

ASSEMBLY, No. 4333

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 20, 2022

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

Assemblywomen Speight, Chaparro and Assemblyman Danielsen

SYNOPSIS

Expands scope of Office of State Long-Term Care Ombudsman; appropriates \$1 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/22/2022)

1 AN ACT concerning the Office of the State Long-Term Care
2 Ombudsman, amending various parts of the statutory law, and
3 making an appropriation.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. Section 1 of P.L.1977, c.239 (C.52:27G-1) is amended to
9 read as follows:

10 1. The Legislature hereby finds that [in recognition of the
11 different health and health related problems experienced by the
12 various age groups in the general population,] numerous health
13 care facilities have been constructed and placed in operation to
14 provide specialized health and health related services to [particular
15 such groups] individuals needing long-term care; that in providing
16 such services [to the elderly] it is essential to recognize that
17 [while the members of this age group possess the same] civil and
18 human rights [as members of every other age group, such rights
19 may be far more difficult for certain of the elderly to secure since]
20 must be fiercely protected for such persons who may be [afflicted
21 with] experiencing certain physical and mental [infirmities]
22 ailments, [deprived of] with limited access to the comfort and
23 counsel of family and friends, and [forced to exist with] sometimes
24 possessing minimum economic resources, all of which [may
25 preclude them from defending and acting in] create barriers to the
26 opportunity to advocate their own [best] interests; and, that to the
27 degree that certain of [the elderly] these individuals may
28 experience difficulty in securing their civil and human rights as
29 [patients,] residents [and clients] of the health care facilities
30 created to serve their specialized needs [and problems], it is the
31 obligation of the State to take appropriate action through the
32 creation of an adequate legal framework by which those difficulties
33 may be eliminated.

34 The Legislature, therefore, declares that it is the public policy of
35 this State to secure for [elderly patients,] residents [and clients] of
36 long-term health care facilities serving their specialized needs [and
37 problems], the same civil and human rights guaranteed to all
38 citizens; and that to this end there should be established as an
39 agency of the State Government the Office of the State Long-Term
40 Care Ombudsman [for the Institutionalized Elderly], to receive,
41 investigate and resolve complaints concerning certain long-term
42 health care facilities [serving the elderly], and to initiate actions to
43 secure, preserve and promote the health, safety and welfare, and the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 civil and human rights, of the [elderly patients,] residents [and
2 clients] of such facilities.

3 (cf: P.L.1977, c.239, s.1)

4

5 2. Section 2 of P.L.1977, c.239 (C.52:27G-2) is amended to
6 read as follows:

7 2. As used in this act, unless the context clearly indicates
8 otherwise:

9 a. "Abuse" means the willful infliction of physical pain, injury,
10 or mental anguish; unreasonable confinement; or the willful
11 deprivation of services which are necessary to maintain a person's
12 physical and mental health. However, no person shall be deemed to
13 be abused for the sole reason he is being furnished nonmedical
14 remedial treatment by spiritual means through prayer alone, in
15 accordance with a recognized religious method of healing, in lieu of
16 medical treatment;

17 b. An "act" of any facility or government agency shall be
18 deemed to include any failure or refusal to act by such facility or
19 government agency;

20 c. "Administrator" means any person who is charged with the
21 general administration or supervision of a facility, whether or not
22 such person has an ownership interest in such facility, and whether
23 or not such person's functions and duties are shared with one or
24 more other persons;

25 d. "Caretaker" means a person employed by a facility to
26 provide care or services to [an elderly person] a long-term care
27 resident, and includes, but is not limited to, the administrator of a
28 facility;

29 e. "Exploitation" means the act or process of using a person or
30 his resources for another person's profit or advantage without legal
31 entitlement to do so;

32 f. "Facility" means any facility or institution, whether public or
33 private, offering health or health related services for [the
34 institutionalized elderly] long-term care residents, and which is
35 subject to regulation, visitation, inspection, or supervision by any
36 government agency. Facilities include, but are not limited to,
37 nursing homes, skilled nursing homes, intermediate care facilities,
38 extended care facilities, convalescent homes, rehabilitation centers,
39 residential health care facilities, dementia care homes, special
40 hospitals, veterans' hospitals, chronic disease hospitals, psychiatric
41 hospitals, mental hospitals, developmental centers or facilities,
42 continuing care retirement communities, including independent
43 living sections thereof, social day care facilities [for the elderly] ,
44 and medical day care centers;

45 g. "Government agency" means any department, division,
46 office, bureau, board, commission, authority, or any other agency or
47 instrumentality created by the State or to which the State is a party,

1 or by any county or municipality, which is responsible for the
2 regulation, visitation, inspection, or supervision of facilities, or
3 which provides services to **patients,** residents**,** or clients **of**
4 facilities;

5 h. "Guardian" means any person with the legal right to manage
6 the financial affairs and protect the rights of any **patient,** long-
7 term care resident**,** or client **of** a facility, who has been declared
8 an incapacitated person by a court of competent jurisdiction;

9 i. "Long-term care resident**,**" **"elderly" or "elderly person"**
10 means any person **60 years of age or older,** who is a **patient,**
11 resident**,** or client **of** any facility;

12 j. "Office" means the Office of the State Long-Term Care
13 Ombudsman established herein;

14 k. "State Long-Term Care Ombudsman" means the
15 administrator and chief executive officer of the Office of the State
16 Long-Term Care Ombudsman**;**

17 l. "Patient, resident or client" means any elderly person who is
18 receiving treatment or care in any facility in all its aspects,
19 including, but not limited to, admission, retention, confinement,
20 commitment, period of residence, transfer, discharge, and any
21 instances directly related to such status**.**

22 (cf: P.L.2017, c.131, s.201)

23
24 3. Section 4 of P.L.1977, c.239 (C.52:27G-4) is amended to
25 read as follows:

26 4. The administrator and chief executive officer of the office
27 shall be the **Ombudsperson for the Institutionalized Elderly** State
28 Long-Term Care Ombudsman, who shall be a person qualified by
29 training and experience to perform the duties of the office. The
30 **Ombudsperson** Ombudsman shall be appointed by the Governor
31 and shall serve at the pleasure of the Governor.

32 (cf: P.L.2010, c.34, s.42)

33
34 4. Section 5 of P.L.1977, c.239 (C.52:27G-5) is amended to
35 read as follows:

36 5. The ombudsman, as administrator and chief executive
37 officer of the office, shall:

38 a. Administer and organize the work of the office and establish
39 therein such administrative subdivisions as necessary, proper, and
40 expedient. He or she may formulate and adopt rules and regulations
41 and prescribe duties for the efficient conduct of the business, work,
42 and general administration of the office. He or she may delegate to
43 subordinate officers or employees in the office such power as may
44 be desirable to be exercised under his or her supervision and
45 control;

46 b. Appoint and remove such stenographic, clerical, and other
47 secretarial assistants as may be required for the proper conduct of

1 the office, subject to the provisions of Title 11 (Civil Service) of the
2 Revised Statutes, and other applicable statutes, and within the limits
3 of funds appropriated or otherwise made available therefor. In
4 addition, and within such funding limits, the ombudsman may
5 appoint, retain, or employ, without regard to the provisions of the
6 said Title 11 (Civil Service), or any other statutes, such officers,
7 investigators, experts, consultants, or other professionally qualified
8 personnel on a contract basis or otherwise as necessary.

9 c. Appoint and employ, notwithstanding the provisions of
10 P.L.1944, c.20 (C.52:17A-1 et seq.), a general counsel and such
11 other attorneys or counsel as he or she may require, for the purpose,
12 among other things, of providing legal advice on such matters as the
13 ombudsman may from time to time require, of attending to and
14 dealing with all litigation, controversies, and legal matters in which
15 the office may be a party or in which its rights and interests may be
16 involved, and of representing the office in all proceedings or actions
17 of any kind which may be brought for or against it in any court of
18 this State. With respect to all of the foregoing, such counsel and
19 attorneys shall be independent of any supervision or control by the
20 Attorney General or by the Department of Law and Public Safety,
21 or by any division or officer thereof;

22 d. Have authority to adopt and promulgate pursuant to law such
23 guidance, rules and regulations as necessary to carry out the
24 purposes of this act;

25 e. Maintain suitable headquarters for the office and such other
26 quarters as necessary to the proper functioning of the office;

27 f. Solicit and accept grants of funds from the federal
28 government and from other public and any private sources for any
29 of the purposes of this act; provided, however, that any such funds
30 shall be expended only pursuant to an appropriation made by law;

31 g. Perform such other functions as may be prescribed in this act
32 or by any other law; and

33 h. Establish, in consultation with the Department of Health, an
34 annual long-term care training program in a manner to be
35 determined by the ombudsman. At a minimum, the program shall
36 address the following subjects: the rights of residents of long-term
37 care facilities; fostering choice and independence among residents
38 of long-term care facilities; identifying and reporting abuse,
39 neglect, or exploitation of residents of long-term care facilities;
40 long-term care facility ownership; updates on State and federal
41 guidelines, laws, and regulations that pertain to long-term care
42 facilities; and issues, trends, and policies that impact the rights of
43 long-term care residents. The annual training program shall be
44 completed by the ombudsman's investigative and advocacy staff,
45 the ombudsman's volunteer advocates, and Department of Health
46 long-term care facility surveyors, inspectors, and complaint
47 investigators. Subject to the availability of staff and funding, the
48 training program shall be offered to residents of long-term care

1 facilities, those residents' family members, advocacy organizations,
2 government agencies, and long-term care facility employees. To
3 develop and implement the training program, the ombudsman may
4 contract or consult with a non-profit organization that possesses
5 expertise on the rights of residents in long-term care settings.

6 (cf: P.L.2021, c.294, s.1)

7
8 5. Section 6 of P.L.1977, c.239 (C.52:27G-6) is amended to
9 read as follows:

10 6. The Office of the State Long-Term Care Ombudsman shall
11 have as its basic objective that of promoting, advocating and
12 insuring, as a whole and in particular cases, the adequacy of the
13 care received, and the quality of life experienced, by **【elderly**
14 **patients,】** long-term care residents **【and clients】** of facilities within
15 this State. In determining what elements are essential to adequate
16 care and quality of life, the ombudsman shall consider the unique
17 medical, social and economic needs and problems of **【the elderly as**
18 **patients,】** long-term care residents **【and clients】** of facilities **【and**
19 **as citizens and community members】**.

20 (cf: P.L.2017, c.131, s.204)

21
22 6. Section 7 of P.L.1977, c.239 (C.52:27G-7) is amended to
23 read as follows:

24 7. a. The office shall establish and implement procedures for
25 eliciting, receiving, processing, responding to, and resolving
26 complaints from **【patients,】** long-term care residents**【,** or clients of
27 facilities**】**, the relatives or guardians of such persons, or from
28 interested citizens, public officials, or government agencies having
29 an interest in the matter. The office shall ensure that a system is in
30 place to receive complaints 24 hours per day, seven days per week,
31 whether or not live staff members are available to receive the
32 complaint.

33 b. When the office receives a complaint or otherwise
34 encounters a deficiency that pertains to a violation of a resident's
35 rights or compliance with State or federal laws or regulations or
36 rules administered by any government agency, it shall make referral
37 thereof directly to the appropriate government agency for action
38 pursuant to applicable federal law and regulations.

39 c. When the complaint received or the investigation conducted
40 by the office discloses facts that it determines constitute a violation
41 of a resident's rights or warrant the institution of civil proceedings
42 by a government agency against any person or government agency,
43 the matter shall be referred to the government agency with authority
44 to institute such proceedings pursuant to applicable federal law and
45 regulations.

46 d. When the complaint received or the investigation conducted
47 by the office reveals information in relation to a violation of a

1 resident's rights or the misconduct or breach of duty of any officer
2 or employee of a facility or a government agency, it shall refer the
3 matter to the appropriate authorities for such action as may be
4 necessary pursuant to applicable federal law and regulations.

5 e. When the complaint received or the investigation conducted
6 by the office discloses information or facts indicating the
7 commission of criminal offenses or violations of standards of
8 professional conduct, it shall refer the matter, as appropriate, to the
9 Attorney General, county prosecutor, or any other law enforcement
10 official that has jurisdiction to prosecute the crime, or to the
11 appropriate professional licensing board **【concerned】** consistent
12 with applicable State and federal law and regulations.

13 f. The government agency, prosecuting agency, or professional
14 licensing board, as the case may be in this section, shall report to
15 the office on its findings and actions with respect to all such
16 referrals within 30 days after receipt thereof and every 30 days
17 thereafter until final action on each such referral. The office shall
18 monitor all such referrals and responses and maintain a record
19 thereof. The office shall be authorized to make disclosure of such
20 information as appropriate and as may be necessary to resolve the
21 matter referred.

22 g. In the event that the complaint of a **【patient,】** long-term care
23 resident**【, or client】** or class of **【patients,】** long-term care
24 residents**【, or clients】** of a facility or facilities cannot be resolved
25 satisfactorily through negotiation with the facility or the appropriate
26 government agency or that an act, practice, policy, or procedure of a
27 facility or government agency does or may adversely affect the
28 health, safety, welfare, or civil or human rights of a **【patient,】** long-
29 term care resident **【, or client】** or class of **【patients,】** long-term care
30 residents**【, or clients】** of a facility or facilities the office may
31 recommend to the appropriate authorities civil litigation on behalf
32 of such **【patient,】** long-term care resident**【, or client】** or class of
33 **【patients,】** long-term care residents**【, or clients】** as it deems
34 appropriate. The office may institute actions for injunctive relief or
35 civil damages.

36 (cf: P.L.2017, c.186, s.1)

37
38 7. Section 2 of P.L.1983, c.43 (C.52:27G-7.1) is amended to
39 read as follows:

40 2. a. Any caretaker, social worker, physician, registered or
41 licensed practical nurse, or other professional or staff member
42 employed at a facility, and any representative of a managed care
43 entity, who, as a result of information obtained in the course of that
44 individual's employment, has reasonable cause to suspect or believe
45 that **【an institutionalized elderly person】** a long-term care resident
46 is being or has been abused or exploited, shall report such
47 information to the ombudsman or to the person designated by the

1 ombudsman to receive such report. If an individual reporting
2 suspected abuse or exploitation pursuant to this subsection has
3 reasonable cause to suspect or believe that the **【institutionalized**
4 **elderly person】** resident is or has been the victim of a crime, the
5 individual shall additionally report such information to the local law
6 enforcement agency and to the health administrator of the facility.

7 (1) If the events that cause the suspicion or belief result in
8 serious bodily injury, the individual shall report the suspicion or
9 belief immediately, but not later than two hours after forming the
10 suspicion or belief.

11 (2) If the events that cause the suspicion or belief do not result
12 in serious bodily injury, the individual shall report the suspicion or
13 belief immediately, but not later than 24 hours after forming the
14 suspicion or belief.

15 b. Such report shall contain the name and address of the
16 **【elderly person】** long-term care resident, information regarding the
17 nature of the suspected abuse or exploitation and any other
18 information which might be helpful in an investigation of the case
19 and the protection of such **【elderly person】** long-term care resident.

20 c. Any other person having reasonable cause to suspect or
21 believe that **【an elderly person】** a long-term care resident is being
22 or has been abused or exploited may report such information to the
23 local law enforcement agency and to the ombudsman or the person
24 designated by the ombudsman to receive such report.

25 d. The name of any person who reports suspected abuse or
26 exploitation pursuant to this act shall not be disclosed, unless the
27 person who reported the abuse or exploitation specifically requests
28 such disclosure or a judicial proceeding results from such report.

29 e. Any person who reports suspected abuse or exploitation
30 pursuant to this act or who testifies in any administrative or judicial
31 proceeding arising from such report or testimony shall have
32 immunity from any civil or criminal liability on account of such
33 report or testimony, unless such person has acted in bad faith or
34 with malicious purpose.

35 f. Any person required to report suspected abuse or
36 exploitation pursuant to this act who fails to make such report shall
37 be fined not more than \$500, and the facility employing the
38 individual shall be fined not more than \$2,500. Such penalty shall
39 be collected and enforced by summary proceedings pursuant to the
40 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
41 et seq.). Each violation of this act shall constitute a separate
42 offense.

43 g. No provision of this act shall be deemed to require the
44 disclosure of, or penalize the failure to disclose, any information
45 which would be privileged pursuant to the provisions of sections 18
46 through 23 inclusive of P.L.1960, c.52 (C.2A:84A-18 through
47 2A:84A-23).

1 h. When a person has been penalized under this section, a letter
2 making note of the penalty shall immediately be sent by the court to
3 the licensing authority or the professional board, if any, having
4 jurisdiction over the person who has been penalized.

5 i. The office may bring suit in a court of competent
6 jurisdiction to enforce any of the powers enumerated in this section.
7 (cf: P.L.2017, c.186, s.2)

8
9 8. Section 3 of P.L.1983, c.43 (C.52:27G-7.2) is amended to
10 read as follows:

11 3. a. Upon receiving a report that **【an elderly person】** a long-
12 term care resident may be or may have been abused or exploited,
13 the ombudsman shall conduct a prompt and thorough investigation
14 pursuant to section 8 of P.L.1977, c.239 (C.52:27G-8). Within 24
15 hours of receipt of the report, the ombudsman shall notify the
16 Commissioner of Health **【and Senior Services】**, or the
17 Commissioner of Human Services in the case of a facility regulated
18 or operated by the Department of Human Services, and any other
19 governmental agency which regulates or operates the facility that
20 the report has been received.

21 b. The investigation shall include a visit with the **【elderly**
22 **person】** long-term care resident and consultation with others who
23 have knowledge of the particular case. When the investigation is
24 completed, findings and recommended action shall be **【prepared in**
25 **a written report and】** submitted, upon request, upon substantiation
26 of a report or complaint, or as otherwise provided pursuant to
27 section 7 of P.L.1977, c.239 (C.52:27G-7), to the Commissioner of
28 Health **【and Senior Services】** or the Commissioner of Human
29 Services, as appropriate, **【and】** any other governmental agency
30 which regulates or operates the facility, and the complainant upon
31 receipt of the consent of the resident or the resident's legal
32 representative.

33 c. The person who reported the suspected abuse or exploitation
34 shall be promptly notified that action is being taken.

35 d. If a determination is made that **【an elderly person】** a long-
36 term care resident may have been criminally abused or exploited,
37 the ombudsman shall refer such findings, in writing, to the county
38 prosecutor.

39 e. Notwithstanding the provisions of any other statute or
40 regulation to the contrary, upon completion of an investigation, the
41 ombudsman shall **【furnish a copy of the written report prepared**
42 **pursuant to subsection b. of this section to】** share the findings and
43 recommendations with the resident and **【shall send a copy by**
44 **certified and regular mail to】** the legal guardian or other person
45 named on the consent form pursuant to section 2 of P.L.2001, c.7
46 (C.52:27G-7.3), as applicable.

1 f. The ombudsman shall make all reasonable effort to obtain
2 the name **【and】**, address, phone number, and e-mail address of the
3 person named on the consent form, either from their own records or
4 information or those of the facility.

5 g. The ombudsman shall have the discretion to withhold
6 notification upon evidence that said person was a party to the abuse
7 or exploitation of the elderly.

8 h. The notifications made and information shared pursuant to this
9 section shall comply with applicable federal and State law.

10 (cf: P.L.2001, c.7, s.1)

11
12 9. Section 2 of P.L.2001, c.7 (C.52:27G-7.3) is amended to
13 read as follows:

14 2. The ombudsman shall prepare and distribute to each facility
15 a written consent form which sets forth that in the event of an
16 **【elderly】** abuse investigation, the **【patient, resident or client of the**
17 **facility】** long-term care resident consents to the release of the
18 investigative **【report】** findings and recommendations to the legal
19 guardian or other person named on the consent form. The
20 ombudsman shall not be required to disclose the results of **【the】**
21 any investigation or furnish a copy of the written report prepared
22 pursuant to subsection b. of section 3 of P.L.1983, c.43 (C.52:27G-
23 7.2) to any person other than the resident, legal guardian or named
24 person on the consent form.

25 This written consent form shall be given to every **【patient,**
26 **resident or client】** long-term care resident upon admission to the
27 facility.

28 (cf: P.L.2001, c.7, s.2)

29
30 10. Section 8 of P.L.1977, c.239 (C.52:27G-8) is amended to
31 read as follows:

32 8. a. The office shall establish and implement procedures for
33 conducting investigations.

34 b. Acting on complaint, the office may, notwithstanding any
35 referral pursuant to subsection b. of section 7**【. b.】** of this act,
36 investigate any act, practice, policy or procedure of any facility or
37 government agency that does or may adversely affect the health,
38 safety, welfare or civil or human rights of any **【patient, resident or**
39 **client】** long-term care resident of a facility.

40 c. Acting on its own initiative, the office may investigate any
41 act, practice, policy or procedure of any facility or government
42 agency which it determines does or may adversely affect the health,
43 safety, welfare or civil or human rights of any **【patient, resident or**
44 **client】** long-term care resident in a facility.

45 d. In an investigation the office may:

46 (1) Make the necessary inquiries and obtain such information as
47 it deems necessary;

1 (2) Hold private hearings or public hearings;

2 (3) Enter, without notice, and, after notifying the person in
3 charge of its presence, inspect the premises of a facility or
4 government agency and inspect there any books, files, medical
5 records or other records that pertain to **【patients, residents or**
6 **clients】** long-term care residents and are required by law to be
7 maintained by the facility or government agency;

8 (4) Compel at a specific time and place, by **【subpena】** subpoena,
9 the appearance and sworn testimony of any person who the office
10 reasonably believes may be able to give information relating to a
11 matter under investigation; or

12 (5) Compel any person to produce at a specific time and place,
13 by **【subpena】** subpoena any documents, books, records, papers,
14 objects, or other evidence which the office reasonably believes may
15 relate to a matter under investigation.

16 e. The office need not investigate any complaint where it
17 determines that:

18 (1) The complaint is trivial, frivolous, vexatious or not made in
19 good faith;

20 (2) The complaint has been too long delayed to justify present
21 investigation;

22 (3) The resources available, considering the established
23 priorities, are insufficient for an adequate investigation; or

24 (4) The matter complained of is not within the investigatory
25 authority of the office.

26 (cf: P.L.1977, c.239, s.8)

27

28 11. Section 9 of P.L.1977, c. 239 (C.52:27G-9) is amended to
29 read as follows:

30 9. The office shall acknowledge complaints, report its findings,
31 make recommendations, gather and disseminate information and
32 other material, and publicize its existence, all as herein provided:

33 a. If a complaint identifies the complainant, the office shall
34 acknowledge the receipt of such complaint and advise the
35 complainant of any action taken or opinions and recommendations
36 made by it in connection with the matter complained of.

37 b. Following an investigation the office may report its opinions
38 or recommendations to the party involved. The office may request
39 the party affected by such opinions or recommendations to notify it
40 within a specified time of any action taken by such party on its
41 recommendations. The office, may make public the complaint, the
42 act, practice, policy or procedure of a facility or government agency
43 that does or may adversely affect the health, safety, welfare or civil
44 or human rights of a **【patient, resident or client,】** long-term care
45 resident its opinions or recommendations, the response of the
46 facility or government agency to such opinions or recommendations
47 or any further opinions or recommendations of the office.

1 c. The office may recommend to the relevant government
2 agency changes in the rules and regulations adopted or proposed by
3 such government agency, which do or may adversely affect the
4 health, safety, welfare or civil or human rights of any [patient,
5 resident or client] long-term care resident in a facility.

6 d. The office may propose regulations to and petition any
7 government agency to adopt such regulations, or regulations similar
8 in content, that affect the health, safety, welfare or civil or human
9 rights of any [patient, resident or client] long-term care resident in
10 a facility.

11 e. The office may recommend to the relevant government
12 agency that a facility shall no longer be permitted to receive
13 patients or residents or payments under the New Jersey Medical
14 Assistance and Health Services Act, P.L.1968, c. 413 (C.30:4D-1 et
15 seq.).

16 f. The office may recommend to the relevant government
17 agency that it initiate procedures for assessment of penalties,
18 revocation, suspension, the placing on probationary or provisional
19 license, or denial of a license against a facility or a proposed facility
20 as appropriate.

21 g. The office may publicize its existence, function and
22 activities through public relations with government and private
23 organizations and groups and the public at large in general and with
24 [patients, residents and clients] long-term care residents in
25 facilities in particular.

26 h. The office shall report to the Governor and the Legislature
27 on or before September 30 of each year, which report shall
28 summarize its activities for the preceding fiscal year, document the
29 significant problems in the systems of care and services for the
30 [elderly] long-term care residents, indicate and analyze the trends
31 in such systems of care and services, and set forth any opinions or
32 recommendations which will further the State's capacity in
33 resolving complaints, encouraging quality care and ensuring the
34 health, safety, welfare or civil and human rights of [elderly
35 patients, residents and clients] long-term care residents of facilities,
36 including suggestions or recommendations for legislative
37 consideration and for changes in the policy or rules and regulations
38 of government agencies. The annual report shall be available to the
39 public.

40 (cf: P.L.1977, c.239, s.9)

41
42 12. Section 10 of P.L.1977, c.239 (C.52:27G-10) is amended to
43 read as follow:

44 10. a. The office shall promote community contact and
45 involvement with [patients, residents and clients] long-term care
46 residents of facilities through the use of volunteers and volunteer
47 programs. The volunteers, as private citizens, may exercise, but

1 need not be limited to, such functions as visitation, consultation,
2 problem solving, eliciting complaints, and, generally serving as
3 advocates on behalf of **【the institutionalized elderly】** long-term care
4 residents.

5 The office shall develop and propose programs for use, training,
6 and coordination of volunteers and may:

7 (1) Establish and conduct recruitment programs for volunteers;

8 (2) Establish and conduct training seminars, meetings and other
9 programs for volunteers and supply personnel, written materials and
10 such other reasonable assistance including publicizing their
11 activities as may be deemed necessary;

12 (3) Elicit the support of, and cooperate with, appropriate private,
13 nonprofit and voluntary agencies and community groups in the
14 development and coordination of volunteer programs and activities;

15 (4) Establish a reporting system volunteers can use to document
16 the major problems and concerns affecting **【the patients, residents**
17 **or clients】** long-term care residents of facilities;

18 (5) Reimburse volunteers for some or all of their actual
19 expenses, including, but not limited to, telephone and mileage
20 incurred in performance of their duties under this act;

21 (6) Encourage, cooperate with and assist the development and
22 operation of referral services where current, valid and reliable
23 information on facilities and alternatives to institutionalization can
24 be secured by **【elderly】** persons in need of these services and the
25 general public;

26 (7) Request the participation and advice of such government
27 agencies and other entities or persons as the office may deem
28 appropriate or necessary to the development of volunteer programs
29 and the effective use of volunteers;

30 (8) Establish and conduct meetings and other programs for
31 administrators, professional personnel, and other personnel
32 employed by or in contract with the facilities.

33 b. The office may assist in the development and use, by
34 **【patients, residents or clients】** long-term care residents of facilities,
35 of councils and other forums which permit such **【patients, residents**
36 **or clients】** long-term care residents to discuss and communicate, on
37 a continuing basis, their views on the strengths and weaknesses of
38 the operations of the facility and on the quality of care provided and
39 quality of life fostered. Memberships on such councils shall be
40 determined by the **【patients, residents or clients】** long-term care
41 residents of the particular facility and may include, but shall not be
42 limited to, such **【patients, residents or clients】** long-term care
43 residents, interested relatives, friends, or community persons.
44 Assistance by the office may include, but shall not be limited to,
45 conference with administrators, operators or managers of facilities
46 on the purpose and function of such councils and, upon request,
47 participation in the formation of a council which the office deems

1 appropriate to the individual needs of the facility and its **【patients,**
2 residents or clients**】** long-term care residents.

3 In implementing the provisions of this section the ombudsman
4 shall coordinate the efforts of the office concerning volunteers and
5 councils with all relevant government agencies, and with the
6 administrators of such private facilities as he may deem appropriate,
7 to **【insure】** ensure coordination and avoid duplication of effort, so
8 that the volunteer programs and councils developed and supported
9 by the office may genuinely serve the interests of **【the**
10 institutionalized elderly**】** long-term care residents without in any
11 way disrupting the legitimate functioning of any facility in this
12 State.

13 (cf: P.L.1977, c.239, s.10)

14

15 13. Section 11 of P.L.1977, c.239 (C.52:27G-11) is amended to
16 read as follows:

17 11. a. Any correspondence or written communication from any
18 **【patient, resident, or client】** long-term care resident of a facility to
19 the office shall, if delivered to or received by the facility, be
20 promptly forwarded, unopened, by the facility to the office. Any
21 correspondence or written communication from the office to any
22 **【patient, resident, or client】** long-term care resident of a facility
23 shall, if delivered to or received by the facility, be promptly
24 forwarded, unopened, by the facility to such **【patient, resident, or**
25 **client】** long-term care resident.

26 b. The office shall prepare and distribute to each facility
27 written notices, in English and Spanish, which set forth the address
28 and telephone number of the office, a brief explanation of the
29 function of the office, the procedure to follow in filing a complaint,
30 and other pertinent information. The notice shall also indicate the
31 option to call 9-1-1.

32 The administrator of each facility shall ensure that such written
33 notice is given to every **【patient, resident, or client】** long-term care
34 resident or the **【patient's,】** resident's**【,** or client's**】** guardian upon
35 admission to the facility and to every person already in residence or
36 the person's guardian. The administrator shall also post such
37 written notice in a conspicuous, public place in the facility in the
38 number and manner set forth in the guidelines adopted by the
39 office.

40 c. The facility shall inform **【patients, residents, or clients,】**
41 long-term care residents and their guardians, resident
42 representatives, or families, of their rights and entitlements under
43 State and federal laws and rules and regulations in a format and
44 language that the recipient understands, by means of the distribution
45 of educational materials as provided in subsection b. of this section.

46 d. The office shall facilitate the filing of complaints with the
47 office concerning matters within the authority of the office. The

1 measures taken in connection therewith shall include, but need not
2 be limited to, maintenance of a toll-free telephone, either by the
3 office or in conjunction with another appropriate State agency, at
4 least during regular working hours of the office for the filing of
5 complaints.

6 e. The administrator of each facility shall annually provide all
7 caretakers, social workers, physicians, registered or licensed
8 practical nurses, and other professionals and staff members
9 employed at the facility with a notice explaining the requirements
10 of section 2 of P.L.1983, c.43 (C.52:27G-7.1) concerning the
11 reporting of suspected abuse or exploitation of [an institutionalized
12 elderly person] a long-term care resident, and require, as a
13 condition of employment at the facility, that the employee
14 acknowledge in writing receipt of the notice. The signed
15 acknowledgement shall be retained in the employee's personnel file.
16 (cf: P.L.2017, c.186, s.3)

17
18 14. Section 13 of P.L.1977, c.239 (C.52:27G-13) is amended to
19 read as follows:

20 13. a. The office shall maintain confidentiality with respect to
21 all matters in relation to any complaint or investigation together
22 with identities of the complainants, witnesses, or [patients,] long-
23 term care residents [or clients] involved, unless such persons
24 authorize, in writing, the release of such information, except for
25 such disclosures as may be necessary to enable the office to perform
26 its duties and to support any opinions or recommendations that may
27 result from a complaint or investigation. The investigatory files of
28 the office, including all complaints and responses of the office to
29 complaints, shall be maintained as confidential information.
30 Release of pertinent records shall be at the discretion of the
31 ombudsman. Nothing herein contained shall preclude the use by
32 the office of material in its files, otherwise confidential, for the
33 preparation and disclosure of statistical, case study and other
34 pertinent data, provided that in any such use there shall be no
35 disclosure of the identity or the means for discovering the identity
36 of particular persons.

37 b. Any person conducting or participating in any examination
38 of a complaint or an investigation who shall disclose to any person
39 other than the office, or those authorized by the ombudsman to
40 receive it, the name of any witness examined, or any information
41 obtained or given upon such examination or investigation is a
42 disorderly person.

43 c. Any statement or communication made by the office
44 relevant to a complaint received by, proceedings before, or
45 investigative activities of, the office, and any complaint or
46 information made or provided in good faith by any person, shall be
47 absolutely privileged and such privilege shall be a complete defense
48 in any action which shall allege libel or slander.

d. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of this act.
(cf: P.L.1977, c.239, s.13)

15. Section 14 of P.L.1977, c.239 (C.52:27G-14) is amended to read as follows:

14. a. No discriminatory, disciplinary or retaliatory action shall be taken against any officer or employee of a facility or government agency by such facility or government agency or against any ¹~~patient,~~ long-term care resident~~[, or client]~~ of a facility or guardian or family member thereof, or volunteer, for any communication by him with the office or for any information given or disclosed by him in good faith to aid the office in carrying out its duties and responsibilities. Any person who knowingly or willfully violates the provisions of this subsection by instituting discriminatory, disciplinary, or retaliatory action against any officer or employee of a facility or government agency or against any ~~patient,~~ long-term care resident ~~or client~~ of a facility or guardian or family member thereof, or volunteer, for any communication by him with the office or for any information given or disclosed by him in good faith to aid the office in carrying out its duties and responsibilities is guilty of a crime of the fourth degree.

b. Any person who willfully hinders the lawful actions of the office or willfully refuses to comply with its lawful demands, including the demand of immediate entry into and inspection of a facility or government agency or the demand of immediate access to a ~~patient,~~ long-term care resident ~~or client~~ thereof, or who offers any compensation, gratuity, or promise thereof to the office in an effort to affect the outcome of any matter which is being investigated, or is likely to be investigated shall be subject to a penalty of not more than \$5,000.00. Such penalty shall be collected and enforced by summary proceedings pursuant to ~~the~~ the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), upon complaint of the office or any other person. Each violation of this act shall constitute a separate offense.

c. The office may bring suit in any court of competent jurisdiction to enforce any of the powers enumerated in this act.

d. When a person has been penalized under this section, a letter making note of the penalty shall immediately be sent by the court to the licensing authority or the professional board, if any, having jurisdiction over the person who has been penalized.
(cf: P.L.1987, c.104, s.1)

16. Section of 15 of P.L.1977, c.239 (C.52:27G-15) is amended to read as follows:

1 person on a consent form, the ombudsman is to make reasonable
2 efforts to obtain the person's phone number and email address.

3 The bill revises a requirement for the Legislature to review the
4 development, administration, and operation of the office through
5 certain standing reference committees to instead make the
6 Legislature directly responsible for the review.

7 The bill appropriates to the ombudsman \$700,000 for the
8 purpose of employing additional staff; purchasing, renting, or
9 leasing vehicles or other transportation; and such other expenses as
10 may be necessary to carry out the purposes of the office. Further,
11 \$300,000 is appropriated for the purpose of undertaking a Statewide
12 advertising campaign to promote the ombudsman's Volunteer
13 Advocate program.

14 The bill makes various technical and stylistic changes involving
15 grammar and citation.