

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 542

INTRODUCER: Senator Stargel

SUBJECT: Continuing Care Facilities

DATE: November 12, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Pre-meeting</b>
2.			CF	
3.			FP	

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**I. Summary:**

SB 542 allows a nursing home applicant for the Nursing Home Gold Seal Program which is part of a continuing care retirement community (CCRC) that is not accredited to demonstrate the financial soundness and stability of the entire CCRC organization rather than for the nursing home component of the CCRC.

**II. Present Situation:**

**The Nursing Home Gold Seal Program**

Section 400.235, F.S., creates the Nursing Home Gold Seal Program as an “award and recognition program for nursing facilities that demonstrate excellence in long-term care over a sustained period.”<sup>1</sup> The Gold Seal Program designation may be used in advertising for a facility that has received such designation. Currently, there are 26 Gold Seal Program facilities located throughout the state.<sup>2</sup>

A nursing home that has been in operation for at least 30 months may apply for the Gold Seal Program if it has the recommendation of the Agency for Health Care Administration (AHCA), a nursing facility industry organization, a consumer, the State Long-Term Care Ombudsman Program, or a member of the community where the nursing home is located. Only nursing homes with a quality of care ranking within the top 15 percent of facilities regionally, or top 10 percent of facilities statewide, and that have a five-star facility designation overall are considered.<sup>3</sup>

Applicants must also meet the following requirements:

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<sup>1</sup> Section 400.235(2), F.S.

<sup>2</sup> Out of a total of 683 licensed nursing homes. Florida Health Finder Search on Nov. 12, 2015. Excel sheet on file with Senate Committee on Health Policy staff.

<sup>3</sup> Both the ranking and the five-star facility designation are determined by the AHCA, see Rule 59A-4.202, F.A.C.

- The nursing home may not have any class I or class II deficiencies<sup>4</sup> within the 30 months preceding the application for the program.
- Unless the nursing home is part of the same corporate entity as a licensed and accredited continuing care facility that meets liquid reserve requirements in s. 651.035, F.S., the nursing home must provide evidence of 30 months of financial soundness and stability including:<sup>5</sup>
  - Financial statements, a balance sheet, an income statement, and a statement of cash flow for three consecutive years immediately preceding the application;
  - A report from a Certified Public Accountant who has audited or reviewed such financial statements; and
  - At least two of the following requirements:
    - A positive assets to liabilities ratio;
    - A positive tangible net worth; or
    - A times interest earned ratio of 115 percent.
- The nursing home or its parent company may not have been the subject of bankruptcy proceedings in the preceding 30 months.
- The nursing home must participate in a consumer satisfaction process and demonstrate that information is elicited from residents, family members, and guardians about satisfaction with the nursing home's facility, environment, services and care provided; staff's skills and interactions with residents; attention to resident's needs; and efforts to act on information gathered.
- The nursing home must provide evidence of the involvement of families and members of the community in the facility on a regular basis.
- The nursing home must have a stable workforce as evidenced by a low rate of turnover among certified nursing assistants (CNA) and licensed nurses within the preceding 30 months.
- The nursing home must provide evidence that verified complaints to the Long-Term Care Ombudsman Program have not resulted in citation within the preceding 30 months.
- The nursing home must provide targeted in-service training to meet the training needs identified by internal or external quality assurance efforts.
- A nursing home on conditional licensure may not qualify until the facility has operated for 30 months without a class I or class II deficiency and has undergone a regularly scheduled relicensure survey.

Gold Seal Program facilities are recommended to the Governor by the Governor's Panel on Excellence in Long-Term Care (Panel) which consists 13 members who are:

- Three appointees by the governor, one of whom must be a consumer advocate for senior citizens and the other two must have expertise in the fields of quality management, service delivery excellence, or public sector accountability;
- Three appointees by the Secretary of the Department of Elder Affairs (DOEA), which must include an active member of the nursing facility family and resident care council and a member of the University Consortium on Aging;
- A representative of the State Long-Term Care Ombudsman Program;
- One appointee from the Florida Life Care Residents Association;

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<sup>4</sup> Class I and II deficiencies are defined in s. 408.813, F.S.

<sup>5</sup> Rule 59A-4.203, F.A.C.

- One appointee by the State Surgeon General;
- Two appointees by the Secretary of the AHCA;
- One appointee from the Florida Association of Homes for the Aging; and
- One appointee from the Florida Health Care Association.

Members of the Panel may not have any ownership interest in a nursing facility and, if the member is employed by a nursing facility, that member may not review or vote on recommendations involving that facility or any facility under common ownership.

### **Continuing Care Facilities**

A continuing care facility, or CCRC, provides shelter and nursing care or personal services to residents upon the payment of an entrance fee.<sup>6</sup> According to representatives, CCRCs generally feature apartment style independent living units, assisted living units, and nursing care, typically all on a single campus.<sup>7</sup> Many also offer assisted living, memory support care, and other specialty care arrangements.<sup>8</sup> These facilities also provide residents with dining options, housekeeping, security, transportation, social and recreational activities, and wellness and fitness programs.<sup>9</sup> Continuing care facilities may offer at-home programs that provide residents CCRC services while continuing to live in their own homes until they are ready to move to the CCRC.<sup>10</sup> In addition to the entrance fee, a CCRC generally charges residents monthly fees to cover costs related to health care and other aspects of community living.<sup>11</sup>

As of September 2014, there are 71 licensed CCRCs in Florida. CCRCs are spread throughout the state, with Palm Beach, Sarasota, and Pinellas counties having the greatest numbers of these communities. Almost 25,000 residents lived in a CCRC during 2013.<sup>12</sup>

Oversight responsibility of is shared between the AHCA and the Office of Insurance Regulation (OIR). The AHCA regulates aspects of CCRCs related to the provision of health care such as assisted living, skilled nursing care, quality of care, and concerns with medical facilities. Because residents pay, in some cases, considerable amounts in entrance fees and ongoing monthly fees, there is a need to ensure that CCRCs are in the proper financial and managerial position to provide services to present and future residents. Accordingly, the OIR is given primary responsibility to authorize and monitor the operation of facilities and to determine facilities' financial status and the management capabilities of their managers and owners.<sup>13</sup> If a continuing care provider is accredited through a process substantially equivalent to the

<sup>6</sup> Section 651.011, F.S.

<sup>7</sup> Jane E. Zarem, Editor, *Today's Continuing Care Retirement Community*, CCRC Task Force, p. 2, (July 2010), available at [http://www.leadingage.org/uploadedFiles/Content/Consumers/Paying\\_for\\_Aging\\_Services/CCRCcharacteristics\\_7\\_2011.pdf](http://www.leadingage.org/uploadedFiles/Content/Consumers/Paying_for_Aging_Services/CCRCcharacteristics_7_2011.pdf) (last visited Nov. 12, 2015).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Section 651.057, F.S.

<sup>11</sup> American Association of Retired Persons, *About Continuing Care Retirement Communities*, available at [http://www.aarp.org/relationships/caregiving-resource-center/info-09-2010/ho\\_continuing\\_care\\_retirement\\_communities.html](http://www.aarp.org/relationships/caregiving-resource-center/info-09-2010/ho_continuing_care_retirement_communities.html) (last visited Nov. 12, 2015).

<sup>12</sup> Office of Insurance Regulation, *Presentation to the Governor's Continuing Care Advisory Council*, (September 29, 2014) available at <http://www.floridair.com/siteDocuments/CouncilPresentation.pdf> (last visited April 13, 2015).

<sup>13</sup> See ss. 651.021 and 651.023, F.S.

requirements of chapter 651, F.S., the OIR may waive requirements of that chapter.<sup>14</sup> Currently, CCRCs must be accredited by the National Continuing Care Accreditation Commission in order to obtain a waiver of examination and reporting requirements.<sup>15</sup>

### **III. Effect of Proposed Changes:**

SB 542 amends s. 400.235, F.S., to allow a nursing home applicant for the Nursing Home Gold Seal Program which is part of a continuing care retirement community (CCRC) that is not accredited to demonstrate the financial soundness and stability of the entire CCRC organization rather than for the nursing home component of the CCRC.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

SB 542 may have a positive fiscal impact on CCRCs that are not accredited, that have a nursing home component, and that wish to apply for the Nursing Home Gold Seal Program by removing the requirement that such CCRCs create new and additional financial documentation for the nursing home component of the CCRC.

#### **C. Government Sector Impact:**

None.

### **VI. Technical Deficiencies:**

None.

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<sup>14</sup> Section 651.028, F.S.

<sup>15</sup> Rule 69O-193.055, F.A.C.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 400.235 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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