

SENATE, No. 1950

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

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District 19 (Middlesex)

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District 14 (Mercer and Middlesex)

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SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the Office of the State Long-Term Care
2 Ombudsman and amending various parts of the statutory law.

3

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

6

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

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

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

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 the 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】** that the person is being furnished
14 nonmedical remedial treatment by spiritual means through prayer
15 alone, in accordance with a recognized religious method of healing,
16 in lieu of 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】** the person's resources for another person's profit or advantage
31 without legal entitlement to do so;

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

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

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

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

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

23 l. (deleted by amendment, P.L. , c.) (pending before the
24 Legislature as this bill).

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

26

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

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

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

36

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

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

41 a. Administer and organize the work of the office and establish
42 therein such administrative subdivisions as necessary, proper, and
43 expedient. **[He or she]** The ombudsman may formulate and adopt
44 rules and regulations and prescribe duties for the efficient conduct
45 of the business, work, and general administration of the office. **[He**
46 **or she]** The ombudsman may delegate to subordinate officers or
47 employees in the office such power as may be desirable to be

1 exercised under **[his or her]** the ombudsman's supervision and
2 control;

3 b. Appoint and remove such stenographic, clerical, and other
4 secretarial assistants as may be required for the proper conduct of
5 the office, subject to the provisions of Title **[11]** 11A (Civil
6 Service) of the **[Revised]** New Jersey Statutes, and other applicable
7 statutes, and within the limits of funds appropriated or otherwise
8 made available therefor. In addition, and within such funding
9 limits, the ombudsman may appoint, retain, or employ, without
10 regard to the provisions of the said Title **[11]** 11A (Civil Service),
11 or any other statutes, such officers, investigators, experts,
12 consultants, or other professionally qualified personnel on a
13 contract basis or otherwise as necessary.

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

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

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

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

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

39 h. Establish, in consultation with the Department of Health, an
40 annual long-term care training program in a manner to be
41 determined by the ombudsman. At a minimum, the program shall
42 address the following subjects: the rights of residents of long-term
43 care facilities; fostering choice and independence among residents
44 of long-term care facilities; identifying and reporting abuse,
45 neglect, or exploitation of residents of long-term care facilities;
46 long-term care facility ownership; updates on State and federal
47 guidelines, laws, and regulations that pertain to long-term care

1 facilities; and issues, trends, and policies that impact the rights of
2 long-term care residents. The annual training program shall be
3 completed by the ombudsman's investigative and advocacy staff,
4 the ombudsman's volunteer advocates, and Department of Health
5 long-term care facility surveyors, inspectors, and complaint
6 investigators. Subject to the availability of staff and funding, the
7 training program shall be offered to residents of long-term care
8 facilities, those residents' family members, advocacy organizations,
9 government agencies, and long-term care facility employees. To
10 develop and implement the training program, the ombudsman may
11 contract or consult with a non-profit organization that possesses
12 expertise on the rights of residents in long-term care settings.
13 (cf: P.L.2021, c.294, s.1)

14

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

17 6. The Office of the State Long-Term Care Ombudsman shall
18 have as its basic objective that of promoting, advocating, and
19 **【insuring】** ensuring, as a whole and in particular cases, the
20 adequacy of the care received, and the quality of life experienced,
21 by **【elderly patients,】** long-term care residents **【and clients】** **【of**
22 **facilities】** within this State. In determining what elements are
23 essential to adequate care and quality of life, the ombudsman shall
24 consider the unique medical, social, and economic needs and
25 problems of **【the elderly as patients,】** long-term care residents **【and**
26 **clients】** **【of facilities】** **【and as citizens and community members】**.
27 (cf: P.L.2017, c.131, s.204)

28

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

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

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

46 c. When the complaint received or the investigation conducted
47 by the office discloses facts that it determines constitute a violation

1 of a resident's rights or warrant the institution of civil proceedings
2 by a government agency against any person or government agency,
3 the matter shall be referred to the government agency with authority
4 to institute such proceedings pursuant to applicable federal law and
5 regulations.

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

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

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

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

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

44

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

1 2. a. Any caretaker, social worker, physician, registered or
2 licensed practical nurse, or other professional or staff member
3 employed at a facility, and any representative of a managed care
4 entity, who, as a result of information obtained in the course of that
5 individual's employment, has reasonable cause to suspect or believe
6 that **【an institutionalized elderly person】** a long-term care resident
7 is being or has been abused or exploited, shall report such
8 information to the ombudsman or to the person designated by the
9 ombudsman to receive such report. If an individual reporting
10 suspected abuse or exploitation pursuant to this subsection has
11 reasonable cause to suspect or believe that the **【institutionalized**
12 **elderly person】** resident is or has been the victim of a crime, the
13 individual shall additionally report such information to the local law
14 enforcement agency and to the health administrator of the facility.

15 (1) If the events that cause the suspicion or belief result in
16 serious bodily injury, the individual shall report the suspicion or
17 belief immediately, but not later than two hours after forming the
18 suspicion or belief.

19 (2) If the events that cause the suspicion or belief do not result
20 in serious bodily injury, the individual shall report the suspicion or
21 belief immediately, but not later than 24 hours after forming the
22 suspicion or belief.

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

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

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

37 e. Any person who reports suspected abuse or exploitation
38 pursuant to this act or who testifies in any administrative or judicial
39 proceeding arising from such report or testimony shall have
40 immunity from any civil or criminal liability on account of such
41 report or testimony, unless such person has acted in bad faith or
42 with malicious purpose.

43 f. Any person required to report suspected abuse or
44 exploitation pursuant to this act who fails to make such report shall
45 be fined not more than \$500, and the facility employing the
46 individual shall be fined not more than \$2,500. Such penalty shall
47 be collected and enforced by summary proceedings pursuant to the

1 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
2 et seq.). Each violation of this act shall constitute a separate
3 offense.

4 g. No provision of this act shall be deemed to require the
5 disclosure of, or penalize the failure to disclose, any information
6 which would be privileged pursuant to the provisions of sections 18
7 through 23 inclusive of P.L.1960, c.52 (C.2A:84A-18 through
8 2A:84A-23).

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

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

16

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

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

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

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

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

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

9 f. The ombudsman shall make all reasonable effort to obtain
10 the name **【and】**, address, phone number, and e-mail address of the
11 person named on the consent form, either from **【their】** the
12 ombudsman's own records or information or those of the facility.

13 g. The ombudsman shall have the discretion to withhold
14 notification upon evidence that said person was a party to the abuse
15 or exploitation **【of the elderly】**.

16 h. The notifications made and information shared pursuant to
17 this section shall comply with applicable federal and State law.
18 (cf: P.L.2001, c.7, s.1)

19
20 9. Section 2 of P.L.2001, c.7 (C.52:27G-7.3) is amended to
21 read as follows:

22 2. The ombudsman shall prepare and distribute to each facility
23 a written consent form which sets forth that in the event of an
24 **【elderly】** abuse investigation, the **【patient, resident or client of the**
25 **facility】** long-term care resident consents to the release of the
26 investigative **【report】** findings and recommendations to the legal
27 guardian or other person named on the consent form. The
28 ombudsman shall not be required to disclose the results of **【the】**
29 any investigation or furnish a copy of the written report prepared
30 pursuant to subsection b. of section 3 of P.L.1983, c.43 (C.52:27G-
31 7.2) to any person other than the resident, legal guardian, or named
32 person on the consent form.

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

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

37
38 10. Section 8 of P.L.1977, c.239 (C.52:27G-8) is amended to
39 read as follows:

40 8. a. The office shall establish and implement procedures for
41 conducting investigations.

42 b. Acting on complaint, the office may, notwithstanding any
43 referral pursuant to subsection b. of section 7 **【. b.】** of this act,
44 investigate any act, practice, policy, or procedure of any facility or
45 government agency that does or may adversely affect the health,

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

1 b. Following an investigation the office may report its opinions
2 or recommendations to the party involved. The office may request
3 the party affected by such opinions or recommendations to notify it
4 within a specified time of any action taken by such party on its
5 recommendations. The office **[,]** may make public the complaint,
6 the act, practice, policy, or procedure of a facility or government
7 agency that does or may adversely affect the health, safety, welfare,
8 or civil or human rights of a **[patient, resident or client,]** long-term
9 care resident, its opinions or recommendations, the response of the
10 facility or government agency to such opinions or
11 recommendations, or any further opinions or recommendations of
12 the office.

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

18 d. The office may propose regulations to and petition any
19 government agency to adopt such regulations, or regulations similar
20 in content, that affect the health, safety, welfare, or civil or human
21 rights of any **[patient, resident or client]** long-term care resident **[in**
22 **a facility]**.

23 e. The office may recommend to the relevant government
24 agency that a facility shall no longer be permitted to receive
25 **[patients or]** long-term care residents or payments under the "New
26 Jersey Medical Assistance and Health Services Act," P.L.1968,
27 c.413 (C.30:4D-1 et seq.).

28 f. The office may recommend to the relevant government
29 agency that it initiate procedures for assessment of penalties,
30 revocation, suspension, the placing on probationary or provisional
31 license, or denial of a license against a facility or a proposed facility
32 as appropriate.

33 g. The office may publicize its existence, function, and
34 activities through public relations with government and private
35 organizations and groups and the public at large in general and with
36 **[patients, residents and clients]** long-term care residents **[in**
37 **facilities]** in particular.

38 h. The office shall report to the Governor and the Legislature
39 on or before September 30 of each year, which report shall
40 summarize its activities for the preceding fiscal year, document the
41 significant problems in the systems of care and services for **[the]**
42 **[elderly]** long-term care residents, indicate and analyze the trends
43 in such systems of care and services, and set forth any opinions or
44 recommendations which will further the State's capacity in
45 resolving complaints, encouraging quality care, and ensuring the
46 health, safety, welfare, or civil and human rights of **[elderly**
47 **patients, residents and clients]** long-term care residents **[of**

1 facilities] , including suggestions or recommendations for
2 legislative consideration and for changes in the policy or rules and
3 regulations of government agencies. The annual report shall be
4 available to the public.

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

6

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

9 10. a. The office shall promote community contact and
10 involvement with [patients, residents and clients] long-term care
11 residents [of facilities] through the use of volunteers and volunteer
12 programs. The volunteers, as private citizens, may exercise, but
13 need not be limited to, such functions as visitation, consultation,
14 problem solving, eliciting complaints[,] and generally serving as
15 advocates on behalf of [the institutionalized elderly] long-term care
16 residents.

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

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

20 (2) Establish and conduct training seminars, meetings, and other
21 programs for volunteers, and supply personnel, written materials,
22 and such other reasonable assistance including publicizing [their]
23 the volunteers' activities as may be deemed necessary;

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

27 (4) Establish a reporting system volunteers can use to document
28 the major problems and concerns affecting [the patients, residents
29 or clients] long-term care residents [of facilities];

30 (5) Reimburse volunteers for some or all of [their] the
31 volunteer's actual expenses, including, but not limited to, telephone
32 and mileage incurred in performance of [their] the volunteer's
33 duties under this act;

34 (6) Encourage, cooperate with, and assist the development and
35 operation of referral services where current, valid, and reliable
36 information on facilities and alternatives to institutionalization can
37 be secured by [elderly] persons in need of these services and the
38 general public;

39 (7) Request the participation and advice of such government
40 agencies and other entities or persons as the office may deem
41 appropriate or necessary to the development of volunteer programs
42 and the effective use of volunteers; and

43 (8) Establish and conduct meetings and other programs for
44 administrators, professional personnel, and other personnel
45 employed by or in contract with the facilities.

46 b. The office may assist in the development and use, by
47 [patients, residents or clients] long-term care residents [of

1 facilities], of councils and other forums which permit such
2 **【patients, residents or clients】** long-term care residents to discuss
3 and communicate, on a continuing basis, their views on the
4 strengths and weaknesses of the operations of the facility and on the
5 quality of care provided and quality of life fostered. Memberships
6 on such councils shall be determined by the **【patients, residents or**
7 **clients】** long-term care residents of the particular facility and may
8 include, but shall not be limited to, such **【patients, residents or**
9 **clients】** long-term care residents, interested relatives, friends, or
10 community persons. Assistance by the office may include, but shall
11 not be limited to, conference with administrators, operators, or
12 managers of facilities on the purpose and function of such councils
13 and, upon request, participation in the formation of a council which
14 the office deems appropriate to the individual needs of the facility
15 and its **【patients, residents or clients】** long-term care residents.

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

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

27

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

30 11. a. Any correspondence or written communication from any
31 **【patient, resident, or client】** long-term care resident **【of a facility】**
32 to the office shall, if delivered to or received by the facility, be
33 promptly forwarded, unopened, by the facility to the office. Any
34 correspondence or written communication from the office to any
35 **【patient, resident, or client】** long-term care resident **【of a facility】**
36 shall, if delivered to or received by the facility, be promptly
37 forwarded, unopened, by the facility to such **【patient, resident, or**
38 **client】** long-term care resident.

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

45 The administrator of each facility shall ensure that such written
46 notice is given to every **【patient, resident, or client】** long-term care

1 resident or the **【patient's,】 resident's【, or client's】** guardian upon
2 admission to the facility and to every person already in residence or
3 the person's guardian. The administrator shall also post such
4 written notice in a conspicuous, public place in the facility in the
5 number and manner set forth in the guidelines adopted by the
6 office.

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

13 d. The office shall facilitate the filing of complaints with the
14 office concerning matters within the authority of the office. The
15 measures taken in connection therewith shall include, but need not
16 be limited to, maintenance of a toll-free telephone, either by the
17 office or in conjunction with another appropriate State agency, at
18 least during regular working hours of the office for the filing of
19 complaints.

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

31
32 14. Section 13 of P.L.1977, c.239 (C.52:27G-13) is amended to
33 read as follows:

34 13. a. The office shall maintain confidentiality with respect to
35 all matters in relation to any complaint or investigation together
36 with identities of the complainants, witnesses, or **【patients,】** long-
37 term care residents **【or clients】** involved, unless such persons
38 authorize, in writing, the release of such information, except for
39 such disclosures as may be necessary to enable the office to perform
40 its duties and to support any opinions or recommendations that may
41 result from a complaint or investigation. The investigatory files of
42 the office, including all complaints and responses of the office to
43 complaints, shall be maintained as confidential information.
44 Release of pertinent records shall be at the discretion of the
45 ombudsman. Nothing herein contained shall preclude the use by
46 the office of material in its files, otherwise confidential, for the
47 preparation and disclosure of statistical, case study, and other

1 pertinent data, provided that in any such use there shall be no
2 disclosure of the identity or the means for discovering the identity
3 of particular persons.

4 b. Any person conducting or participating in any examination
5 of a complaint or an investigation who shall disclose to any person
6 other than the office, or those authorized by the ombudsman to
7 receive it, the name of any witness examined, or any information
8 obtained or given upon such examination or investigation, is a
9 disorderly person.

10 c. Any statement or communication made by the office
11 relevant to a complaint received by, proceedings before, or
12 investigative activities of, the office, and any complaint or
13 information made or provided in good faith by any person, shall be
14 absolutely privileged and such privilege shall be a complete defense
15 in any action which shall allege libel or slander.

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

20

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

23 14. a. No discriminatory, disciplinary, or retaliatory action shall
24 be taken against any officer or employee of a facility or government
25 agency by such facility or government agency or against any
26 **【patient,】** long-term care resident**【, or client of a facility】** or
27 guardian or family member thereof, or volunteer, for any
28 communication by **【him】** that individual with the office or for any
29 information given or disclosed by **【him】** the individual in good
30 faith to aid the office in carrying out its duties and responsibilities.
31 Any person who knowingly or willfully violates the provisions of
32 this subsection by instituting discriminatory, disciplinary, or
33 retaliatory action against any officer or employee of a facility or
34 government agency or against any **【patient,】** long-term care
35 resident **【or client of a facility】** or guardian or family member
36 thereof, or volunteer, for any communication by **【him】** that
37 individual with the office or for any information given or disclosed
38 by **【him】** the individual in good faith to aid the office in carrying
39 out its duties and responsibilities, is guilty of a crime of the fourth
40 degree.

41 b. Any person who willfully hinders the lawful actions of the
42 office or willfully refuses to comply with its lawful demands,
43 including the demand of immediate entry into and inspection of a
44 facility or government agency or the demand of immediate access to
45 a **【patient,】** long-term care resident **【or client】** thereof, or who
46 offers any compensation, gratuity, or promise thereof to the office
47 in an effort to affect the outcome of any matter which is being

1 investigated, or is likely to be investigated, shall be subject to a
2 penalty of not more than ~~【\$5,000.00】~~ \$5,000. Such penalty shall be
3 collected and enforced by summary proceedings pursuant to ~~【"the~~
4 ~~penalty enforcement law" (N.J.S. 2A:58-1 et seq.)】~~ the "Penalty
5 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
6 upon complaint of the office or any other person. Each violation of
7 this act shall constitute a separate offense.

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

10 d. When a person has been penalized under this section, a letter
11 making note of the penalty shall immediately be sent by the court to
12 the licensing authority or the professional board, if any, having
13 jurisdiction over the person who has been penalized.

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

15

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

18 15. The Legislature ~~【through the Senate and Assembly Standing~~
19 ~~Committees on Institutions, Health and Welfare, or such other~~
20 ~~committee or committees as may be designated from time to time~~
21 ~~by the President of the Senate and Speaker of the General~~
22 ~~Assembly, respectively】~~ shall review, on a continuous basis, the
23 development, administration, and operation of the office provided
24 for in this act. To facilitate this review and oversight, the office
25 shall submit to the ~~【committees】~~ Legislature the reports required by
26 this act ~~【, and such other reports as shall be called for by the~~
27 ~~committees from time to time】~~ in a manner that is consistent with
28 section 2 of P.L.1991, c.164 (C.52:14-19.1).

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

30

31 17. This act shall take effect immediately.

32

33

34

STATEMENT

35

36

37 This bill expands the scope of the Office of the State Long-Term
38 Care Ombudsman (ombudsman) to provide that the office of the
39 ombudsman will oversee all long-term care facility residents, not just
40 the elderly. The bill updates certain statutory references to reflect this
41 change, and additionally removes references to "patients" and
42 "clients" of a facility.

43 Current law provides that, upon completing an investigation, the
44 ombudsman's findings and recommended action are to be submitted to
45 the Commissioner of Health or the Commissioner of Human Services,
46 as appropriate, as well as to any other governmental agency that
47 regulates or operates the facility. The bill revises this requirement to

1 provide that the report be furnished to these entities upon request, and
2 upon substantiation of the report or complaint. The bill further
3 provides that the report may also be provided to the complainant, if the
4 resident or the resident's legal representative consents to the
5 complainant receiving a copy of the report. The bill provides that, in
6 addition to obtaining the name and address of a person on a consent
7 form, the ombudsman is to make reasonable efforts to obtain the
8 person's phone number and email address.

9 The bill removes a requirement for the ombudsman to provide
10 notice before inspecting the premises, books, files, medical records, or
11 other records of a facility or government agency during the course of
12 an investigation.

13 The bill revises a requirement for the Legislature to review the
14 development, administration, and operation of the office through
15 certain standing reference committees to instead make the Legislature
16 directly responsible for the review.

17 The bill makes various technical and stylistic changes to the current
18 statutory law involving grammar and citation.