

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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SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee with technical review.



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
42 the civil and human rights, of the **[elderly patients,]** residents **[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 clients] of such facilities.
2 (cf: P.L.1977, c.239, s.1)

3
4 2. Section 2 of P.L.1977, c.239 (C.52:27G-2) is amended to
5 read as follows:

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

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

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

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

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

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

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

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

1 regulation, visitation, inspection, or supervision of facilities, or
2 which provides services to **[patients,] residents[, or clients]** of
3 facilities;

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

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

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

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

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

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

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

24

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

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

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

34

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

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

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

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

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

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

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

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

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

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

1 the ombudsman's volunteer advocates, and Department of Health
2 long-term care facility surveyors, inspectors, and complaint
3 investigators. Subject to the availability of staff and funding, the
4 training program shall be offered to residents of long-term care
5 facilities, those residents' family members, advocacy organizations,
6 government agencies, and long-term care facility employees. To
7 develop and implement the training program, the ombudsman may
8 contract or consult with a non-profit organization that possesses
9 expertise on the rights of residents in long-term care settings.

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

11

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

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

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

25

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

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

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

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

1 to institute such proceedings pursuant to applicable federal law and
2 regulations.

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

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

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

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

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

41

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

44 2. a. Any caretaker, social worker, physician, registered or
45 licensed practical nurse, or other professional or staff member
46 employed at a facility, and any representative of a managed care
47 entity, who, as a result of information obtained in the course of that

1 individual's employment, has reasonable cause to suspect or believe
2 that **【an institutionalized elderly person】** a long-term care resident
3 is being or has been abused or exploited, shall report such
4 information to the ombudsman or to the person designated by the
5 ombudsman to receive such report. If an individual reporting
6 suspected abuse or exploitation pursuant to this subsection has
7 reasonable cause to suspect or believe that the **【institutionalized**
8 **elderly person】** resident is or has been the victim of a crime, the
9 individual shall additionally report such information to the local law
10 enforcement agency and to the health administrator of the facility.

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

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

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

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

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

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

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

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

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

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

13

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

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

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

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

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

45 e. Notwithstanding the provisions of any other statute or
46 regulation to the contrary, upon completion of an investigation, the
47 ombudsman shall **【furnish a copy of the written report prepared**

1 pursuant to subsection b. of this section to **]** share the findings and
2 recommendations with the resident and **[**shall send a copy by
3 certified and regular mail to**]** the legal guardian or other person
4 named on the consent form pursuant to section 2 of P.L.2001, c.7
5 (C.52:27G-7.3), as applicable.

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

10 g. The ombudsman shall have the discretion to withhold
11 notification upon evidence that said person was a party to the abuse
12 or exploitation **[of the elderly]**.

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

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

16
17 9. Section 2 of P.L.2001, c.7 (C.52:27G-7.3) is amended to
18 read as follows:

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

30 This written consent form shall be given to every **[patient,**
31 **resident or client]** long-term care resident upon admission to the
32 facility.

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

34
35 10. Section 8 of P.L.1977, c.239 (C.52:27G-8) is amended to
36 read as follows:

37 8. a. The office shall establish and implement procedures for
38 conducting investigations.

39 b. Acting on complaint, the office may, notwithstanding any
40 referral pursuant to subsection b. of section 7**[. b.]** of this act,
41 investigate any act, practice, policy, or procedure of any facility or
42 government agency that does or may adversely affect the health,
43 safety, welfare, or civil or human rights of any **[patient, resident or**
44 **client]** long-term care resident **[of a facility]**.

45 c. Acting on its own initiative, the office may investigate any
46 act, practice, policy, or procedure of any facility or government

1 agency which it determines does or may adversely affect the health,
2 safety, welfare, or civil or human rights of any [patient, resident or
3 client] long-term care resident [in a facility].

4 d. In an investigation, the office may:

5 (1) Make the necessary inquiries and obtain such information as
6 it deems necessary;

7 (2) Hold private hearings or public hearings;

8 (3) Enter, without notice, and [, after notifying the person in
9 charge of its presence,] inspect the premises of a facility or
10 government agency and inspect there any books, files, medical
11 records, or other records that pertain to [patients, residents or
12 clients] long-term care residents and are required by law to be
13 maintained by the facility or government agency;

14 (4) Compel at a specific time and place, by [subpena] subpoena,
15 the appearance and sworn testimony of any person who the office
16 reasonably believes may be able to give information relating to a
17 matter under investigation; or

18 (5) Compel any person to produce at a specific time and place,
19 by [subpena] subpoena, any documents, books, records, papers,
20 objects, or other evidence which the office reasonably believes may
21 relate to a matter under investigation.

22 e. The office need not investigate any complaint where it
23 determines that:

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

26 (2) The complaint has been too long delayed to justify present
27 investigation;

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

30 (4) The matter complained of is not within the investigatory
31 authority of the office.

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

33
34 11. Section 9 of P.L.1977, c. 239 (C.52:27G-9) is amended to
35 read as follows:

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

39 a. If a complaint identifies the complainant, the office shall
40 acknowledge the receipt of such complaint and advise the
41 complainant of any action taken or opinions and recommendations
42 made by it in connection with the matter complained of.

43 b. Following an investigation the office may report its opinions
44 or recommendations to the party involved. The office may request
45 the party affected by such opinions or recommendations to notify it
46 within a specified time of any action taken by such party on its
47 recommendations. The office [,] may make public the complaint,

1 the act, practice, policy, or procedure of a facility or government
2 agency that does or may adversely affect the health, safety, welfare,
3 or civil or human rights of a **【patient, resident or client,】** long-term
4 care resident, its opinions or recommendations, the response of the
5 facility or government agency to such opinions or
6 recommendations, or any further opinions or recommendations of
7 the office.

8 c. The office may recommend to the relevant government
9 agency changes in the rules and regulations adopted or proposed by
10 such government agency, which do or may adversely affect the
11 health, safety, welfare, or civil or human rights of any **【patient,**
12 **resident or client】** long-term care resident **【in a facility】**.

13 d. The office may propose regulations to and petition any
14 government agency to adopt such regulations, or regulations similar
15 in content, that affect the health, safety, welfare, or civil or human
16 rights of any **【patient, resident or client】** long-term care resident **【in**
17 **a facility】**.

18 e. The office may recommend to the relevant government
19 agency that a facility shall no longer be permitted to receive
20 **【patients or】** long-term care residents or payments under the “New
21 Jersey Medical Assistance and Health Services Act,” P.L.1968,
22 c.413 (C.30:4D-1 et seq.).

23 f. The office may recommend to the relevant government
24 agency that it initiate procedures for assessment of penalties,
25 revocation, suspension, the placing on probationary or provisional
26 license, or denial of a license against a facility or a proposed facility
27 as appropriate.

28 g. The office may publicize its existence, function, and
29 activities through public relations with government and private
30 organizations and groups and the public at large in general and with
31 **【patients, residents and clients】** long-term care residents **【in**
32 **facilities】** in particular.

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

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

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

3 10. a. The office shall promote community contact and
4 involvement with **【patients, residents and clients】** long-term care
5 residents **【of facilities】** through the use of volunteers and volunteer
6 programs. The volunteers, as private citizens, may exercise, but
7 need not be limited to, such functions as visitation, consultation,
8 problem solving, eliciting complaints**【,】** and generally serving as
9 advocates on behalf of **【the institutionalized elderly】** long-term care
10 residents.

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

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

14 (2) Establish and conduct training seminars, meetings, and other
15 programs for volunteers, and supply personnel, written materials,
16 and such other reasonable assistance including publicizing **【their】**
17 the volunteers' activities as may be deemed necessary;

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

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

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

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

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

37 (8) Establish and conduct meetings and other programs for
38 administrators, professional personnel, and other personnel
39 employed by or in contract with the facilities.

40 b. The office may assist in the development and use, by
41 **【patients, residents or clients】** long-term care residents **【of**
42 **facilities】**, of councils and other forums which permit such
43 **【patients, residents or clients】** long-term care residents to discuss
44 and communicate, on a continuing basis, their views on the
45 strengths and weaknesses of the operations of the facility and on the
46 quality of care provided and quality of life fostered. Memberships
47 on such councils shall be determined by the **【patients, residents or**

1 clients] long-term care residents of the particular facility and may
2 include, but shall not be limited to, such [patients, residents or
3 clients] long-term care residents, interested relatives, friends, or
4 community persons. Assistance by the office may include, but shall
5 not be limited to, conference with administrators, operators, or
6 managers of facilities on the purpose and function of such councils
7 and, upon request, participation in the formation of a council which
8 the office deems appropriate to the individual needs of the facility
9 and its [patients, residents or clients] long-term care residents.

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

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

21

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

24 11. a. Any correspondence or written communication from any
25 [patient, resident, or client] long-term care resident [of a facility]
26 to the office shall, if delivered to or received by the facility, be
27 promptly forwarded, unopened, by the facility to the office. Any
28 correspondence or written communication from the office to any
29 [patient, resident, or client] long-term care resident [of a facility]
30 shall, if delivered to or received by the facility, be promptly
31 forwarded, unopened, by the facility to such [patient, resident, or
32 client] long-term care resident.

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

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

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

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

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

25

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

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

45 b. Any person conducting or participating in any examination
46 of a complaint or an investigation who shall disclose to any person
47 other than the office, or those authorized by the ombudsman to

1 receive it, the name of any witness examined, or any information
2 obtained or given upon such examination or investigation, is a
3 disorderly person.

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

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

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

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

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

1 upon complaint of the office or any other person. Each violation of
2 this act shall constitute a separate offense.

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

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

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

10

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

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

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

25

26 17. This act shall take effect immediately.