

[Second Reprint]

SENATE, No. 2891

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 20, 2022

Sponsored by:

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District 19 (Middlesex)

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SYNOPSIS

Expands scope of Office of State Long-Term Care Ombudsman.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on May 11, 2023, with amendments.



(Sponsorship Updated As Of: 5/22/2023)

1 AN ACT concerning the Office of the State Long-Term Care
 2 Ombudsman ²**[,] and²** amending various parts of the statutory
 3 law ²**[,] and making an appropriation²** .
 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 **[while**
 17 **the members of this age group possess the same]** civil and human
 18 rights **[as members of every other age group, such rights may be far**
 19 **more difficult for certain of the elderly to secure since]** must be
 20 fiercely protected for such persons who may be **[afflicted with]**
 21 experiencing certain physical and mental **[infirmities]** ailments,
 22 **[deprived of]** with limited access to the comfort and counsel of
 23 family and friends, and **[forced to exist with]** sometimes possessing
 24 minimum economic resources, all of which **[may preclude them**
 25 **from defending and acting in]** create barriers to the opportunity to
 26 advocate their own **[best]** interests; and, that to the degree that
 27 certain of **[the elderly]** these individuals may experience difficulty
 28 in securing their civil and human rights as **[patients,]** residents
 29 **[and clients]** of the health care facilities created to serve their
 30 specialized needs **[and problems]**, it is the obligation of the State to
 31 take appropriate action through the creation of an adequate legal
 32 framework by which those difficulties may be eliminated.

33 The Legislature, therefore, declares that it is the public policy of
 34 this State to secure for **[elderly patients,]** residents **[and clients]** of
 35 long-term health care facilities serving their specialized needs **[and**
 36 **problems]** ¹**[,] the same civil and human rights guaranteed to all**
 37 citizens; and that to this end there should be established as an
 38 agency of the State Government the Office of the State Long-Term
 39 Care Ombudsman **[for the Institutionalized Elderly]**, to receive,
 40 investigate^{1,1} and resolve complaints concerning certain long-term
 41 health care facilities **[serving the elderly]**, and to initiate actions to
 42 secure, preserve^{1,1} and promote the health, safety^{1,1} and welfare,
 43 and the civil and human rights, of the **[elderly patients,]** residents
 44 **[and clients]** of such facilities.
 45 (cf: P.L.1977, c.239, s.1)

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted October 6, 2022.

²Senate SBA committee amendments adopted May 11, 2023.

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

3 2. As used in this act, unless the context clearly indicates
4 otherwise:

5 a. "Abuse" means the willful infliction of physical pain, injury,
6 or mental anguish; unreasonable confinement; or the willful
7 deprivation of services which are necessary to maintain a person's
8 physical and mental health. However, no person shall be deemed to
9 be abused for the sole reason ¹**["he"]** that the person¹ is being
10 furnished nonmedical remedial treatment by spiritual means
11 through prayer alone, in accordance with a recognized religious
12 method of healing, in lieu of medical treatment;

13 b. An "act" of any facility or government agency shall be
14 deemed to include any failure or refusal to act by such facility or
15 government agency;

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

21 d. "Caretaker" means a person employed by a facility to
22 provide care or services to **["an elderly person"]** a long-term care
23 resident, and includes, but is not limited to, the administrator of a
24 facility;

25 e. "Exploitation" means the act or process of using a person or
26 ¹**["his"]** the person's¹ resources for another person's profit or
27 advantage without legal entitlement to do so;

28 f. "Facility" means any facility or institution, whether public or
29 private, offering health or ¹**["health related"]** health-related¹ services
30 for **["the institutionalized elderly"]** long-term care residents, and
31 which is subject to regulation, visitation, inspection, or supervision
32 by any government agency. Facilities include, but are not limited
33 to, nursing homes, skilled nursing homes, intermediate care
34 facilities, extended care facilities, convalescent homes,
35 rehabilitation centers, residential health care facilities, dementia
36 care homes, special hospitals, veterans' hospitals, chronic disease
37 hospitals, psychiatric hospitals, mental hospitals, developmental
38 centers or facilities, continuing care retirement communities,
39 including independent living sections thereof, social day care
40 facilities **["for the elderly"]**, and medical day care centers;

41 g. "Government agency" means any department, division,
42 office, bureau, board, commission, authority, or any other agency or
43 instrumentality created by the State or to which the State is a party,
44 or by any county or municipality, which is responsible for the
45 regulation, visitation, inspection, or supervision of facilities, or
46 which provides services to **["patients,"]** residents**["], or clients"]** of
47 facilities;

1 h. "Guardian" means any person with the legal right to manage
2 the financial affairs and protect the rights of any **patient,** long-
3 term care resident**,** or client ¹**of a facility**¹ , who has been
4 declared an incapacitated person by a court of competent
5 jurisdiction;

6 i. "Long-term care resident**,**" **["elderly" or "elderly person"]**
7 means any person **[60 years of age or older,]** who is a **patient,**
8 resident**,** or client**]** of any facility;

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

11 k. "State Long-Term Care Ombudsman" means the
12 administrator and chief executive officer of the Office of the State
13 Long-Term Care Ombudsman**;**

14 l. "Patient, resident or client" means any elderly person who is
15 receiving treatment or care in any facility in all its aspects,
16 including, but not limited to, admission, retention, confinement,
17 commitment, period of residence, transfer, discharge, and any
18 instances directly related to such status **]** ¹;

19 1. (deleted by amendment, P.L. , c.) (pending before the
20 Legislature as this bill)¹ .

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

22
23 3. Section 4 of P.L.1977, c.239 (C.52:27G-4) is amended to
24 read as follows:

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

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

32
33 4. Section 5 of P.L.1977, c.239 (C.52:27G-5) is amended to
34 read as follows:

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

37 a. Administer and organize the work of the office and establish
38 therein such administrative subdivisions as necessary, proper, and
39 expedient. ¹**[He or she]** The ombudsman¹ may formulate and
40 adopt rules and regulations and prescribe duties for the efficient
41 conduct of the business, work, and general administration of the
42 office. ¹**[He or she]** The ombudsman¹ may delegate to subordinate
43 officers or employees in the office such power as may be desirable
44 to be exercised under ¹**[his or her]** the ombudsman's¹ supervision
45 and 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~~ 11A' (Civil
2 Service) of the '~~Revised~~ New Jersey' Statutes, and other
3 applicable statutes, and within the limits of funds appropriated or
4 otherwise made available therefor. In addition, and within such
5 funding limits, the ombudsman may appoint, retain, or employ,
6 without regard to the provisions of the said Title '~~11~~ 11A' (Civil
7 Service), or any other statutes, such officers, investigators, experts,
8 consultants, or other professionally qualified personnel on a
9 contract basis or otherwise as necessary.

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

24 d. Have authority to adopt and promulgate pursuant to law such
25 guidance, rules^{1,1} and regulations as necessary to carry out the
26 purposes of this act;

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

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

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

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

1 investigators. Subject to the availability of staff and funding, the
2 training program shall be offered to residents of long-term care
3 facilities, those residents' family members, advocacy organizations,
4 government agencies, and long-term care facility employees. To
5 develop and implement the training program, the ombudsman may
6 contract or consult with a non-profit organization that possesses
7 expertise on the rights of residents in long-term care settings.
8 (cf: P.L.2021, c.294, s.1)

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

12 6. The Office of the State Long-Term Care Ombudsman shall
13 have as its basic objective that of promoting, advocating^{1,1} and
14 ¹**insuring** ensuring¹, as a whole and in particular cases, the
15 adequacy of the care received, and the quality of life experienced,
16 by **elderly patients,** long-term care residents **and clients** ¹**of**
17 **facilities**¹ within this State. In determining what elements are
18 essential to adequate care and quality of life, the ombudsman shall
19 consider the unique medical, social^{1,1} and economic needs and
20 problems of **the elderly as patients,** long-term care residents **and**
21 **clients** ¹**of facilities**¹ **and as citizens and community**
22 **members**.

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

24
25 6. Section 7 of P.L.1977, c.239 (C.52:27G-7) is amended to
26 read as follows:

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

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

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

1 d. When the complaint received or the investigation conducted
2 by the office reveals information in relation to a violation of a
3 resident's rights or the misconduct or breach of duty of any officer
4 or employee of a facility or a government agency, it shall refer the
5 matter to the appropriate authorities for such action as may be
6 necessary pursuant to applicable federal law and regulations.

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

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

24 g. In the event that the complaint of a [patient,] long-term care
25 resident[, or client] or class of [patients,] long-term care
26 residents[, or clients] ¹[of a facility or facilities] ¹ cannot be
27 resolved satisfactorily through negotiation with the facility or the
28 appropriate government agency or that an act, practice, policy, or
29 procedure of a facility or government agency does or may adversely
30 affect the health, safety, welfare, or civil or human rights of a
31 [patient,] long-term care resident [, or client] or class of
32 [patients,] long-term care residents[, or clients] ¹[of a facility or
33 facilities] ¹, the office may recommend to the appropriate
34 authorities civil litigation on behalf of such [patient,] long-term
35 care resident[, or client] or class of [patients,] long-term care
36 residents[, or clients] as it deems appropriate. The office may
37 institute actions for injunctive relief or civil damages.

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

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

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

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

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

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

16 b. Such report shall contain the name and address of the
17 [elderly person] long-term care resident, information regarding the
18 nature of the suspected abuse or exploitation^{1, 1}, and any other
19 information which might be helpful in an investigation of the case
20 and the protection of such [elderly person] long-term care resident.

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

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

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

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

44 g. No provision of this act shall be deemed to require the
45 disclosure of, or penalize the failure to disclose, any information
46 which would be privileged pursuant to the provisions of sections 18
47 through 23 inclusive of P.L.1960, c.52 (C.2A:84A-18 through
48 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) ¹[.] :¹ to the
28 Commissioner of Health **[and Senior Services]** or the
29 Commissioner of Human Services, as appropriate ¹[.] ; ¹to¹ **[and]**
30 any other governmental agency which regulates or operates the
31 facility ¹[.] ;¹ and ¹to¹ the complainant ¹[upon receipt of the
32 consent of] , if¹ the resident or the resident's legal representative
33 ¹consents to the complainant receiving the findings and
34 recommended action¹ .

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

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

41 e. Notwithstanding the provisions of any other statute or
42 regulation to the contrary, upon completion of an investigation, the
43 ombudsman shall **[furnish a copy of the written report prepared**
44 **pursuant to subsection b. of this section to]** share the findings and
45 recommendations with the resident and **[shall send a copy by**
46 **certified and regular mail to]** the legal guardian or other person

1 named on the consent form pursuant to section 2 of P.L.2001, c.7
2 (C.52:27G-7.3), as applicable.

3 f. The ombudsman shall make all reasonable effort to obtain
4 the name **【and】**, address, phone number, and e-mail address of the
5 person named on the consent form, either from ¹**【their】** the
6 ombudsman's¹ own records or information or those of the facility.

7 g. The ombudsman shall have the discretion to withhold
8 notification upon evidence that said person was a party to the abuse
9 or exploitation ¹**【of the elderly】**¹ .

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

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

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

16 2. The ombudsman shall prepare and distribute to each facility
17 a written consent form which sets forth that in the event of an
18 **【elderly】** abuse investigation, the **【patient, resident or client of the**
19 **facility】** long-term care resident consents to the release of the
20 investigative **【report】** findings and recommendations to the legal
21 guardian or other person named on the consent form. The
22 ombudsman shall not be required to disclose the results of **【the】**
23 any investigation or furnish a copy of the written report prepared
24 pursuant to subsection b. of section 3 of P.L.1983, c.43 (C.52:27G-
25 7.2) to any person other than the resident, legal guardian^{1,1} or
26 named person on the consent form.

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

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

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

34 8. a. The office shall establish and implement procedures for
35 conducting investigations.

36 b. Acting on complaint, the office may, notwithstanding any
37 referral pursuant to subsection b. of section 7**【. b.】** of this act,
38 investigate any act, practice, policy^{1,1} or procedure of any facility
39 or government agency that does or may adversely affect the health,
40 safety, welfare^{1,1} or civil or human rights of any **【patient, resident**
41 **or client】** long-term care resident ¹**【of a facility】**¹ .

42 c. Acting on its own initiative, the office may investigate any
43 act, practice, policy^{1,1} or procedure of any facility or government
44 agency which it determines does or may adversely affect the health,
45 safety, welfare^{1,1} or civil or human rights of any **【patient, resident**
46 **or client】** long-term care resident ¹**【in a facility】**¹ .

47 d. In an investigation ^{1,1} the office may:

- 1 (1) Make the necessary inquiries and obtain such information as
2 it deems necessary;
- 3 (2) Hold private hearings or public hearings;
- 4 (3) Enter, without notice, and ¹【, after notifying the person in
5 charge of its presence,】¹ inspect the premises of a facility or
6 government agency and inspect there any books, files, medical
7 records^{1, 1} or other records that pertain to 【patients, residents or
8 clients】 long-term care residents and are required by law to be
9 maintained by the facility or government agency;
- 10 (4) Compel at a specific time and place, by 【subpena】 subpoena,
11 the appearance and sworn testimony of any person who the office
12 reasonably believes may be able to give information relating to a
13 matter under investigation; or
- 14 (5) Compel any person to produce at a specific time and place,
15 by 【subpena】 subpoena ^{1, 1} any documents, books, records, papers,
16 objects, or other evidence which the office reasonably believes may
17 relate to a matter under investigation.
- 18 e. The office need not investigate any complaint where it
19 determines that:
- 20 (1) The complaint is trivial, frivolous, vexatious^{1, 1} or not made
21 in good faith;
- 22 (2) The complaint has been too long delayed to justify present
23 investigation;
- 24 (3) The resources available, considering the established
25 priorities, are insufficient for an adequate investigation; or
- 26 (4) The matter complained of is not within the investigatory
27 authority of the office.
- 28 (cf: P.L.1977, c.239, s.8)
- 29
- 30 11. Section 9 of P.L.1977, c. 239 (C.52:27G-9) is amended to
31 read as follows:
- 32 9. The office shall acknowledge complaints, report its findings,
33 make recommendations, gather and disseminate information and
34 other material, and publicize its existence, all as herein provided:
- 35 a. If a complaint identifies the complainant, the office shall
36 acknowledge the receipt of such complaint and advise the
37 complainant of any action taken or opinions and recommendations
38 made by it in connection with the matter complained of.
- 39 b. Following an investigation the office may report its opinions
40 or recommendations to the party involved. The office may request
41 the party affected by such opinions or recommendations to notify it
42 within a specified time of any action taken by such party on its
43 recommendations. The office ¹【,】¹ may make public the complaint,
44 the act, practice, policy^{1, 1} or procedure of a facility or government
45 agency that does or may adversely affect the health, safety,
46 welfare^{1, 1} or civil or human rights of a 【patient, resident or client,】
47 long-term care resident ^{1, 1} its opinions or recommendations, the
48 response of the facility or government agency to such opinions or

1 recommendations^{1,1} or any further opinions or recommendations of
2 the office.

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

8 d. The office may propose regulations to and petition any
9 government agency to adopt such regulations, or regulations similar
10 in content, that affect the health, safety, welfare^{1,1} or civil or human
11 rights of any [patient, resident or client] long-term care resident
12 ¹[in a facility]¹ .

13 e. The office may recommend to the relevant government
14 agency that a facility shall no longer be permitted to receive
15 ¹[patients or] long-term care¹ residents or payments under the
16 ¹“¹New Jersey Medical Assistance and Health Services Act,¹”¹
17 P.L.1968, c.413 (C.30:4D-1 et seq.).

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

23 g. The office may publicize its existence, function^{1,1} and
24 activities through public relations with government and private
25 organizations and groups and the public at large in general and with
26 [patients, residents and clients] long-term care residents ¹[in
27 facilities]¹ in particular.

28 h. The office shall report to the Governor and the Legislature
29 on or before September 30 of each year, which report shall
30 summarize its activities for the preceding fiscal year, document the
31 significant problems in the systems of care and services for ¹[the]¹
32 [elderly] long-term care residents, indicate and analyze the trends
33 in such systems of care and services, and set forth any opinions or
34 recommendations which will further the State's capacity in
35 resolving complaints, encouraging quality care^{1,1} and ensuring the
36 health, safety, welfare^{1,1} or civil and human rights of [elderly
37 patients, residents and clients] long-term care residents ¹[of
38 facilities]¹ , including suggestions or recommendations for
39 legislative consideration and for changes in the policy or rules and
40 regulations of government agencies. The annual report shall be
41 available to the public.

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

43

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

46 10. a. The office shall promote community contact and
47 involvement with [patients, residents and clients] long-term care

1 residents ¹ **of facilities** ¹ through the use of volunteers and
2 volunteer programs. The volunteers, as private citizens, may
3 exercise, but need not be limited to, such functions as visitation,
4 consultation, problem solving, eliciting complaints, and ¹ **and** ¹
5 generally serving as advocates on behalf of **the institutionalized**
6 **elderly** long-term care residents.

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

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

10 (2) Establish and conduct training seminars, meetings ^{1,1} and
11 other programs for volunteers ^{1,1} and supply personnel, written
12 materials ^{1,1} and such other reasonable assistance including
13 publicizing ¹ **their** the volunteers ¹ activities as may be deemed
14 necessary;

15 (3) Elicit the support of, and cooperate with, appropriate private,
16 nonprofit ^{1,1} and voluntary agencies and community groups in the
17 development and coordination of volunteer programs and activities;

18 (4) Establish a reporting system volunteers can use to document
19 the major problems and concerns affecting **the patients, residents**
20 **or clients** long-term care residents ¹ **of facilities** ¹ ;

21 (5) Reimburse volunteers for some or all of ¹ **their** the
22 volunteer's ¹ actual expenses, including, but not limited to,
23 telephone and mileage incurred in performance of ¹ **their** the
24 volunteer's ¹ duties under this act;

25 (6) Encourage, cooperate with ^{1,1} and assist the development and
26 operation of referral services where current, valid ^{1,1} and reliable
27 information on facilities and alternatives to institutionalization can
28 be secured by **elderly** persons in need of these services and the
29 general public;

30 (7) Request the participation and advice of such government
31 agencies and other entities or persons as the office may deem
32 appropriate or necessary to the development of volunteer programs
33 and the effective use of volunteers; ¹ and ¹

34 (8) Establish and conduct meetings and other programs for
35 administrators, professional personnel, and other personnel
36 employed by or in contract with the facilities.

37 b. The office may assist in the development and use, by
38 **patients, residents or clients** long-term care residents ¹ **of**
39 **facilities** ¹ , of councils and other forums which permit such
40 **patients, residents or clients** long-term care residents to discuss
41 and communicate, on a continuing basis, their views on the
42 strengths and weaknesses of the operations of the facility and on the
43 quality of care provided and quality of life fostered. Memberships
44 on such councils shall be determined by the **patients, residents or**
45 **clients** long-term care residents of the particular facility and may
46 include, but shall not be limited to, such **patients, residents or**

clients】 long-term care residents, interested relatives, friends, or community persons. Assistance by the office may include, but shall not be limited to, conference with administrators, operators^{1,1} or managers of facilities on the purpose and function of such councils and, upon request, participation in the formation of a council which the office deems appropriate to the individual needs of the facility and its 【patients, residents or clients】 long-term care residents.

In implementing the provisions of this section the ombudsman shall coordinate the efforts of the office concerning volunteers and councils with all relevant government agencies, and with the administrators of such private facilities as ¹【he】 the ombudsman¹ may deem appropriate, to 【insure】 ensure coordination and avoid duplication of effort, so that the volunteer programs and councils developed and supported by the office may genuinely serve the interests of 【the institutionalized elderly】 long-term care residents without in any way disrupting the legitimate functioning of any facility in this State.

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

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

11. a. Any correspondence or written communication from any 【patient, resident, or client】 long-term care resident ¹【of a facility】¹ to the office shall, if delivered to or received by the facility, be promptly forwarded, unopened, by the facility to the office. Any correspondence or written communication from the office to any 【patient, resident, or client】 long-term care resident ¹【of a facility】¹ shall, if delivered to or received by the facility, be promptly forwarded, unopened, by the facility to such 【patient, resident, or client】 long-term care resident.

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

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

c. The facility shall inform 【patients, residents, or clients,】 long-term care residents and their guardians, resident representatives, or families, of their rights and entitlements under

1 State and federal laws and rules and regulations in a format and
2 language that the recipient understands, by means of the distribution
3 of educational materials as provided in subsection b. of this section.

4 d. The office shall facilitate the filing of complaints with the
5 office concerning matters within the authority of the office. The
6 measures taken in connection therewith shall include, but need not
7 be limited to, maintenance of a toll-free telephone, either by the
8 office or in conjunction with another appropriate State agency, at
9 least during regular working hours of the office for the filing of
10 complaints.

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

22

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

25 13. a. The office shall maintain confidentiality with respect to
26 all matters in relation to any complaint or investigation together
27 with identities of the complainants, witnesses, or **patients,** long-
28 term care residents **or clients** involved, unless such persons
29 authorize, in writing, the release of such information, except for
30 such disclosures as may be necessary to enable the office to perform
31 its duties and to support any opinions or recommendations that may
32 result from a complaint or investigation. The investigatory files of
33 the office, including all complaints and responses of the office to
34 complaints, shall be maintained as confidential information.
35 Release of pertinent records shall be at the discretion of the
36 ombudsman. Nothing herein contained shall preclude the use by
37 the office of material in its files, otherwise confidential, for the
38 preparation and disclosure of statistical, case study^{1,1} and other
39 pertinent data, provided that in any such use there shall be no
40 disclosure of the identity or the means for discovering the identity
41 of particular persons.

42 b. Any person conducting or participating in any examination
43 of a complaint or an investigation who shall disclose to any person
44 other than the office, or those authorized by the ombudsman to
45 receive it, the name of any witness examined, or any information
46 obtained or given upon such examination or investigation^{1,1} is a
47 disorderly person.

1 c. Any statement or communication made by the office
2 relevant to a complaint received by, proceedings before, or
3 investigative activities of, the office, and any complaint or
4 information made or provided in good faith by any person, shall be
5 absolutely privileged and such privilege shall be a complete defense
6 in any action which shall allege libel or slander.

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

11
12 15. Section 14 of P.L.1977, c.239 (C.52:27G-14) is amended to
13 read as follows:

14 14. a. No discriminatory, disciplinary^{1,1} or retaliatory action
15 shall be taken against any officer or employee of a facility or
16 government agency by such facility or government agency or
17 against any **[patient,] long-term care resident[, or client]** ¹**[of a**
18 **facility]**¹ or guardian or family member thereof, or volunteer, for
19 any communication by ¹**[him]** that individual¹ with the office or for
20 any information given or disclosed by ¹**[him]** the individual¹ in
21 good faith to aid the office in carrying out its duties and
22 responsibilities. Any person who knowingly or willfully violates
23 the provisions of this subsection by instituting discriminatory,
24 disciplinary, or retaliatory action against any officer or employee of
25 a facility or government agency or against any **[patient,] long-term**
26 **care resident [or client]** ¹**[of a facility]**¹ or guardian or family
27 member thereof, or volunteer, for any communication by ¹**[him]**
28 that individual¹ with the office or for any information given or
29 disclosed by ¹**[him]** the individual¹ in good faith to aid the office in
30 carrying out its duties and responsibilities^{1,1} is guilty of a crime of
31 the fourth degree.

32 b. Any person who willfully hinders the lawful actions of the
33 office or willfully refuses to comply with its lawful demands,
34 including the demand of immediate entry into and inspection of a
35 facility or government agency or the demand of immediate access to
36 a **[patient,] long-term care resident [or client]** thereof, or who
37 offers any compensation, gratuity, or promise thereof to the office
38 in an effort to affect the outcome of any matter which is being
39 investigated, or is likely to be investigated^{1,1} shall be subject to a
40 penalty of not more than ¹**[\$5,000.00] \$5,000**¹ . Such penalty shall
41 be collected and enforced by summary proceedings pursuant to
42 **["the penalty enforcement law" (N.J.S. 2A:58-1 et seq.)]** the
43 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
44 et seq.), upon complaint of the office or any other person. Each
45 violation of this act shall constitute a separate offense.

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

1 d. 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 (cf: P.L.1987, c.104, s.1)

6
7 16. Section of 15 of P.L.1977, c.239 (C.52:27G-15) is amended
8 to read as follows:

9 15. The Legislature **【**through the Senate and Assembly Standing
10 Committees on Institutions, Health and Welfare, or such other
11 committee or committees as may be designated from time to time
12 by the President of the Senate and Speaker of the General
13 Assembly, respectively**】** shall review, on a continuous basis, the
14 development, administration¹,¹ and operation of the office provided
15 for in this act. To facilitate this review and oversight, the office
16 shall submit to the **【**committees**】** Legislature the reports required by
17 this act **【**, and such other reports as shall be called for by the
18 committees from time to time**】** in a manner that is consistent with
19 section 2 of P.L.1991, c.164 (C.52:14-19.1).

20 (cf: P.L.1977, c.239, s.15)

21
22 ²**【**17. a. There ¹**【**shall be**】** is¹ appropriated from the General
23 Fund to the Office of the State Long-Term Care Ombudsman ¹**【**,**】**
24 the sum of¹ \$700,000 for the purpose of¹:¹ employing additional
25 staff; purchasing, renting, or leasing vehicles or other
26 transportation; and ¹meeting¹ such other expenses as may be
27 necessary to carry out the purposes of the office.

28 b. There ¹**【**shall be**】** is¹ appropriated from the General Fund to
29 the Office of the State Long-Term Care Ombudsman ¹**【**,**】** the sum
30 of¹ \$300,000 for the purpose of undertaking a Statewide advertising
31 campaign to promote the office's Volunteer Advocate ¹**【**program**】**
32 Program¹ **】**²

33
34 ²**【**18.**】** 17.² This act shall take effect immediately.