



HB 0705

2003  
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CHAMBER ACTION

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The Committee on Future of Florida's Families recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to retirement communities; amending s. 400.141, F.S.; revising prerequisites that certain nursing homes must fulfill to qualify for sharing programming and staff with other entities that are part of a retirement community; authorizing the Agency for Health Care Administration to adopt rules; amending s. 400.235, F.S.; revising standards for evidence of financial soundness and stability of certain nursing home facilities in the Gold Seal Program; amending ss. 651.081 and 651.085, F.S.; providing for the establishment of a residents' organization for certain purposes; requiring notice of a meeting or ballot election to select a designated representative to represent a residents' organization before the governing body of a provider; providing an effective date.

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



HB 0705

2003  
CS

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30 Section 1. Subsection (7) of section 400.141, Florida  
31 Statutes, is amended to read:

32 400.141 Administration and management of nursing home  
33 facilities.--Every licensed facility shall comply with all  
34 applicable standards and rules of the agency and shall:

35 (7) If the facility has a standard license licensure  
36 status or is a Gold Seal facility, exceeds the minimum required  
37 hours of licensed nursing and certified nursing assistant direct  
38 care per resident per day staffing standards, and is part of a  
39 continuing care facility licensed under chapter 651 or a  
40 retirement community that offers other services pursuant to part  
41 III, part IV, or part V on a single campus, be allowed to share  
42 programming and staff. At the time of inspection and in the  
43 semiannual report required pursuant to s. 400.141(15)  
44 relicensure, a continuing care facility or retirement community  
45 that uses this option must demonstrate through staffing records  
46 that minimum staffing requirements for the facility were met  
47 exceeded. Licensed nurses and certified nursing assistants who  
48 work in the nursing home facility may be used to provide  
49 services elsewhere on campus if the facility exceeds the minimum  
50 number of direct care hours required per resident per day and  
51 the total number of residents receiving direct care services  
52 from a licensed nurse or a certified nursing assistant does not  
53 cause the facility to violate the staffing ratios required under  
54 s. 400.23(3)(a). Compliance with the minimum staffing ratios  
55 shall be based on the total number of residents receiving direct  
56 care services, regardless of where they reside on campus. If the



HB 0705

2003  
CS

57 facility receives a conditional license, it may not share staff  
58 until the conditional license status ends. This subsection does  
59 not restrict the agency's authority under federal or state law  
60 to require additional staff if a facility is cited for  
61 deficiencies in care which are caused by an insufficient number  
62 of certified nursing assistants or licensed nurses. The agency  
63 may adopt rules for the documentation necessary to determine  
64 compliance with this subsection.

65

66 Facilities that have been awarded a Gold Seal under the program  
67 established in s. 400.235 may develop a plan to provide  
68 certified nursing assistant training as prescribed by federal  
69 regulations and state rules and may apply to the agency for  
70 approval of their program.

71 Section 2. Paragraph (b) of subsection (5) of section  
72 400.235, Florida Statutes, is amended to read:

73 400.235 Nursing home quality and licensure status; Gold  
74 Seal Program.--

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

77 (b) Evidence financial soundness and stability according  
78 to standards adopted by the agency in administrative rule. A  
79 nursing home that is part of the same corporate entity as a  
80 continuing care facility licensed under chapter 651 which meets  
81 the minimum liquid reserve requirements specified in s. 651.035  
82 and is accredited by a recognized accrediting organization under  
83 s. 651.028 and rules of the Office of Insurance Regulation



HB 0705

2003  
CS

84 satisfies this requirement as long as the accreditation is not  
85 provisional.

86  
87 A facility assigned a conditional licensure status may not  
88 qualify for consideration for the Gold Seal Program until after  
89 it has operated for 30 months with no class I or class II  
90 deficiencies and has completed a regularly scheduled relicensure  
91 survey.

92 Section 3. Section 651.081, Florida Statutes, is amended  
93 to read:

94 651.081 Continuing care facilities residents'  
95 organizations.--

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

103 (2) A residents' organization created for the purpose of  
104 representing residents on matters set forth in s. 651.085 may be  
105 established through an election in which the residents, as  
106 defined in this chapter, vote by ballot, either physically or by  
107 proxy. If the election is to be held during a meeting, a notice  
108 of the organizational meeting must be provided to all residents  
109 of the community at least 10 business days before the meeting.  
110 Notice may be given through internal mailboxes, communitywide  
111 newsletters, bulletin boards, in-house television stations, and



HB 0705

2003  
CS

112 other similar means of communication. An election for creating a  
 113 residents' organization is valid if at least 40 percent of the  
 114 total resident population participates in the election and a  
 115 majority of the participants vote affirmatively for the  
 116 organization. The initial residents' organization created under  
 117 this section is valid for at least 12 months. If the facility  
 118 has a residents' association, residents' council, or similarly  
 119 organized body with bylaws and elected officials, such  
 120 organization must be recognized as the residents' organization  
 121 under this section and s. 651.085. There shall be only one  
 122 residents' organization to represent residents before the  
 123 governing body of the provider as described in s. 651.085(2).

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

126 651.085 Quarterly meetings between residents and the  
 127 governing body of the provider; resident representation before  
 128 the governing body of the provider.--

129 (2) A residents' organization formed pursuant to s.  
 130 651.081, members of which are elected by the residents, may  
 131 designate a resident to represent them before the governing body  
 132 of the provider or organize a meeting or ballot election ~~of the~~  
 133 ~~majority~~ of the residents of the facility to determine whether  
 134 to elect a resident to represent them before the governing body  
 135 of the provider. If a ~~no~~ residents' organization as described in  
 136 s. 651.081 does not exist ~~exists~~, any resident may organize a  
 137 meeting or ballot election of the ~~majority of the~~ residents of  
 138 the facility to determine whether to elect a resident to  
 139 represent them before the governing body and, if applicable,



HB 0705

2003  
CS

140 elect the representative. The residents' organization, or the  
141 resident that organizes ~~convenes~~ a meeting or ballot election ~~of~~  
142 ~~residents~~ to ~~make the determination or~~ elect a representative,  
143 shall give all residents of the facility notice at least 10  
144 business days before the meeting or election ~~7 days' notice in a~~  
145 ~~conspicuous place at the facility.~~ Notice may be given through  
146 internal mailboxes, communitywide newsletters, bulletin boards,  
147 in-house television stations, and other similar means of  
148 communication. An election of the representative is valid if at  
149 least 40 percent of the total resident population participates  
150 in the election and a majority of the participants vote  
151 affirmatively for the representative. The initial designated  
152 representative elected under this section shall be elected to  
153 serve for a period of at least 12 months.

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