmother, grandfather, great-grandmother, great-grandfather,
 1524 grandson, granddaughter, uncle, aunt, first cousin, nephew,
 1525 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
 1526 daughter-in-law, brother-in-law, sister-in-law, stepson,
 1527 stepdaughter, stepbrother, stepsister, half brother, or half
 1528 sister of an owner or administrator.

1529 (20)~~(19)~~ "Resident" means a person 18 years of age or
 1530 older, residing in and receiving care from a facility.

1531 (21)~~(20)~~ "Resident's representative or designee" means a
 1532 person other than the owner, or an agent or employee of the
 1533 facility, designated in writing by the resident, if legally
 1534 competent, to receive notice of changes in the contract executed
 1535 pursuant to s. 429.24; to receive notice of and to participate
 1536 in meetings between the resident and the facility owner,
 1537 administrator, or staff concerning the rights of the resident;
 1538 to assist the resident in contacting the State Long-Term Care
 1539 Ombudsman Program or the local ombudsman council if the resident

1540 has a complaint against the facility; or to bring legal action
1541 on behalf of the resident pursuant to s. 429.29.

1542 (22)~~(21)~~ "Service plan" means a written plan, developed
1543 and agreed upon by the resident and, if applicable, the
1544 resident's representative or designee or the resident's
1545 surrogate, guardian, or attorney in fact, if any, and the
1546 administrator or designee representing the facility, which
1547 addresses the unique physical and psychosocial needs, abilities,
1548 and personal preferences of each resident receiving extended
1549 congregate care services. The plan shall include a brief written
1550 description, in easily understood language, of what services
1551 shall be provided, who shall provide the services, when the
1552 services shall be rendered, and the purposes and benefits of the
1553 services.

1554 (23)~~(22)~~ "Shared responsibility" means exploring the
1555 options available to a resident within a facility and the risks
1556 involved with each option when making decisions pertaining to
1557 the resident's abilities, preferences, and service needs,
1558 thereby enabling the resident and, if applicable, the resident's
1559 representative or designee, or the resident's surrogate,
1560 guardian, or attorney in fact, and the facility to develop a
1561 service plan which best meets the resident's needs and seeks to
1562 improve the resident's quality of life.

1563 (24)~~(23)~~ "Supervision" means reminding residents to engage
1564 in activities of daily living and the self-administration of

1565 medication, and, when necessary, observing or providing verbal
1566 cuing to residents while they perform these activities.

1567 (25)~~(24)~~ "Supplemental security income," Title XVI of the
1568 Social Security Act, means a program through which the Federal
1569 Government guarantees a minimum monthly income to every person
1570 who is age 65 or older, or disabled, or blind and meets the
1571 income and asset requirements.

1572 (26)~~(25)~~ "Supportive services" means services designed to
1573 encourage and assist aged persons or adults with disabilities to
1574 remain in the least restrictive living environment and to
1575 maintain their independence as long as possible.

1576 (27)~~(26)~~ "Twenty-four-hour nursing supervision" means
1577 services that are ordered by a physician for a resident whose
1578 condition requires the supervision of a physician and continued
1579 monitoring of vital signs and physical status. Such services
1580 shall be: medically complex enough to require constant
1581 supervision, assessment, planning, or intervention by a nurse;
1582 required to be performed by or under the direct supervision of
1583 licensed nursing personnel or other professional personnel for
1584 safe and effective performance; required on a daily basis; and
1585 consistent with the nature and severity of the resident's
1586 condition or the disease state or stage.

1587 Section 34. Subsection (9) of section 429.19, Florida
1588 Statutes, is amended to read:

1589 429.19 Violations; imposition of administrative fines;
1590 grounds.—

1591 (9) The agency shall develop and disseminate an annual
 1592 list of all facilities sanctioned or fined for violations of
 1593 state standards, the number and class of violations involved,
 1594 the penalties imposed, and the current status of cases. The list
 1595 shall be disseminated, at no charge, to the Department of
 1596 Elderly Affairs, the Department of Health, the Department of
 1597 Children and Families, the Agency for Persons with Disabilities,
 1598 the area agencies on aging, the Florida Statewide Advocacy
 1599 Council, ~~and~~ the State Long-Term Care Ombudsman Program, and the
 1600 state and local ombudsman councils. The Department of Children
 1601 and Families shall disseminate the list to service providers
 1602 under contract to the department who are responsible for
 1603 referring persons to a facility for residency. The agency may
 1604 charge a fee commensurate with the cost of printing and postage
 1605 to other interested parties requesting a copy of this list. This
 1606 information may be provided electronically or through the
 1607 agency's Internet site.

1608 Section 35. Subsection (8) of section 429.26, Florida
 1609 Statutes, is amended to read:

1610 429.26 Appropriateness of placements; examinations of
 1611 residents.—

1612 (8) The Department of Children and Families may require an
 1613 examination for supplemental security income and optional state
 1614 supplementation recipients residing in facilities at any time
 1615 and shall provide the examination whenever a resident's
 1616 condition requires it. Any facility administrator; personnel of

1617 the agency, the department, or the Department of Children and
1618 Families; or a representative of the State Long-Term Care
1619 Ombudsman Program ~~long-term care ombudsman council member~~ who
1620 believes a resident needs to be evaluated shall notify the
1621 resident's case manager, who shall take appropriate action. A
1622 report of the examination findings shall be provided to the
1623 resident's case manager and the facility administrator to help
1624 the administrator meet his or her responsibilities under
1625 subsection (1).

1626 Section 36. Subsection (2) and paragraph (b) of subsection
1627 (3) of section 429.28, Florida Statutes, are amended to read:

1628 429.28 Resident bill of rights.—

1629 (2) The administrator of a facility shall ensure that a
1630 written notice of the rights, obligations, and prohibitions set
1631 forth in this part is posted in a prominent place in each
1632 facility and read or explained to residents who cannot read.
1633 This notice must ~~shall~~ include the statewide toll-free telephone
1634 number and e-mail address of the State Long-Term Care Ombudsman
1635 Program and the telephone ~~name, address, and telephone numbers~~
1636 of the local ombudsman council and the Elder Abuse Hotline
1637 operated by the Department of Children and Families ~~central~~
1638 ~~abuse hotline~~ and, when applicable, the Advocacy Center for
1639 Persons with Disabilities, Inc., and the Florida local advocacy
1640 council, where complaints may be lodged. The facility must
1641 ensure a resident's access to a telephone to call the State Long
1642 Term Care Ombudsman Program or the local ombudsman council, the

1643 Elder Abuse Hotline operated by the Department of Children and
1644 Families ~~central abuse hotline,~~ the Advocacy Center for Persons
1645 with Disabilities, Inc., and the Florida local advocacy council.

1646 (3)

1647 (b) In order to determine whether the facility is
1648 adequately protecting residents' rights, the biennial survey
1649 shall include private informal conversations with a sample of
1650 residents and consultation with the ombudsman council in the
1651 district ~~planning and service area~~ in which the facility is
1652 located to discuss residents' experiences within the facility.

1653 Section 37. Section 429.34, Florida Statutes, is amended
1654 to read:

1655 429.34 Right of entry and inspection.—In addition to the
1656 requirements of s. 408.811, a ~~any~~ duly designated officer or
1657 employee of the department, the Department of Children and
1658 Families, the Medicaid Fraud Control Unit of the Office of the
1659 Attorney General, the state or local fire marshal, ~~or~~ a
1660 representative of the State Long-Term Care Ombudsman Program, or
1661 a member of the state or local long-term care ombudsman council
1662 may ~~shall have the right to~~ enter unannounced upon and into the
1663 premises of any facility licensed under ~~pursuant to~~ this part in
1664 order to determine the state of compliance with ~~the provisions~~
1665 ~~of~~ this part, part II of chapter 408, and applicable rules. Data
1666 collected by the State Long-Term Care Ombudsman Program, ~~state~~
1667 ~~or~~ local long-term care ombudsman councils, or the state or

1668 local advocacy councils may be used by the agency in
 1669 investigations involving violations of regulatory standards.

1670 Section 38. Subsection (2) of section 429.35, Florida
 1671 Statutes, is amended to read:

1672 429.35 Maintenance of records; reports.—

1673 (2) Within 60 days after the date of the biennial
 1674 inspection visit required under s. 408.811 or within 30 days
 1675 after the date of any interim visit, the agency shall forward
 1676 the results of the inspection to the local ombudsman council in
 1677 in the district where ~~whose planning and service area, as~~
 1678 ~~defined in part II of chapter 400,~~ the facility is located; to
 1679 at least one public library or, in the absence of a public
 1680 library, the county seat in the county in which the inspected
 1681 assisted living facility is located; and, when appropriate, to
 1682 the district Adult Services and Mental Health Program Offices.

1683 Section 39. Subsection (6) of section 429.67, Florida
 1684 Statutes, is amended to read:

1685 429.67 Licensure.—

1686 (6) In addition to the requirements of s. 408.811, access
 1687 to a licensed adult family-care home must be provided at
 1688 reasonable times for the appropriate officials of the
 1689 department, the Department of Health, the Department of Children
 1690 and Families, the agency, and the State Fire Marshal, who are
 1691 responsible for the development and maintenance of fire, health,
 1692 sanitary, and safety standards, to inspect the facility to
 1693 assure compliance with these standards. In addition, access to a

1694 licensed adult family-care home must be provided at reasonable
 1695 times to representatives of the State Long Term Care Ombudsman
 1696 Program for the local long-term care ombudsman council.

1697 Section 40. Subsection (2) of section 429.85, Florida
 1698 Statutes, is amended to read:

1699 429.85 Residents' bill of rights.—

1700 (2) The provider shall ensure that residents and their
 1701 legal representatives are made aware of the rights, obligations,
 1702 and prohibitions set forth in this part. Residents must also be
 1703 given the statewide toll-free telephone number and e-mail
 1704 address of the State Long-Term Care Ombudsman Program, the
 1705 telephone names, addresses, and telephone numbers of the local
 1706 ombudsman council and the Elder Abuse Hotline operated by the
 1707 Department of Children and Families ~~the central abuse hotline~~
 1708 where they may lodge complaints.

1709 Section 41. This act shall take effect July 1, 2015.