

AMENDED IN SENATE JANUARY 12, 2012

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 345**

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**Introduced by Senator Wolk**

February 15, 2011

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An act to amend Sections 9701, 9710.5, ~~9711~~, 9712, 9713, 9714, 9714.5, 9716, 9717, 9719, 9720, 9722, 9724, 9726, ~~and 9726.1~~ of, to add Sections 9711.10, 9716.10, and 9716.11 to, and to repeal Article 5 (commencing with Section 9740) of Chapter 11 of Division 8.5 of 9726.1, and 9740 of, and to add Sections 9716.10 and 9716.11 to, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 345, as amended, Wolk. Office of the State Long-Term Care Ombudsman.

Existing law, as part of the Mello-Granlund Older Californians Act, establishes the Office of the State Long-Term Care Ombudsman, under the direction of the State Long-Term Care Ombudsman, in the California Department of Aging. Existing law provides for the Long-Term Care Ombudsman Program under which funds are allocated to local ombudsman programs to assist elderly persons in long-term health care facilities and residential care facilities by, among other things, investigating and seeking to resolve complaints against these facilities.

~~This bill would, among other things, revise the appointment procedure of the State Long-Term Care Ombudsman, require the office to submit an annual advocacy plan and an annual report, as specified, and would~~

~~require the office to comply with specified provisions of federal law. This bill would also require certain individuals to be free of conflicts of interest and would require the office and approved organizations, as defined, to protect the identity of a complainant or resident when providing ombudsman services.~~

*This bill would, among other things, require the office to submit an annual advocacy plan to the Legislature, which includes a prospective plan and results of advocacy efforts during the prior year, would require the office to comply with specified provisions of federal law, and would require the office to maintain an Internet Web presence, as prescribed. This bill would also make technical, nonsubstantive changes to these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Long-Term Care Ombudsman Program Independence and
- 3 Improvement Act of ~~2011~~ 2012.
- 4 SEC. 2. The Legislature finds and declares all of the following:
- 5 (a) The protection of residents in California's long-term care
- 6 facilities is of paramount importance to the citizens of California.
- 7 (b) The Office of the State Long-Term Care Ombudsman was
- 8 established pursuant to the federal Older Americans Act and the
- 9 Mello-Granlund Older Californians Act to investigate and endeavor
- 10 to resolve complaints made by, or on behalf of, individual residents
- 11 in long-term care facilities.
- 12 (c) The Office of the State Long-Term Care Ombudsman is
- 13 operated by the California Department of Aging, a division of the
- 14 California Health and Human Services Agency.
- 15 (d) The vulnerable residents of long-term care facilities rely on
- 16 the State Long-Term Care Ombudsman to advocate on their behalf
- 17 in the long-term care system and at state and federal levels of
- 18 government.
- 19 (e) The federal Older Americans Act requires the State
- 20 Long-Term Care Ombudsman to represent the interests of
- 21 long-term care facility residents before governmental agencies,
- 22 and seek administrative, legal, and other remedies to protect the
- 23 health, safety, welfare, and rights of the residents.

1 SEC. 3. Section 9701 of the Welfare and Institutions Code is  
2 amended to read:

3 9701. Unless the contrary is stated or clearly appears from the  
4 context, the following definitions shall govern the interpretation  
5 of this chapter:

6 (a) “Approved organization” means any public agency or other  
7 appropriate organization that has been designated by the Office of  
8 the State Long-Term Care Ombudsman to hear, investigate, and  
9 resolve complaints made by or on behalf of patients, residents, or  
10 clients of long-term care facilities relating to matters that may  
11 affect the health, safety, welfare, and rights of these patients,  
12 residents, or clients.

13 (b) “Long-term care facility” means any of the following:

14 (1) Any nursing or skilled nursing facility, as defined in Section  
15 1250 of the Health and Safety Code, including distinct parts of  
16 facilities that are required to comply with licensure requirements  
17 for skilled nursing facilities.

18 (2) Any residential care facility for the elderly as defined in  
19 Section 1569.2 of the Health and Safety Code.

20 (c) “Office” means the Office of the State Long-Term Care  
21 Ombudsman, including approved organizations.

22 (d) “Ombudsman coordinator” means the individual selected  
23 by the governing board or executive director of the approved  
24 organization to manage the day-to-day operation of the ombudsman  
25 program, including the implementation of federal and state  
26 requirements governing the office.

27 (e) “Resident,” “patient,” or “client” means an individual  
28 residing in a long-term care facility.

29 (f) “State Ombudsman” means the State Long-Term Care  
30 Ombudsman.

31 SEC. 4. Section 9710.5 of the Welfare and Institutions Code  
32 is amended to read:

33 9710.5. (a) The Legislature finds and declares as follows:

34 (1) The Office of the State Long-Term Care Ombudsman has  
35 an extremely important role in protecting and advocating for the  
36 rights and health and safety of long-term care facility residents,  
37 and in providing leadership, direction, and support to local  
38 long-term care ombudsman programs.

1 (2) The position of State Ombudsman is extremely important  
2 to the successful coordination of ombudsman services at the local  
3 level.

4 (3) The position of State Ombudsman requires both an extensive  
5 background in social or health services programs, and an ability  
6 to manage and motivate individuals and groups.

7 (4) Remuneration for the position of State Ombudsman should  
8 be commensurate with the demands of the position.

9 (b) The Director of the California Department of Aging shall  
10 do all of the following:

11 (1) Provide widespread notification of the availability of the  
12 position of State Long-Term Care Ombudsman in order to reach  
13 the greatest number of qualified candidates and hire the most  
14 capable individual for the position.

15 (2) Within 10 days of the occurrence of a vacancy, publicly  
16 announce the vacancy and solicit candidates for the position.

17 (3) Within 30 days of the occurrence of a vacancy, convene a  
18 meeting with the advisory council established by the ~~director~~  
19 *department* pursuant to Section ~~9712~~ 9740, for the purpose of  
20 obtaining the advice, consultation, and recommendations of the  
21 council regarding the selection of a candidate.

22 ~~SEC. 5. Section 9711 of the Welfare and Institutions Code is~~  
23 ~~amended to read:~~

24 ~~9711. (a) The office shall be under the direction of a chief~~  
25 ~~executive officer who shall be known as the State Long-Term Care~~  
26 ~~Ombudsman. The State Ombudsman shall be appointed by the~~  
27 ~~director from a selection of two or more candidates selected by a~~  
28 ~~five-member hiring panel established pursuant to Section 9711.10~~  
29 ~~and shall report directly to the director. He or she shall devote his~~  
30 ~~or her entire time to the duties of his or her position, and shall~~  
31 ~~receive the salary otherwise provided by law.~~

32 ~~(b) Any vacancy occurring in the position of State Ombudsman~~  
33 ~~shall be filled in the manner described in subdivision (a). Whenever~~  
34 ~~the State Ombudsman dies, resigns, becomes ineligible to serve~~  
35 ~~for any reason, or is removed from office, the director shall appoint~~  
36 ~~an acting State Ombudsman within 30 days, who shall serve until~~  
37 ~~the appointment and qualification of the State Ombudsman's~~  
38 ~~successor, but in no event longer than four months from the~~  
39 ~~occurrence of the vacancy. The acting State Ombudsman shall~~

1 ~~exercise during this period all the powers and duties of the State~~  
2 ~~Ombudsman pursuant to this chapter.~~

3 ~~SEC. 6. Section 9711.10 is added to the Welfare and~~  
4 ~~Institutions Code, to read:~~

5 ~~9711.10. (a) The five-member hiring panel described in Section~~  
6 ~~9711 shall consist of all the following:~~

7 ~~(1) Two local ombudsman program coordinators or their~~  
8 ~~designees, one of whom shall be appointed by the Senate~~  
9 ~~Committee on Rules, and one of whom shall be appointed by the~~  
10 ~~Speaker of the Assembly.~~

11 ~~(2) Two directors of senior advocacy organizations or their~~  
12 ~~designees.~~

13 ~~(3) One resident of a long-term care facility, appointed by the~~  
14 ~~Governor.~~

15 ~~(b) Panel members shall be free from conflicts of interest in~~  
16 ~~accordance with all of the following:~~

17 ~~(1) Members shall not have a direct involvement in the licensing~~  
18 ~~or certification of long-term care facilities or be a provider of~~  
19 ~~long-term care facility services.~~

20 ~~(2) Members shall not have an ownership or investment interest,~~  
21 ~~represented by an equity, debt, or other financial relationship, in~~  
22 ~~a long-term care facility or a long-term care service.~~

23 ~~(3) Members shall not be employed by, or participate in the~~  
24 ~~management of, a long-term care facility.~~

25 ~~(4) Members shall not receive, or have the right to receive,~~  
26 ~~directly or indirectly, remuneration in cash or in kind, under a~~  
27 ~~compensation arrangement with an owner or operator of a~~  
28 ~~long-term care facility.~~

29 ~~(e) Panel members may meet in person, via conference call, or~~  
30 ~~by video conference.~~

31 ~~(d) Participation on the panel shall be voluntary and members~~  
32 ~~of the panel shall serve without compensation, but shall be~~  
33 ~~reimbursed for all reasonable travel expenses. Reimbursement~~  
34 ~~shall be paid from the Office of the State Long-Term Care~~  
35 ~~Ombudsman budget.~~

36 ~~SEC. 7.~~

37 ~~SEC. 5. Section 9712 of the Welfare and Institutions Code is~~  
38 ~~amended to read:~~

39 ~~9712. (a) The office shall be headed by an individual, to be~~  
40 ~~known as the State Long-Term Care Ombudsman, who shall be a~~

1 certified ombudsman, meet the qualifications established by the  
2 federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.), and  
3 be selected from among individuals with expertise and experience  
4 in the fields of long-term care and advocacy.

5 (b) The State Ombudsman shall be located in Sacramento. Other  
6 staff employed by the office may be located elsewhere in the state.

7 ~~(e) (1) No later than June 30, 2013, the State Ombudsman shall~~  
8 ~~establish an advisory council to obtain advice and consultation on~~  
9 ~~operation of the ombudsman program and on issues of concern to~~  
10 ~~long-term care facility residents and local long-term care~~  
11 ~~ombudsman programs.~~

12 ~~(2) The advisory council shall include, at a minimum, two local~~  
13 ~~ombudsman program representatives chosen in consultation with~~  
14 ~~the California Long Term Care Ombudsman Association.~~

15 ~~(3) Participation on the advisory council shall be voluntary and~~  
16 ~~members of the advisory council shall serve without compensation,~~  
17 ~~but shall be reimbursed for all reasonable travel expenses.~~

18 ~~(d)~~

19 (c) (1) The State Ombudsman shall possess at least a bachelor's  
20 degree, and have a minimum of five years' professional experience  
21 that shall include all of the following areas:

22 (A) Gerontology, long-term care, or other relevant social  
23 services or health services programs.

24 (B) The legal system and the legislative process.

25 (C) Dispute or problem resolution techniques, including  
26 investigation, mediation, and negotiation.

27 (D) Organizational management and program administration.

28 (2) The professional experience described in paragraph (1)  
29 requires any reasonable combination of the fields described in  
30 subparagraphs (A) to (D), inclusive, of that paragraph for a total  
31 of five years, and does not require five years' experience in each  
32 area. At the discretion of the director, a master's or doctoral degree  
33 relevant to a field described in paragraph (1) may be substituted  
34 for one or two years, respectively, of professional experience.  
35 However, the applicant's professional experience and field of study  
36 leading to the master's or doctoral degree shall, nevertheless,  
37 include all of the fields described in paragraph (1).

38 (e)

1 (d) The State Ombudsman may not have been employed by any  
2 long-term care facility within the three-year period immediately  
3 preceding his or her appointment.

4 ~~(f)~~

5 (e) Neither the State Ombudsman nor any member of his or her  
6 immediate family may have, or have had within the past three  
7 years, any pecuniary interest in long-term health care facilities.

8 ~~SEC. 8.~~

9 *SEC. 6.* Section 9713 of the Welfare and Institutions Code is  
10 amended to read:

11 9713. (a) Upon request of the office, the Attorney General  
12 shall represent the office or the department and the state in  
13 litigation concerning affairs of the office, unless the Attorney  
14 General represents another state agency, in which case the agency  
15 or the office shall employ other counsel.

16 (b) The State Ombudsman may employ technical experts and  
17 other employees that, in his or her judgment, are necessary for the  
18 conduct of the business of the office.

19 ~~SEC. 9.~~

20 *SEC. 7.* Section 9714 of the Welfare and Institutions Code is  
21 amended to read:

22 9714. The office shall solicit and receive funds, gifts, and  
23 contributions to support the operations and programs of the office.  
24 The office may form a foundation eligible to receive tax-deductible  
25 contributions to support the operations and programs of the office.  
26 The office shall not solicit or receive any funds, gifts, or  
27 contributions where the solicitation or receipt would jeopardize  
28 the independence and objectivity of the office.

29 ~~SEC. 10.~~

30 *SEC. 8.* Section 9714.5 of the Welfare and Institutions Code  
31 is amended to read:

32 9714.5. (a) The foundation formed pursuant to Section 9714  
33 shall be under the direction and management of a five-member  
34 board of directors. One member shall be appointed by the Speaker  
35 of the Assembly, one member shall be appointed by the Senate  
36 Committee on Rules, and three members shall be appointed by the  
37 Governor. The members of the board shall each be experienced  
38 in the management, promotion, and funding of nonprofit charitable  
39 organizations.

1 (b) The board shall select from among its members a chair, a  
2 vice chair, and any other officers as it deems necessary.

3 (c) The members of the board shall serve without compensation,  
4 but shall be reimbursed for all necessary expenses actually incurred  
5 in the performance of their duties as directors.

6 (d) Three members of the board shall constitute a quorum for  
7 the purpose of conducting the board's business.

8 (e) By July 1 of each year, the board shall determine the amount  
9 of funds to be appropriated from the foundation to the office for  
10 the support of its operations and programs. Foundation funds may  
11 only be appropriated for the support of the operations and programs  
12 of the office.

13 (f) The members of the board shall be free from conflicts of  
14 interest ~~as described in Section 9711.10~~ and shall be subject to the  
15 same conflict of interest provisions that apply to the State  
16 Ombudsman under Section 3058g(f)(3) of Title 42 of the United  
17 States Code.

18 ~~SEC. 11.~~

19 *SEC. 9.* Section 9716 of the Welfare and Institutions Code is  
20 amended to read:

21 9716. (a) The office shall be responsible for activities that  
22 promote the development, coordination, and utilization of resources  
23 to meet the long-term care needs of older individuals, consistent  
24 with its mission. These responsibilities shall include establishing  
25 a statewide uniform reporting system to collect and analyze data  
26 relative to complaints and conditions in long-term care facilities  
27 for the purpose of identifying and resolving significant problems.  
28 The office shall submit the data to the state agency responsible for  
29 licensing or certifying long-term care facilities and to the federal  
30 agency on aging.

31 (b) (1) Notwithstanding Section 10231.5 of the Government  
32 Code, beginning July 1, 2013, and no later than July 1 annually  
33 thereafter, the office shall submit an annual advocacy plan to the  
34 appropriate policy and fiscal committees of the Legislature. *This*  
35 *report shall include a prospective plan, as well as the results of*  
36 *advocacy efforts during the prior year. The report shall provide*  
37 *evidence of completed activities and results.*

38 (2) The office shall develop the advocacy plan in coordination  
39 with the local ombudsman programs and shall include measurable,

1 achievable outcomes that shall benefit long-term care facility  
2 residents and local ombudsman programs.

3 (3) The office shall also provide the advocacy plan to the local  
4 ombudsman programs.

5 ~~(e) (1) Notwithstanding Section 10231.5 of the Government~~  
6 ~~Code, beginning September 30, 2014, and no later than September~~  
7 ~~30 annually thereafter, the office shall submit a report to the~~  
8 ~~appropriate policy and fiscal committees of the Legislature on the~~  
9 ~~results of the advocacy plan submitted during the prior year and~~  
10 ~~the activities completed by the office during that prior year. The~~  
11 ~~report shall include evidence of completed activities and results.~~

12 ~~(2)~~

13 (c) Prior to submitting the report, the office shall solicit  
14 comments on the report from the local ombudsman programs and  
15 shall include local ombudsman program comments as an addendum  
16 to the final report.

17 ~~SEC. 12.~~

18 *SEC. 10.* Section 9716.10 is added to the Welfare and  
19 Institutions Code, to read:

20 9716.10. The office shall comply with Section 3058g of Title  
21 42 of the United States Code, which, in part, requires the State  
22 Ombudsman, directly or through the representatives of the office,  
23 to represent the interests of long-term care facility residents before  
24 governmental agencies and seek administrative, legal, and other  
25 remedies to protect the health, safety, welfare, or rights of those  
26 residents. This representation shall be done without interference  
27 by the department or any other state departments or programs.

28 ~~SEC. 13.~~

29 *SEC. 11.* Section 9716.11 is added to the Welfare and  
30 Institutions Code, to read:

31 9716.11. (a) The Office of the State Long-Term Care  
32 Ombudsman shall maintain an Internet Web presence.

33 (b) The Internet Web site shall be easily found and prominent  
34 on the department's homepage. The Legislature finds and declares  
35 that resources currently exist for this purpose.

36 (c) The Internet Web site shall be consumer driven and shall  
37 include, but not be limited to, current long-term care trends and  
38 issues and links to local ombudsman programs, and other  
39 information relevant to long-term care facility residents and  
40 consumers.

1     ~~SEC. 14.~~

2     *SEC. 12.* Section 9717 of the Welfare and Institutions Code is  
3 amended to read:

4     9717. (a) All advocacy programs and any programs similar in  
5 nature to the Long-Term Care Ombudsman Program that receive  
6 funding or official designation from the state shall cooperate with  
7 the office, where appropriate. These programs include, but are not  
8 limited to, the Patients' Rights Advocacy Program within the State  
9 Department of Mental Health, Disability Rights California, and  
10 Department of Rehabilitation Client Assistance Program.

11     (b) The office shall maintain a close working relationship with  
12 the Legal Services Development Program for the Elderly within  
13 the department.

14     (c) In order to ensure the provision of counsel for patients,  
15 residents, and clients of long-term care facilities, the office shall  
16 seek to establish effective coordination with programs that provide  
17 legal services for the elderly, including, but not limited to,  
18 programs that are funded by the federal Legal Services Corporation  
19 or under the federal Older Americans Act (42 U.S.C. Sec. 3001 et  
20 seq.), as amended.

21     (d) The department and other state departments and programs  
22 that have roles in funding, regulating, monitoring, or serving  
23 long-term care facility residents, including law enforcement  
24 agencies, shall cooperate with and meet with the office periodically  
25 and as needed to address concerns or questions involving the care,  
26 quality of life, safety, rights, health, and well-being of long-term  
27 care facility residents.

28     ~~SEC. 15.~~

29     *SEC. 13.* Section 9719 of the Welfare and Institutions Code is  
30 amended to read:

31     9719. (a) (1) The office shall sponsor a training of  
32 representatives of approved organizations at least twice each year.  
33 The office shall provide training to these representatives as  
34 appropriate. Prior to the certification of an ombudsman by the  
35 office, individuals shall meet both of the following requirements:

36     (A) Have a criminal offender record clearance conducted by  
37 the State Department of Social Services. A clearance pursuant to  
38 Section 1569.17 of the Health and Safety Code shall constitute  
39 clearances for the purpose of entry to any long-term care facility.

1 (B) Have received a minimum of 36 hours of certification  
2 training approved by the office.

3 (2) Upon receipt of an applicant's criminal record clearance and  
4 acceptance by the office, the office shall issue a card identifying  
5 the bearer as a certified ombudsman. Each ombudsman shall  
6 receive a minimum of 12 hours of additional training annually.

7 (b) (1) The department shall contract with the State Department  
8 of Social Services to conduct a criminal offender record  
9 information search, pursuant to Section 1569.17 of the Health and  
10 Safety Code, for each applicant seeking certification as an  
11 ombudsman. The State Department of Social Services shall notify  
12 the individual and the office of the individual's clearance or denial.

13 (2) An applicant for certification as an ombudsman shall not be  
14 responsible for any costs associated with transmitting the  
15 fingerprint images and related information or conducting criminal  
16 record clearances.

17 (c) Nothing in this section shall be construed to prohibit the  
18 Department of Justice from assessing a fee pursuant to Section  
19 11105 of the Penal Code to cover the cost of searching for or  
20 furnishing summary criminal offender record information.

21 ~~SEC. 16.~~

22 *SEC. 14.* Section 9720 of the Welfare and Institutions Code is  
23 amended to read:

24 9720. (a) The office shall identify, investigate, and seek to  
25 resolve complaints and concerns communicated by, or on behalf  
26 of, patients, residents, or clients of any long-term care facility.  
27 This requirement shall not preclude the referral of other  
28 individuals' complaints and concerns that a representative becomes  
29 aware are occurring in the facility to the appropriate governmental  
30 agency. Complaint investigation shall be done in an objective  
31 manner to ascertain the pertinent facts.

32 (b) At the conclusion of any investigation of a complaint, the  
33 findings shall be reported to the complainant ~~if consent to share~~  
34 ~~the information has been provided by the resident or his or her~~  
35 ~~responsible party.~~ If the office does not investigate a complaint,  
36 the complainant ~~may request to~~ *shall* be notified in writing of the  
37 decision not to investigate and the reasons for the decision.

38 ~~SEC. 17.~~

39 *SEC. 15.* Section 9722 of the Welfare and Institutions Code is  
40 amended to read:

1 9722. (a) Representatives of the office shall have the right of  
2 entry to long-term care facilities for the purpose of monitoring,  
3 identifying, hearing, investigating, and resolving complaints by,  
4 or on behalf of, and rendering advice to, individuals who are  
5 patients or residents of the facilities at any time deemed necessary  
6 and reasonable by the State Ombudsman to effectively carry out  
7 this chapter.

8 (b) Nothing in this chapter shall be construed to restrict, limit,  
9 or increase any existing right of any organizations or individuals  
10 not described in subdivision (a) to enter, or provide assistance to  
11 patients or residents of, long-term care facilities.

12 (c) Nothing in this chapter shall restrict any right or privilege  
13 of any patient or resident of a long-term care facility to receive  
14 visitors of his or her choice.

15 ~~SEC. 18.~~

16 *SEC. 16.* Section 9724 of the Welfare and Institutions Code is  
17 amended to read:

18 9724. Notwithstanding Section 56 of the Civil Code, in order  
19 for the office to carry out its responsibilities under this chapter,  
20 the office shall have access to the medical or personal records of  
21 a patient or resident of a long-term care facility that are retained  
22 by the facility, under the following conditions:

23 (a) If the patient or resident has the ability to write, access may  
24 only be obtained by the written consent of the patient or resident.

25 (b) If the patient or resident is unable to write, oral consent may  
26 be given in the presence of a third party as witness.

27 (c) If the patient or resident is under a California guardianship  
28 or conservatorship of the person that provides the guardian or  
29 conservator with the authority to approve review of records, the  
30 office shall obtain the permission of the guardian or conservator  
31 for review of the records, unless any of the following apply:

32 (1) The existence of the guardianship or conservatorship is  
33 unknown to the office or the facility.

34 (2) The guardian or conservator cannot be reached within three  
35 working days.

36 (3) The office has reason to believe the guardian or conservator  
37 is not acting in the best interests of the ward or the conservatee.

38 (d) If the patient or resident is unable to express written or oral  
39 consent and there is no guardian, conservator, or legal  
40 representative, or the notification of the guardian, conservator, or

1 legal representative is not applicable for reasons set forth in  
2 subdivision (c), inspection of records may be made by ombudsmen  
3 when there is sufficient cause for the inspection. The licensee may,  
4 at his or her discretion, permit other representatives of the office  
5 to inspect records in the performance of their official duties. Copies  
6 may be reproduced by the office. The licensee and facility  
7 personnel who disclose records pursuant to this subdivision shall  
8 not be liable for the disclosure. If investigation of records is sought  
9 pursuant to this subdivision, the ombudsman shall, upon request,  
10 produce a statement signed by the ombudsman coordinator  
11 authorizing the ombudsman to review the records.

12 (e) Facilities providing copies of records pursuant to this section  
13 may charge the actual copying cost for each page copied.

14 (f) Upon request by the office, a long-term care facility shall  
15 provide to the office, within 24 hours, the name, address, and  
16 telephone number of the conservator, legal representative, or  
17 next-of-kin of any patient or resident.

18 ~~(g) The office and approved organizations shall provide~~  
19 ~~ombudsman services to assist residents in protecting the health,~~  
20 ~~safety, welfare, and rights of the residents, including residents who~~  
21 ~~are unable to communicate their wishes and have no legal~~  
22 ~~representative. In implementing this subdivision, the office and~~  
23 ~~approved organizations shall protect the identity of complainants~~  
24 ~~or residents. To implement this section, the office and approved~~  
25 ~~organizations shall do both of the following:~~

26 ~~(1) Provide that, subject to paragraph (2), files and records~~  
27 ~~described in this section be disclosed only at the discretion of the~~  
28 ~~ombudsman or the person designated by the ombudsman to disclose~~  
29 ~~the files and records.~~

30 ~~(2) Prohibit the disclosure of the identity of any complainant or~~  
31 ~~resident with respect to whom the office maintains the files or~~  
32 ~~records unless one of the following occurs:~~

33 ~~(A) The complainant or resident, or the legal representative of~~  
34 ~~the complainant or resident, consents to the disclosure and the~~  
35 ~~consent is provided in writing.~~

36 ~~(B) The complainant or resident consents orally to the disclosure~~  
37 ~~and the consent is documented contemporaneously in a writing~~  
38 ~~made by a representative of the office or an approved organization~~  
39 ~~in accordance with the requirements established by the department.~~

40 ~~(C) The disclosure is required by court order.~~

1     ~~SEC. 19.~~

2     *SEC. 17.* Section 9726 of the Welfare and Institutions Code is  
3 amended to read:

4     9726. (a) The office shall establish a toll-free telephone hotline  
5 to receive telephone calls concerning any crises discovered by any  
6 person in a long-term care facility, as defined in subdivision (b)  
7 of Section 9701. The telephone hotline established under this  
8 section shall be operated to include at least all of the following:

9     (1) The telephone hotline shall be available 24 hours a day,  
10 seven days a week.

11     (2) The operator shall respond to a crisis call by contacting the  
12 appropriate office, agency, or individual in the local community  
13 in which the crisis occurred.

14     (3) The toll-free ~~hotline telephone~~ *telephone hotline* number  
15 shall be posted conspicuously in either the facility foyer, lobby,  
16 residents’ activity room, or other conspicuous location easily  
17 accessible to residents in each licensed facility by the licensee.  
18 The office shall issue, in conjunction with the State Department  
19 of Social Services and the State Department of Public Health,  
20 guidelines concerning the posting of the toll-free ~~hotline telephone~~  
21 *telephone hotline* number. The posting shall, at a minimum, include  
22 the purpose of the toll-free telephone hotline number.

23     (b) The office shall respond to hotline telephone calls.

24     (c) The toll-free telephone hotline shall be staffed in a manner  
25 consistent with available resources in the office. The office may  
26 contract for the services of individuals to staff the telephone  
27 hotline. The office shall seek to provide opportunities for older  
28 individuals to be employed to staff the hotline. The State  
29 Department of Public Health and the State Department of Social  
30 Services, and other appropriate departments, shall make available  
31 to the department and the office training and technical assistance  
32 as needed.

33     ~~SEC. 20.~~

34     *SEC. 18.* Section 9726.1 of the Welfare and Institutions Code  
35 is amended to read:

36     9726.1. (a) The office and approved organizations shall carry  
37 out all of the duties prescribed by the federal Older Americans Act  
38 in Section 3058g of Title 42 of the United States Code, including,  
39 but not limited to, all of the following:

1 (1) Represent the interests of long-term care facility residents  
2 before governmental agencies and seek administrative, legal, and  
3 other remedies to protect the health, safety, welfare, and rights of  
4 the residents.

5 (2) (A) Analyze, comment on, and monitor the development  
6 and implementation of federal, state, and local laws, regulations,  
7 and other governmental policies and actions, that pertain to the  
8 health, safety, welfare, and rights of the residents, with respect to  
9 the adequacy of long-term care facilities and services in the state.

10 (B) Recommend any changes in the applicable laws, regulations,  
11 policies, and governmental actions as the office determines to be  
12 appropriate.

13 (C) Facilitate public comment on the applicable laws,  
14 regulations, policies, and governmental actions.

15 (b) The office and approved organizations may do any of the  
16 following:

17 (1) Advise the public of any inspection report, statements of  
18 deficiency, and plans of correction, for any long-term health care  
19 facilities within its service area.

20 (2) Promote visitation programs to long-term health care  
21 facilities within its service area.

22 (3) Establish and assist in the development of resident, family,  
23 and friends' councils.

24 (4) Sponsor other community involvement in long-term health  
25 care facilities.

26 (5) Present community education and training programs to  
27 long-term health care facilities, human service workers, families,  
28 and the general public, about long-term care and residents' rights  
29 issues.

30 (6) Those programs created under this section that are held in  
31 a facility shall be developed in consultation with the facility. If the  
32 facility and the ombudsman cannot agree on these programs, the  
33 State Ombudsman may assist in resolving the dispute.

34 ~~SEC. 21. Article 5 (commencing with Section 9740) of Chapter~~  
35 ~~11 of Division 8.5 of the Welfare and Institutions Code is repealed.~~

36 *SEC. 19. Section 9740 of the Welfare and Institutions Code is*  
37 *amended to read:*

38 9740. (a) The department shall establish an 11-member  
39 advisory council for the office *no later than June 30, 2013*.  
40 Members of the council shall be appointed by the director, and

1 shall consist of representatives of community organizations, area  
2 agencies on aging, two long-term care providers, federal Older  
3 Americans Act funded direct services providers, the commission,  
4 *a minimum of two local ombudsman program representatives*  
5 *appointed in consultation with* the California Long-Term Care  
6 Ombudsman Association, county government, and other  
7 appropriate governmental agencies. The director shall make the  
8 appointments from lists of no less than five names submitted by  
9 each of the designated entities.

10 (b) The advisory council shall provide advice and consultation  
11 to the State Long-Term Care Ombudsman Program and the director  
12 on issues affecting the provision of ombudsman services, including  
13 the review of proposed policy changes to the operation of the  
14 program, and may make recommendations, within 30 days, as  
15 appropriate. *The advisory council shall provide advice and*  
16 *consultation on operation of the ombudsman program and on*  
17 *issues of concern to long-term care facility residents and local*  
18 *long-term care ombudsman programs.* The advisory council shall  
19 meet at least three times annually. Representatives on the advisory  
20 council shall receive their actual and necessary travel and other  
21 expenses incurred in participation on the advisory council.  
22 *Participation on the advisory council shall be voluntary and*  
23 *members of the advisory council shall serve without compensation.*