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FAX TRANSMITTAL

Date: 4/20/2011 # of Pages: 10

To: Sylvia Taylor - Stein

FAX: 805-658-8540 Phone: 805-656-1986 ext 13

From: Lan Le

Re: SB 345



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SubstantiveAMENDMENTS TO SENATE BILL NO. 345
AS AMENDED IN SENATE MARCH 24, 2011

Amendment 1

Strike out lines 2 and 3 of the title, and insert:

An act to amend Sections 9701, 9712, 9714, 9716, 9717, 9719, 9720, 9722, 9724, 9726, and 9726.1 of, to repeal Sections 9713 and 9714.5 of, to repeal Article 5 (commencing with Section 9740) of Chapter 11 of Division 8.5 of, and to repeal and add Sections 9710, 9710.5, and 9711 of, the Welfare and

Amendment 2

On page 2, before line 1, insert:

SECTION 1. This act shall be known, and may be cited, as the Long-Term Care Ombudsman Program Independence and Improvement Act of 2011.

SEC. 2. The Legislature finds and declares all of the following:

(a) The protection of residents in California's long-term care facilities is of paramount importance to the citizens of California.

(b) The Office of the State Long-Term Care Ombudsman was established pursuant to the federal Older Americans Act of 1965 and the Mello-Granlund Older Californians Act to investigate and endeavor to resolve complaints made by, or on behalf of, individual residents in long-term care facilities.

(c) The Office of the State Long-Term Care Ombudsman is operated by the California Department of Aging, a division of the California Health and Human Services Agency.

(d) The California Health and Human Services Agency also oversees the State Department of Public Health and the State Department of Social Services, which are the state agencies that administer the licensing and certification of long-term care facilities in California.

(e) To guard against conflicts of interest, the federal Older Americans Act expressly prohibits the Office of the State Long-Term Care Ombudsman from being operated by any state agency that is responsible for licensing or certifying long-term care facilities.

(f) A conflict of interest currently exists with the placement of the Office of the State Long-Term Care Ombudsman under the aegis of the California Health and Human Services Agency.

(g) The State Long-Term Care Ombudsman is a political appointee, constrained in his or her responsibilities to advocate for changes in policy, legislation, or funding that directly impact residents of long-term care facilities. Further compromising independence, the State Long-Term Care Ombudsman is exempt from civil service and can be dismissed without cause or notice.

(h) The vulnerable residents of long-term care facilities rely on the State Long-Term Care Ombudsman to advocate on their behalf in the long-term care system and at state and federal levels of government.



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(i) The federal Older Americans Act requires the State Long-Term Care Ombudsman to represent the interests of long-term care facility residents before governmental agencies, and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents.

(j) The State Long-Term Care Ombudsman is unable to effectively advocate for the needs of residents of long-term care facilities in California.

(k) The federal Older Americans Act authorizes states to contract with a private nonprofit organization to operate the Office of the State Long-Term Care Ombudsman.

(l) It is, therefore, the intent of the Legislature to enact legislation that would establish an independent state long-term care ombudsman office within a qualified nonprofit organization, under contract with the California Department of Aging, to operate the office in accordance with the federal Older Americans Act of 1965 and the Mello-Granlund Older Californians Act, with the office having the full power and authority to advocate for residents of long-term care facilities on all matters relating to their care and well-being.

SEC. 3. Section 9701 of the Welfare and Institutions Code is amended to read: 9701. Unless the contrary is stated or clearly appears from the context, the following definitions shall govern the interpretation of this chapter:

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

(b) "Long-term care facility" means any of the following:

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

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

(e) ~~"Medical training" or "medical records training" means the completion of training as a physician, registered nurse, nurse practitioner, licensed vocational nurse, pharmacist, medical social worker, medical records technician, physician's assistant, or discharge planner.~~

(c) "Nonprofit organization" means the organization that contracts with the California Department of Aging to operate the Office of the State-Long-Term Care Ombudsman.

(d) "Office" means the Office of the State Long-Term Care Ombudsman, including approved organizations.

(e) "Ombudsman coordinator" means the individual selected by the governing board or executive director of the approved organization to manage the day-to-day operation of the ombudsman program, including the implementation of federal and state requirements governing the office.

(f) "Resident," "patient," or "client" means an older or elderly individual residing in a long-term care facility.

(g) "State Ombudsman" means the State Long-Term Care Ombudsman.

SEC. 4. Section 9710 of the Welfare and Institutions Code is repealed.

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~~9710. There is within the department an Office of the State Long-Term Care Ombudsman.~~

SEC. 5. Section 9710 is added to the Welfare and Institutions Code, to read:
9710. (a) The Legislature finds and declares all of the following:

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

(2) In order to comply with the federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.) and to effectively carry out its duties, the office must be operated by a qualified nonprofit organization that has no conflicts of interest.

(b) The department shall do all of the following:

(1) Establish a five-member selection panel, as described in Section 9710.5, to select a qualified private nonprofit organization to operate the Office of the State Long-Term Care Ombudsman.

(2) (A) Contract with the qualified private nonprofit organization selected by the selection panel to operate the office as specified under, and consistent with, the federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.) and state law.

(B) The initial contract with the selected nonprofit organization shall take effect on July 1, 2012. The department shall provide assistance to and fully cooperate with the nonprofit organization to ensure a successful transition for the Office of State Long-Term Care Ombudsman, including the transfer of the statewide uniform reporting system and collected data described in Section 9716.

(C) The term of the contract with the nonprofit organization shall be three years and may be extended by the selection panel at its discretion.

(3) Provide the support necessary for the selection panel to carry out its duties as specified in Section 9710.5.

(4) Allocate federal and state funds that are appropriated for the Office of the State Long-Term Care Ombudsman to the office, except that the department may reserve funds to cover reasonable, actual administrative costs for contracting and oversight purposes.

(5) Oversee the contract with the selected nonprofit organization to ensure that the office effectively carries out its duties under state and federal laws. The department shall not interfere with the Office of the State Long-Term Care Ombudsman or its parent organization carrying out its duties under state and federal law.

(c) Nothing in this section shall be construed to change the relationship of area agencies on aging and local long-term care ombudsman programs. Area agencies on aging shall continue to contract with approved organizations to operate local long-term care ombudsman programs using funds designated for this purpose.

SEC. 6. Section 9710.5 of the Welfare and Institutions Code is repealed.

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

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

~~(2) The position of State Ombudsman requires both an extensive background in social or health services programs, and an ability to manage and motivate individuals and groups.~~

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(3) Remuneration for the position of State Ombudsman should be commensurate with the demands of the position.

(b) The Legislature, therefore, encourages the Director of the California Department of Aging, to do all of the following:

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

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

(3) Within 30 days of the occurrence of a vacancy, convene a meeting with the advisory council established by Section 9740, for the purpose of obtaining the advice, consultation, and recommendations of the council regarding the selection of a candidate.

SEC. 7. Section 9710.5 is added to the Welfare and Institutions Code, to read:

9710.5. (a) (1) The five-member selection panel established by the department pursuant to subdivision (b) of Section 9710 shall be chaired by the President of the California Long-Term Care Ombudsman Association or member designee.

(2) Additional members of the selection panel shall include the Director of the California Department of Aging or his or her designee, the Director of the California Association of Area Agencies on Aging or his or her designee, a representative of the California Senior Legislature, and a long-term care ombudsman coordinator selected by the other members of the panel.

(3) Selection panel participation shall be voluntary and members of the panel shall serve without compensation.

(b) The selection panel shall do both of the following:

(1) Identify the qualifications of the nonprofit organization consistent with Section 9711 and the federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.).

(2) Notwithstanding any other provision of law, establish a bidding process to facilitate the selection of the nonprofit organization, solicit applications from nonprofit organizations consistent with that process, and select the most qualified applicant to operate the office.

(c) The selection panel may consult with other stakeholders in making the selection of the nonprofit organization to operate the office.

(d) The initial selection panel shall be established by January 31, 2012.

Subsequent selection panels shall be convened in a timely manner as needed to make determinations about the selection or continuation of a nonprofit organization to operate the Office of the State Long-Term Care Ombudsman.

SEC. 8. Section 9711 of the Welfare and Institutions Code is repealed.

~~9711. (a) The office shall be under the direction of a chief executive officer who shall be known as the State Long-Term Care Ombudsman. The State Ombudsman shall be appointed by the director and shall report directly to the director. He or she shall devote his or her entire time to the duties of his or her position, and shall receive the salary otherwise provided by law.~~

(b) Any vacancy occurring in the position of State Ombudsman shall be filled in the same manner as the original appointment. Whenever the State Ombudsman dies, resigns, becomes ineligible to serve for any reason, or is removed from office, the director shall appoint an acting State Ombudsman within 30 days, who shall serve until the appointment and qualification of the State Ombudsman's successor, but in no event

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~~longer than four months from the occurrence of the vacancy. The acting State Ombudsman shall exercise during this period all the powers and duties of the State Ombudsman pursuant to this chapter.~~

SEC. 9. Section 9711 is added to the Welfare and Institutions Code, to read:
9711. A nonprofit organization shall meet the following qualifications to operate as the Office of the State Long-Term Care Ombudsman:

- (a) Have not less than five years of successful operation as a nonprofit organization.
- (b) Have relevant experience in some or all of the following:
 - (1) Service to persons who are aged and individuals with disabilities.
 - (2) Advocacy.
 - (3) Long-term care ombudsman services.
 - (4) Legal services to persons who are aged and individuals with disabilities.
 - (5) Leadership to a network of advocacy, aging, or human service organizations.
- (c) Be free of conflicts of interest consistent with the requirements of this chapter and the federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.).
- (d) Be able and willing to carry out all of the duties of the office established by this chapter and the federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.), including, but not limited to, the duties to engage in legislative advocacy on behalf of long-term care facility residents and to provide or arrange necessary legal support to local long-term care ombudsman programs.
- (e) Be in compliance with state and federal laws governing nonprofit organizations.
- (f) Have adequate resources and be of sound financial status to operate the office.

SEC. 10. Section 9712 of the Welfare and Institutions Code is amended to read:

9712. (a) The office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be a certified ombudsman, meet the qualifications established by the federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.), and be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

(b) The nonprofit organization shall hire a qualified person to serve as the State Ombudsman after consulting with the department's director and other stakeholders on the selection.

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

(d) The State Ombudsman may employ technical experts and other employees who, in his or her judgment, are necessary to conduct the business of the office.

(e) The State Ombudsman shall establish an advisory council to obtain advice and consultation on operation of the ombudsman program and on issues of concern to long-term care facility residents and local long-term care ombudsman programs.

(a)

(f) (1) The State Ombudsman shall possess at least a bachelor's degree, and have a minimum of five years' professional experience that shall include at least three all of the following-four areas:

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

(B) The legal system and the legislative process.

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

(D) Organizational management and program administration.

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

(b)

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

(e)

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

SEC. 11. Section 9713 of the Welfare and Institutions Code is repealed.

9713. ~~(a) Upon request of the office, the Attorney General shall represent the office or the department and the state in litigation concerning affairs of the office, unless the Attorney General represents another state agency, in which case the agency or the office shall be authorized to employ other counsel.~~

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

SEC. 12. Section 9714 of the Welfare and Institutions Code is amended to read:

9714. ~~The office may shall~~ solicit and receive funds, gifts, and contributions to support the operations and programs of the office. ~~The office may form a foundation eligible to receive tax deductible contributions to support the operations and programs of the office.~~ The office shall not solicit or receive any funds, gifts, or contributions where the solicitation or receipt would jeopardize the independence and objectivity of the office.

SEC. 13. Section 9714.5 of the Welfare and Institutions Code is repealed.

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

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

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

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

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

SEC. 14. Section 9716 of the Welfare and Institutions Code is amended to read:

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

SEC. 15. Section 9717 of the Welfare and Institutions Code is amended to read:

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

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

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

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

SEC. 16. Section 9719 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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(b) (1) ~~Beginning July 1, 2007, the California Department of Aging. The~~ department shall contract with the State Department of Social Services to conduct a criminal offender record information search, pursuant to Section 1569.17 of the Health and Safety Code, for each applicant seeking certification as an ombudsman. The State Department of Social Services shall notify the individual and the office of the individual's clearance or denial.

(2) ~~Within a reasonable time after July 1, 2007, the office shall seek the clearance of each ombudsman already certified or designated as of July 1, 2007.~~

(3)

(2) An applicant for certification as an ombudsman ~~and any currently certified or designated ombudsman~~ shall not be responsible for any costs associated with transmitting the fingerprint images and related information or conducting criminal record clearances.

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

SEC. 17. Section 9720 of the Welfare and Institutions Code is amended to read:

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

(b) At the conclusion of any investigation of a complaint, the findings shall be reported to the complainant. If the office does not investigate a complaint, the complainant shall be notified in writing of the decision not to investigate and the reasons for the decision.

SEC. 18. Section 9722 of the Welfare and Institutions Code is amended to read:

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

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

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

SEC. 19. Section 9724 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

(d) If the patient or resident is unable to express written or oral consent and there is no guardian or conservator, conservator, or legal representative, or the notification of the guardian or conservator, conservator, or legal representative is not applicable for reasons set forth in subdivision (c), inspection of records may be made by full-time state employees of the office ombudsman coordinator, and by ombudsmen qualified by medical training and with the approval of the ombudsman coordinator or the State Ombudsman, when there is sufficient cause for the inspection. The licensee may, at his or her discretion, permit other representatives of the office to inspect records in the performance of their official duties. Copies may be reproduced by the office. The licensee and facility personnel who disclose records pursuant to this subdivision shall not be liable for the disclosure. If investigation of records is sought pursuant to this subdivision, the ombudsman shall, upon request, produce a statement signed by the ombudsman coordinator authorizing the ombudsman to review the records.

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

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

SEC. 20. Section 9726 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

(c) The toll-free telephone hotline shall be staffed in a manner consistent with available resources in the department. The department office. The office may contract for the services of individuals to staff the telephone hotline. The department office shall seek to provide opportunities for older individuals to be employed to staff the hotline. The State Department of Health Services Public Health and the State

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Department of Social Services, and other appropriate departments, shall make available to the department and the office training and technical assistance as needed.

SEC. 21. Section 9726.1 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

~~(b) The office may do any ~~or all~~ of the following:~~

~~(a)~~

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

~~(b)~~

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

~~(c)~~

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

~~(d)~~

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

~~(e)~~

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

~~(f)~~

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

SEC. 22. Article 5 (commencing with Section 9740) of Chapter 11 of Division 8.5 of the Welfare and Institutions Code is repealed.

Amendment 3

On page 2, strike out lines 1 to 38, inclusive, and strike out page 3