

By Senator Crist

13-412A-01

See HB

1 A bill to be entitled
 2 An act relating to nursing homes and related
 3 health care facilities; amending s. 400.235,
 4 F.S.; revising membership and terms of the
 5 Governor's Panel on Excellence in Long-Term
 6 Care; providing for selection of a panel chair;
 7 providing a definition; amending s. 400.4195,
 8 F.S.; providing conditions under which the
 9 prohibition against payment of referral fees by
 10 assisted living facilities does not apply;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Paragraph (a) of subsection (3) of section
 16 400.235, Florida Statutes, is amended to read:

17 400.235 Nursing home quality and licensure status;
 18 Gold Seal Program.--

19 (3)(a)1. The Gold Seal Program shall be developed and
 20 implemented by the Governor's Panel on Excellence in Long-Term
 21 Care, which shall operate under the authority of the Executive
 22 Office of the Governor. For the purposes of staggering the
 23 terms of the panel members and notwithstanding the conditions
 24 of the original appointments, the terms of all panel members
 25 shall expire on September 30, 2001. The panel shall be
 26 composed of the following members appointed effective October
 27 1, 2001:

28 a. A consumer advocate for senior citizens, appointed
 29 by the Governor, to serve a 4-year term.

30 b. Two persons with expertise in the fields of quality
 31 management, service delivery excellence, or public-sector

- 1 accountability, appointed by the Governor, to serve 3-year
2 terms.
- 3 c. A consumer advocate for senior citizens, appointed
4 by the Secretary of Elderly Affairs, to serve a 4-year term.
- 5 d. An active member of a nursing facility family and
6 resident care council, appointed by the Secretary of Elderly
7 Affairs, to serve a 1-year term.
- 8 e. A member of the University Consortium on Aging,
9 appointed by the Secretary of Elderly Affairs, to serve a
10 2-year term.
- 11 f. The State Long-Term Care Ombudsman, to serve an
12 indefinite term.
- 13 g. A consumer advocate for senior citizens, appointed
14 by the Florida Life Care Residents Association, to serve a
15 3-year term.
- 16 h. A consumer advocate for senior citizens, appointed
17 by the Secretary of Health, to serve a 2-year term.
- 18 i. A consumer advocate for senior citizens, appointed
19 by the Director of Health Care Administration, to serve a
20 4-year term.
- 21 j. The Deputy Director for State Health Purchasing of
22 the Agency for Health Care Administration, to serve an
23 indefinite term.
- 24 k. One person appointed by the Florida Association of
25 Homes for the Aging, to serve a 1-year term.
- 26 l. One person appointed by the Florida Health Care
27 Association, to serve a 2-year term.
- 28 m. A member of the Florida Silver Hair Legislature
29 appointed by the Florida Silver Hair Legislature, to serve a
30 1-year term.
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1 n. A member of the Florida State Council of Senior
2 Citizens appointed by the Florida State Council of Senior
3 Citizens, to serve a 2-year term.

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5 Thereafter, all panel members except those appointed under
6 subparagraphs f. and j. shall be appointed to serve 4-year
7 terms.~~The panel shall be composed of three persons appointed~~
8 ~~by the Governor, to include a consumer advocate for senior~~
9 ~~citizens and two persons with expertise in the fields of~~
10 ~~quality management, service delivery excellence, or public~~
11 ~~sector accountability; three persons appointed by the~~
12 ~~Secretary of Elderly Affairs, to include an active member of a~~
13 ~~nursing facility family and resident care council and a member~~
14 ~~of the University Consortium on Aging; the State Long-Term~~
15 ~~Care Ombudsman; one person appointed by the Florida Life Care~~
16 ~~Residents Association; one person appointed by the Secretary~~
17 ~~of Health; two persons appointed by the Secretary of Health~~
18 ~~Care Administration; one person appointed by the Florida~~
19 ~~Association of Homes for the Aging; and one person appointed~~
20 ~~by the Florida Health Care Association.~~Vacancies on the panel
21 shall be filled in the same manner as the original
22 appointments. A panel member may not be appointed to serve
23 more than two consecutive 4-year terms.

24 2. Panel members shall select the panel chair by a
25 majority vote at the panel's first meeting after all panel
26 members have been appointed.

27 3. For purposes of this paragraph, the term "consumer
28 advocate for senior citizens" means a person who:

29 a. Receives no money from the nursing home industry in
30 the form of wages, contributions, or gifts and has no
31 relatives who receive such wages, contributions, or gifts;

1 b. Is not an employee of the Agency for Health Care
2 Administration, the Department of Health, or the Department of
3 Elderly Affairs; and

4 c. Is either a member of an organized senior advocacy
5 group or has had or currently has a relative in a nursing
6 home.

7 Section 2. Section 400.4195, Florida Statutes, is
8 amended to read:

9 400.4195 Rebates prohibited; penalties.--

10 (1) It is unlawful for any assisted living facility
11 licensed under this part to contract or promise to pay or
12 receive any commission, bonus, kickback, or rebate or engage
13 in any split-fee arrangement in any form whatsoever with any
14 physician, surgeon, organization, agency, or person, either
15 directly or indirectly, for residents referred to an assisted
16 living facility licensed under this part unless the following
17 conditions are met:-

18 (a) Payment is made to an independent marketing agency
19 that represents the facility under a nonexclusive contract.

20 (b) The independent marketing agency represents
21 multiple facilities with different owners.

22 (c) The independent marketing agency clearly indicates
23 to referred residents, prior to referral, all facilities
24 represented by the agency.~~A facility may employ or contract~~
25 ~~with persons to market the facility, provided the employee or~~
26 ~~contract provider clearly indicates that he or she represents~~
27 ~~the facility.~~

28 (2) A person or agency independent of the facility may
29 provide placement or referral services for a fee to
30 individuals seeking assistance in finding a suitable facility;
31 however, any fee paid for placement or referral services must

1 be paid by the individual looking for a facility, not by the
2 facility.

3 (3)~~(2)~~ A violation of this section shall be considered
4 patient brokering and is punishable as provided in s. 817.505.

5 Section 3. This act shall take effect upon becoming a
6 law.

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9 HOUSE SUMMARY

10 Revises membership and terms of the Governor's Panel on
11 Excellence in Long-Term Care. Provides for selection of a
12 panel chair. Defines the term "consumer advocate for
13 senior citizens" for purposes of appointments to the
14 panel. Provides that payments made to an independent
15 marketing agency by an assisted living facility for
16 referral of residents to that facility are not prohibited
17 if the agency represents the facility under a
18 nonexclusive contract and represents multiple facilities
19 with different owners, and clearly indicates to referred
20 residents, prior to referral, all the facilities
21 represented.
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