

By the Committees on Banking and Insurance; Health, Aging, and Long-Term Care; and Senator Saunders

311-1931-03

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; authorizing the Agency for Health  
12          Care Administration to adopt rules; amending  
13          ss. 651.081, 651.085, F.S.; providing for the  
14          establishment of a residents' organization;  
15          providing for the purposes of such an  
16          organization; requiring notice of a meeting or  
17          ballot election to select a designated  
18          representative to represent a residents'  
19          organization before the governing body of a  
20          continuing care provider; providing an  
21          effective date.

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

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25           Section 1. Paragraph (b) of subsection (5) of section  
26   400.235, Florida Statutes, is amended to read:

27           400.235 Nursing home quality and licensure status;  
28   Gold Seal Program.--

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

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1 (b) Evidence financial soundness and stability  
2 according to standards adopted by the agency in administrative  
3 rule. A nursing home that is part of the same corporate entity  
4 as a continuing care facility licensed under chapter 651 which  
5 meets the minimum liquid reserve requirements specified in s.  
6 651.035 and is accredited by a recognized accrediting  
7 organization under s. 651.028 and rules of the Office of  
8 Insurance Regulation satisfies this requirement as long as the  
9 accreditation is not provisional.

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

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

18 400.141 Administration and management of nursing home  
19 facilities.--Every licensed facility shall comply with all  
20 applicable standards and rules of the agency and shall:

21 (7) If the facility has a standard license ~~licensure~~  
22 ~~status~~ or is a Gold Seal facility, exceeds the minimum  
23 required hours of licensed nursing and certified nursing  
24 assistant direct care per resident per day ~~staffing standards,~~  
25 and is part of a continuing care facility licensed under  
26 chapter 651 or a retirement community that offers other  
27 services pursuant to part III, part IV, or part V on a single  
28 campus, be allowed to share programming and staff. At the  
29 time of inspection and in the semiannual report required  
30 pursuant to s. 400.141(15)~~relicensure~~, a continuing care  
31 facility or retirement community that uses this option must

1 demonstrate through staffing records that minimum staffing  
2 requirements for the facility were ~~met~~ ~~exceeded~~. Licensed  
3 nurses and certified nursing assistants who work in the  
4 nursing home facility may be used to provide services  
5 elsewhere on campus if the facility exceeds the minimum number  
6 of direct care hours required per resident per day and the  
7 total number of residents receiving direct care services from  
8 a licensed nurse or a certified nursing assistant does not  
9 cause the facility to violate the staffing ratios required  
10 under s. 400.23(3)(a). Compliance with the minimum staffing  
11 ratios shall be based on total number of residents receiving  
12 direct care services, regardless of where they reside on  
13 campus. If the facility receives a conditional license, it may  
14 not share staff until the conditional license status ends.  
15 This subsection does not restrict the agency's authority under  
16 federal or state law to require additional staff if a facility  
17 is cited for deficiencies in care which are caused by an  
18 insufficient number of certified nursing assistants or  
19 licensed nurses. The agency may adopt rules for the  
20 documentation necessary to determine compliance with this  
21 provision.

22 Section 3. Section 651.081, Florida Statutes, is  
23 amended to read:

24 651.081 Continuing care facilities residents'  
25 organizations.--

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

3 (2) A residents' organization created for the purpose  
4 of representing residents on matters set forth in s. 651.085  
5 may be established through an election in which the residents,  
6 as defined in this chapter, vote by ballot, either physically  
7 or by proxy. If the election is to be held during a meeting, a  
8 notice of the organizational meeting must be provided to all  
9 residents of the community at least 10 business days before  
10 the meeting. Notice may be given through internal mailboxes,  
11 communitywide newsletters, bulletin boards, in-house  
12 television stations, and other similar means of communication.  
13 An election for creating a residents' organization is valid if  
14 at least 40 percent of the total resident population  
15 participates in the election and a majority of the  
16 participants vote affirmatively for the organization. The  
17 initial residents' organization created under this section is  
18 valid for at least 12 months. If the facility has a residents'  
19 association, residents' council, or similarly organized body  
20 with bylaws and elected officials, such organization must be  
21 recognized as the residents' organization under this section  
22 and s. 651.085. There shall be only one residents'  
23 organization to represent residents before the governing body  
24 of the provider as described in s. 651.085(2).

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

27 651.085 Quarterly meetings between residents and the  
28 governing body of the provider; resident representation before  
29 the governing body of the provider.--

30 (2) A residents' organization formed pursuant to s.  
31 651.081, members of which are elected by the residents, may

1 designate a resident to represent them before the governing  
2 body of the provider or organize a meeting or ballot election  
3 ~~of the majority~~ of the residents of the facility to determine  
4 whether to elect a resident to represent them before the  
5 governing body of the provider. If a no residents'  
6 organization as described in s. 651.081 does not exist ~~exists~~,  
7 any resident may organize a meeting or ballot election ~~of the~~  
8 ~~majority~~ of the residents of the facility to determine whether  
9 to elect a resident to represent them before the governing  
10 body and, if applicable, elect the representative. The  
11 residents' organization, or the resident that organizes  
12 ~~convenes~~ a meeting or ballot election ~~of residents~~ to ~~make the~~  
13 ~~determination or~~ elect a representative, shall give all  
14 residents of the facility notice at least 10 business days  
15 before the meeting or election ~~7 days' notice in a conspicuous~~  
16 ~~place at the facility.~~ Notice may be given through internal  
17 mailboxes, communitywide newsletters, bulletin boards,  
18 in-house television stations, and other similar means of  
19 communication. An election of the representative is valid if  
20 at least 40 percent of the total resident population  
21 participates in the election and a majority of the  
22 participants vote affirmatively for the representative. The  
23 initial designated representative elected under this section  
24 shall be elected to serve for a period of at least 12 months.

25 Section 5. This act shall take effect upon becoming a  
26 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS for SB 296

The Committee Substitute provides the following changes:

1. Clarifies the circumstances under which a continuing care facility or retirement community may use direct care staff from nursing homes to serve residents who live elsewhere on campus if the staffing exceeds the minimum requirements.
2. Requires retirement communities that use shared staffing to report and demonstrate compliance with staffing requirements at the time of inspection and in the semiannual report, rather than at relicensure.
3. Authorizes the Agency for Health Care Administration to adopt rules for the documentation necessary to determine compliance with the staffing requirements.