

By the Committee on Health, Aging, and Long-Term Care; and  
Senator Saunders

317-1837-03

1                                   A bill to be entitled  
2           An act relating to retirement communities;  
3           amending s. 400.235, F.S., relating to the Gold  
4           Seal Program; amending standards for evidence  
5           of financial soundness and stability of certain  
6           nursing home facilities; amending s. 400.141,  
7           F.S.; amending prerequisites that certain  
8           nursing homes must fulfill to qualify for  
9           sharing programming and staff with other  
10          entities that are part of a retirement  
11          community; amending ss. 651.081, 651.085, F.S.;  
12          providing for the establishment of a residents'  
13          organization; providing for the purposes of  
14          such an organization; requiring notice of a  
15          meeting or ballot election to select a  
16          designated representative to represent a  
17          residents' organization before the governing  
18          body of a continuing care provider; providing  
19          an effective date.

21 Be It Enacted by the Legislature of the State of Florida:

23           Section 1. Paragraph (b) of subsection (5) of section  
24 400.235, Florida Statutes, is amended to read:

25           400.235 Nursing home quality and licensure status;  
26 Gold Seal Program.--

27           (5) Facilities must meet the following additional  
28 criteria for recognition as a Gold Seal Program facility:

29           (b) Evidence financial soundness and stability  
30 according to standards adopted by the agency in administrative  
31 rule. A nursing home that is part of the same corporate entity

1 as a continuing care facility licensed under chapter 651 which  
2 meets the minimum liquid reserve requirements specified in s.  
3 651.035 and is accredited by a recognized accrediting  
4 organization under s. 651.028 and rules of the Office of  
5 Insurance Regulation satisfies this requirement as long as the  
6 accreditation is not provisional.

7  
8 A facility assigned a conditional licensure status may not  
9 qualify for consideration for the Gold Seal Program until  
10 after it has operated for 30 months with no class I or class  
11 II deficiencies and has completed a regularly scheduled  
12 relicensure survey.

13 Section 2. Subsection (7) of section 400.141, Florida  
14 Statutes, is amended to read:

15 400.141 Administration and management of nursing home  
16 facilities.--Every licensed facility shall comply with all  
17 applicable standards and rules of the agency and shall:

18 (7) If the facility has a standard license ~~licensure~~  
19 ~~status~~ or is a Gold Seal facility, exceeds the minimum  
20 required hours of licensed nursing and certified nursing  
21 assistant direct care per resident per day ~~staffing standards,~~  
22 and is part of a continuing care facility licensed under  
23 chapter 651 or a retirement community that offers other  
24 services pursuant to part III, part IV, or part V on a single  
25 campus, be allowed to share programming and staff. At the  
26 time of relicensure, a continuing care facility or retirement  
27 community that uses this option must demonstrate through  
28 staffing records that minimum staffing requirements for the  
29 facility were exceeded. Licensed nurses and certified nursing  
30 assistants may be used to provide services elsewhere on campus  
31 if the facility exceeds the minimum number of direct care

1 hours required per resident per day and the number of  
2 residents served on campus by a licensed nurse or a certified  
3 nursing assistant never drops below the staffing ratios  
4 required under s. 400.23(3)(a). If the facility receives a  
5 conditional license, it may not share staff until the  
6 conditional license status ends. This subsection does not  
7 restrict the agency's authority under federal or state law to  
8 require additional staff if a facility is cited for  
9 deficiencies in care which are caused by an insufficient  
10 number of certified nursing assistants or licensed nurses.

11 Section 3. Section 651.081, Florida Statutes, is  
12 amended to read:

13 651.081 Continuing care facilities residents'  
14 organizations.--

15 (1) Residents living in a facility holding a valid  
16 certificate of authority under this chapter have the right of  
17 self-organization, the right to be represented by an  
18 individual of their own choosing, and the right to engage in  
19 concerted activities for the purpose of keeping informed on  
20 the operation of the facility which is caring for them or for  
21 the purpose of other mutual aid or protection.

22 (2) A residents' organization created for the purpose  
23 of representing residents on matters set forth in s. 651.085  
24 may be established through an election in which the residents,  
25 as defined in this chapter, vote by ballot, either physically  
26 or by proxy. If the election is to be held during a meeting, a  
27 notice of the organizational meeting must be provided to all  
28 residents of the community at least 10 business days before  
29 the meeting. Notice may be given through internal mailboxes,  
30 communitywide newsletters, bulletin boards, in-house  
31 television stations, and other similar means of communication.

1 An election for creating a residents' organization is valid if  
2 at least 40 percent of the total resident population  
3 participates in the election and a majority of the  
4 participants vote affirmatively for the organization. The  
5 initial residents' organization created under this section is  
6 valid for at least 12 months. If the facility has a residents'  
7 association, residents' council, or similarly organized body  
8 with bylaws and elected officials, such organization must be  
9 recognized as the residents' organization under this section  
10 and s. 651.085. There shall be only one residents'  
11 organization to represent residents before the governing body  
12 of the provider as described in s. 651.085(2).

13 Section 4. Subsection (2) of section 651.085, Florida  
14 Statutes, is amended to read:

15 651.085 Quarterly meetings between residents and the  
16 governing body of the provider; resident representation before  
17 the governing body of the provider.--

18 (2) A residents' organization formed pursuant to s.  
19 651.081, members of which are elected by the residents, may  
20 designate a resident to represent them before the governing  
21 body of the provider or organize a meeting or ballot election  
22 ~~of the majority~~ of the residents of the facility to determine  
23 whether to elect a resident to represent them before the  
24 governing body of the provider. If a ~~no~~ residents'  
25 organization as described in s. 651.081 does not exist ~~exists~~,  
26 any resident may organize a meeting or ballot election ~~of the~~  
27 ~~majority~~ of the residents of the facility to determine whether  
28 to elect a resident to represent them before the governing  
29 body and, if applicable, elect the representative. The  
30 residents' organization, or the resident that organizes  
31 ~~convenes~~ a meeting or ballot election ~~of residents~~ to ~~make the~~

1 ~~determination or~~ elect a representative, shall give all  
2 residents of the facility notice at least 10 business days  
3 before the meeting or election 7 days' notice in a conspicuous  
4 place at the facility. Notice may be given through internal  
5 mailboxes, communitywide newsletters, bulletin boards,  
6 in-house television stations, and other similar means of  
7 communication. An election of the representative is valid if  
8 at least 40 percent of the total resident population  
9 participates in the election and a majority of the  
10 participants vote affirmatively for the representative. The  
11 initial designated representative elected under this section  
12 shall be elected to serve for a period of at least 12 months.

13 Section 5. This act shall take effect upon becoming a  
14 law.

15  
16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
17 COMMITTEE SUBSTITUTE FOR  
18 SB 296

19 The Committee Substitute for Senate Bill 296 modifies  
20 conditions in the bill under which a nursing home facility may  
21 share staff and programs to: restrict such sharing to  
22 Continuing Care Retirement Communities or retirement  
23 communities which meet certain conditions; remove a condition  
24 that required that the facility which is sharing staff and  
25 programming not have had a conditional license caused by a  
26 staffing deficiency; remove specifications of minimum hours of  
27 care which must be provided under staff sharing arrangements;  
28 require that under staff sharing arrangements minimum staffing  
29 requirements be exceeded; remove a prohibition against staff  
30 sharing for a year after conditional licensure status ends, if  
31 the conditional status was caused partly or wholly by a  
deficiency in care resulting from an insufficient number of  
staff; prohibit staff sharing arrangements while a facility  
has a conditional licensure status; and clarify that the  
subsection does not restrict the agency's authority to require  
additional staff if a facility is cited for deficiencies in  
care caused by an insufficient number of certified nursing  
assistants or licensed nurses. The Committee Substitute adds  
a requirement that there be only one Continuing Care  
Retirement Community resident's organization to represent  
residents before the governing body of a provider.