Below you will find some important long-term care highlights of the new health care legislation. The following has been reprinted with permission from the National Consumer Voice for Quality Long-Term Care (NCCNHR).

**Nursing Home Transparency and Improvement**

The nursing home (NH) transparency provisions are the first comprehensive improvements in nursing home quality since OBRA '87. When fully implemented, the law will provide consumers a substantial amount of new information about individual facilities, most of it from resolutions passed by NCCNHR members.

Key provisions include:
- Public disclosure of NH owners, operators and other entities and individuals that provide management, financing and services to nursing homes;
- Establishment of internal procedures by NHs to reduce civil and criminal violations and improve quality assurance;
- Collection of staffing data electronically from payroll records and other verifiable sources and public reporting of hours per resident day of care and turnover and retention rates;
- Improved public information on Nursing Home Compare (NHC), including staffing data for each facility that includes hours of care per resident day, turnover and retention rates; links to facilities’ survey reports (Form 2567) and plans of correction on state websites; summaries of complaints against facilities, including number, type, severity and outcome; a standardized complaint form; and adjudicated criminal violations by facilities and their employees inside the facility, including civil monetary penalties levied against the facility, its employees, contractors and other agents;
- Establishment of a consumer rights information (continued on page 2)

**Ombudsman Programs nationwide turn 35**

The onset of the new year marked a very special anniversary for Ombudsman Programs across the nation as they began celebrating “35 Years of Changing Residents Lives Through Quality Advocacy.”

**A Brief History**

The Long-Term Care Ombudsman Program (LTCOP) was created nationally in 1975 as part of the Older Americans Act. Its purpose was “to respond to the needs of residents facing problems in long-term care facilities, including nursing homes and assisted living facilities.” In 1978 the Older Americans Act was amended to include a requirement that each state develop an LTCOP in order to protect the health, safety, welfare, quality of care and rights of the residents in nursing homes, assisted living facilities and adult family-care homes.

**Florida’s Ombudsmen**

Florida’s Ombudsman Program has seen many (continued on page 4)
New Bill Makes Facilities Safer For Residents

In the Fall of 2009, the Ombudsman Outlook headlined an article regarding the “loophole” that allowed convicted felons to care for Florida’s two most vulnerable people groups: children and elders. South Florida Sun-Sentinel reporter, Sally Kestin, first broke the story in a series released in October 2009, which outlined details of the loophole and vignettes of criminals who had, in one way or another, been given a “second chance” by being allowed to work with frail elders in nursing homes (NHSs) or assisted living facilities (ALFs). The series also revealed a flawed system that allowed people with criminal histories to still work as caregivers if they made what amounted to a “promise” not to break the law again. Through what’s known as an exemption, the state cleared more than 8,700 people to work despite criminal records, some of which included sex offenses, murder and child abuse. The Sun-Sentinel reported that approximately 20 percent of those who received an exemption were arrested again, some within days of the state having deemed them “rehabilitated.”

Soon after the release of Kestin’s series, Governor Charlie Crist and Attorney General Bill McCollum established a workgroup to create a bill that would make it tougher for felons and other convicted criminals to work with our children and elders. In April of this year, the bill to tighten screening of caregivers for children, seniors and disabled people landed on the Governor’s desk. In early May, Crist, who praised the legislation, signed it into law, accompanied by the following statement: “Thoroughly screening the backgrounds of those who work with children, elders, persons with disabilities — and then verifying those screening results before employees are authorized to go to work — will no doubt improve overall public safety in the Sunshine State,” Crist said.

The Ombudsman Program applauds Governor Crist for working to bring about this positive change to protect Florida’s long-term care residents. We also thank reporter Sally Kestin for shedding light on this important issue. This bill will take effect August 1, 2010.
SUMMARY OF TOP COMPLAINTS: SPRING QUARTER

Under federal and state law, the Long-Term Care Ombudsman Program is responsible for publishing its complaint data each quarter. The following data reflects complaints received March 1, 2010 - May 30, 2010.

Facilities with the highest number of complaints in Florida this Spring:

71 complaints
Hampton Court - Haines City
(examples: physical, psychological and verbal abuse, gross neglect, odors, illegal confinement, illegal policies, insufficient funds to operate, retaliation against residents)

23 complaints
Bay Pointe Nursing & Rehab Center - Lake City
(examples: infection control, abuse investigation or reporting, gross neglect, accidental injuries, toileting)

21 complaints
Regents Park of Winter Park - Winter Park
(examples: neglect of catheter, gastric tube; infection control; staff shortages; cleanliness, pests, housekeeping)

21 complaints
Pinellas Park Care & Rehab Nursing Home - Pinellas Park
(examples: verbal/psychological abuse, retaliation, gross neglect, abuse reporting, illegal policies, personal funds)

19 complaints
Good Hope Assisted Living Facility - Pinellas Park
(examples: pressure sores, symptoms unattended, overuse of nursing pools, records access)

19 complaints
Colonic Lakes Health Care - Winter Garden
(examples: neglect of catheter, social services, accidental injuries, lack of privacy, staff attitudes)

18 complaints
Broadview Assisted Living - Tallahassee
(examples: gross neglect, overuse of nursing pools, menu)

16 complaints
Parks Healthcare & Rehab Center - Orlando
(examples: failure to respond to requests for assistance, pressure sores, symptoms unattended)

16 complaints
Sarasota Health & Rehab Center - Sarasota
(examples: odors, staff training, dignity and respect)

15 complaints
Midway Manor Retirement Assisted Living - Clearwater
(examples: illegal confinement, lack of privacy, issues concerning residents’ SSA, SSI, VA or other benefits)

14 complaints
Hidden Oaks - Ft. Myers
(examples: symptoms unattended, reprisal or retaliation against residents, shortage of staff, medication administration)

14 complaints
Southern Oaks - Pensacola
(examples: illegal confinement, resident weight loss due to inadequate nutrition, administrator unresponsive/unavailable)

14 complaints
Clare Bridge - Tequesta
(examples: infection control, wandering and/or failure to accommodate/monitor residents, staff training, snacks, menu)

To find out more about the Long-Term Care Ombudsman Program's complaint or facility assessment data, call toll-free 1-888-831-0404 and ask to be transferred to a representative in your area. All services are free and confidential.

* Asterisks indicate facilities that have previously appeared on the Ombudsman Program's list of highest numbers of complaints per quarter.
changes since its inception. As its mostly-volunteer workforce continued to expand, so do the program’s challenges.

“While our focus has always been on residents, their needs and raising awareness about their rights, we are always looking for ways to practically improve our advocacy,” said Brian Lee, who currently heads the program as its director.

In the past seven years, Florida’s Ombudsman Program launched two major statewide media campaigns with the goal of raising awareness about its free and confidential services. Ombudsmen recommended changes to Florida’s laws that, if passed, would greatly improve the lives of the people that live in Florida’s nursing homes, assisted living facilities and adult family-care homes. The program also renovated its website to make it visitor-friendly and overhauled its data reporting system to collect, track and identify trends in the complaints it receives and to cut down on the time it takes an ombudsman volunteer to speak directly with a resident after a complaint is filed.

“We also take every opportunity to recognize and applaud a job well done when a volunteer goes above and beyond the call of duty to protect a resident’s rights,” said Lee. “We pride ourselves on staying up-to-date on all long-term care trends, ideas and proposals so that we will be able to offer solid, well-educated advocacy to every client. I am proud to serve with a group of volunteer advocates who remain so steadfast and unwavering in their commitment to Florida’s most vulnerable citizens. I’m proud of what we have grown into in 35 years and I’m looking forward to our continued success.”

Establishment of “Don Hering Excellence in Advocacy Award”

For Florida’s ombudsman volunteers, 2010 also marks the end of an era for Chair of the Ombudsman State Council, Don Hering. State Council members are limited to two, three-year terms, of which Hering is in his final year. Although he will continue to serve on his local council in Tampa, Florida, his time leading the program has drawn to a close.

“Don brought the program to where it is,” said Lee in a press release last month. “His passionate advocacy, talent and leadership are reflected in every aspect of this program. He will be greatly missed. As such, the Program is establishing a special award to recognize those qualities he exemplifies: leadership, skill, integrity, compassion and advocacy.”

“Under your leadership, the Ombudsman program has reached unprecedented heights in the past six years,” said Governor Charlie Crist in a recent letter to Hering, thanking Hering for his service. “I greatly respect your work as a volunteer advocate, laboring tirelessly for our State’s most vulnerable citizens.”

The award will be presented each year to the ombudsman volunteer who makes the greatest contribution to long-term care facility residents and demonstrates a “spirit of advocacy” similar to that of Don Hering. For more information about the Ombudsman Program’s complaint data or to learn how to become a volunteer, call toll-free at 1-888-831-0404 or visit online.
legal representatives and other responsible parties from retaliation when they complain about quality of care;
• Escrowing of civil monetary penalties after an independent informal dispute resolution process and pending resolution of further appeals; (Allows for reduction of CMP amounts for self-reported, non-repeat violations.)
• 60-day advance notification of facility closure and authorization to continue Medicaid payments pending relocation of all residents;
• Dementia care and abuse prevention in nurse aide training programs;
• Demonstration projects to identify best practices in culture change and information technology; and
• Demonstration program to develop, test, and implement federal oversight of interstate and large intrastate chains.
(Chains apply to participate in the demonstrations.)

**Elder Justice Act**
Provisions include:
• Establish an Elder Justice Coordinating Council to make recommendations to the Secretary of Health and Human Services on the coordination of activities of federal, state, local and private agencies and entities relating to elder abuse, neglect and exploitation. Recommendations contained in the report are due in two years.
• Provide $400 million in first time dedicated funding for Adult Protective Services. Provide $100 million for state demonstration grants to test a variety of methods to detect and prevent elder abuse.
• Provide $26 million for the establishment and support of Elder Abuse, Neglect and Exploitation Forensic Centers to develop forensic expertise and provide services relating to elder abuse, neglect, and exploitation.
• Provide $32.5 million in grants to support the Long-Term Care Ombudsman Program and an additional $40 million in training programs for national organizations and state long-term care ombudsman programs.
• Authorize $67.5 million in grants to enhance long-term care staffing through training and recruitment and incentives for individuals seeking or maintaining employment in long-term care, either in a facility or a community-based long-term care entity.

**Patient Safety and Abuse Prevention Act**
The legislation creates a national program of criminal background checks on employees of long-term care providers who have access to residents of facilities or people receiving care in their own homes. The legislation was added to the CLASS Act, which creates a voluntary payroll deduction plan for long-term care. Employees who pay into the program for at least five years will be entitled to a daily cash benefit of at least $50 that they can use for long-term care at home or in a community-based setting. Medicaid beneficiaries in NHs would retain 5 percent of their cash benefit; and Medicaid beneficiaries receiving home and community-based services would keep 50 percent.

**Home and Community-Based Services**
• Creates a state Medicaid option to provide community-based attendant services and supports for people who meet their state’s nursing home eligibility standards.
• Gives states the option to provide home and community-based services through a state plan amendment, rather than a waiver. Requires the plan to be statewide; prohibits caps on the number served; and enables targeting of individuals with specific conditions.
• Creates incentives for states to move Medicaid beneficiaries out of nursing homes into home and community-based services.
• Extends the Money Follows the Person program for six years.
• Extends spousal impoverishment protections to spouses of Medicaid beneficiaries receiving home and community-based services.
• Eliminates Medicare Part D cost-sharing requirements for people who are receiving long-term care under a home and community-based waiver; and
• Provides for grants and demonstration programs to train workers in geriatrics and long-term care.

NCCNHR will continue to provide detailed summaries of the legislation and implementation dates. Visit [http://www.nccnhr.org/advocate/health-care-reform](http://www.nccnhr.org/advocate/health-care-reform) for frequent updates and details on the legislation.
OMBUDSMAN
[awm-buhdz-man]

An ombudsman is a volunteer who helps to improve the lives of people who live in long-term care settings like nursing homes, assisted living facilities and adult family care homes.

As members of Florida’s elder population make the transition into long-term care facilities, a strong support system for each individual becomes critical. Unfortunately, many long-term care residents do not have anyone to look out for their best interests when it comes to personal health, safety, welfare and rights.

The Long-Term Care Ombudsman Program is made up of more than 400 volunteers who are passionate about improving the quality of life for residents. It takes a special kind of person to commit to such a mission. We are proud to be a unique program whose success depends on the boldness and compassion of volunteers. These special individuals dedicate thousands of unpaid hours each year to ensuring that the voices of Florida’s long-term care facility residents are heard.

To learn more about how the Long-Term Care Ombudsman Program can help you or someone you know, call us toll-free at 1-888-831-0404 or visit us online at http://ombudsman.myflorida.com.

All services are free and confidential.