

By Senator Crist

13-48-02

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 office
5 of the Governor's Panel on Excellence in
6 Long-Term Care; providing for selection of a
7 panel chairperson; providing a definition;
8 amending s. 400.4195, F.S.; providing
9 conditions under which the prohibition against
10 payment of referral fees by assisted living
11 facilities does not apply; providing an
12 effective date.

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14 Be It Enacted by the Legislature of the State of Florida:
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16 Section 1. Paragraph (a) of subsection (3) of section
17 400.235, Florida Statutes, is amended to read:

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

20 (3)(a)1. The Gold Seal Program shall be developed and
21 implemented by the Governor's Panel on Excellence in Long-Term
22 Care, which shall operate under the authority of the Executive
23 Office of the Governor. For the purposes of staggering the
24 terms of the panel members and notwithstanding the conditions
25 of the original appointments, the terms of all panel members
26 expire September 30, 2002. The panel shall be composed of the
27 following members appointed effective October 1, 2002:

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

30 b. Two persons having expertise in the field of
31 quality management, service-delivery excellence, or

- 1 public-sector accountability, appointed by the Governor to
2 serve a 3-year term.
- 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.
- 12 g. A consumer advocate for senior citizens, appointed
13 by the Florida Life Care Residents Association to serve a
14 3-year term.
- 15 h. A consumer advocate for senior citizens, appointed
16 by the Secretary of Health to serve a 2-year term.
- 17 i. A consumer advocate for senior citizens, appointed
18 by the Secretary of Health Care Administration to serve a
19 4-year term.
- 20 j. The Deputy Secretary for Medicaid of the Agency for
21 Health Care Administration.
- 22 k. One person appointed by the Florida Association of
23 Homes for the Aging to serve a 1-year term.
- 24 l. One person appointed by the Florida Health Care
25 Association to serve a 2-year term.
- 26 m. A member of the Florida Silver Hair Legislature,
27 appointed by the Florida Silver Hair Legislature to serve a
28 1-year term.
- 29 n. A member of the Florida State Council of Senior
30 Citizens, appointed by the Florida State Council of Senior
31 Citizens to serve a 2-year term.

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

21 2. Panel members shall select the panel chairperson by
22 a majority vote at the panel's first meeting after all panel
23 members have been appointed.

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

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

29 b. Is not an employee of the Agency for Health Care
30 Administration, the Department of Health, or the Department of
31 Elderly Affairs; and

1 c. Is either a member of an organized senior advocacy
2 group or has had or currently has a relative in a nursing
3 home.

4 Section 2. Section 400.4195, Florida Statutes, is
5 amended to read:

6 400.4195 Rebates prohibited; penalties.--

7 (1) Except as provided in subsection (2), it is
8 unlawful for any assisted living facility, or any person or
9 agency employed by or contracting with the facility, ~~licensed~~
10 ~~under this part~~ to contract or promise to pay or receive any
11 commission, bonus, kickback, or rebate or engage in any
12 split-fee arrangement in any form whatsoever with any health
13 care practitioner, health care facility, or other ~~physician,~~
14 ~~surgeon,~~ organization, agency, or person, either directly or
15 indirectly, for residents referred to an assisted living
16 facility ~~licensed under this part.~~

17 (2) A facility may employ or contract with persons or
18 agencies to market the facility for a fee or commission based
19 on the volume or value of referrals to the facility, provided
20 that:

21 (a) The facility is not subject to the provisions of
22 42 U.S.C. s. 1320a-7b;

23 (b) Payment to the contract provider is made under a
24 nonexclusive contract;

25 (c) The contract provider represents multiple
26 facilities with different owners;

27 (d) The employee or contract provider clearly
28 indicates to all clients prior to referral that he or she
29 represents the facility, in addition to all other facilities
30 represented by the person or agency; and

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