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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: UNFAV | . | |
| 03/01/2018 | . | |
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The Committee on Rules (Lee) recommended the following:

Senate Amendment (with title amendment)

Between lines 3703 and 3704

insert:

Section 125. Section 651.091, Florida Statutes, is amended to read:

651.091 Availability, distribution, and posting of reports and records; requirement of full disclosure.—

(1) Each continuing care facility shall maintain as public information, available upon request, records of all cost and inspection reports pertaining to that facility which have been



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12 filed with or issued by any governmental agency. A copy of each
13 report shall be retained for at least 5 years after the date the
14 report is filed or issued. Each facility shall also maintain as
15 public information, available upon request, all annual
16 statements that have been filed with the office. For purposes of
17 this section, a management company or operator is considered an
18 agent of the provider.

19 (2) Every continuing care facility shall:

20 (a) Display the certificate of authority in a conspicuous
21 place inside the facility.

22 (b) Post in a prominent position in the facility which is
23 accessible to all residents and the general public a concise
24 summary of the last examination report issued by the office,
25 with references to the page numbers of the full report noting
26 any deficiencies found by the office, and the actions taken by
27 the provider to rectify such deficiencies, indicating in such
28 summary where the full report may be inspected in the facility.

29 (c) Post in a prominent position in the facility which is
30 accessible to all residents and the general public a summary of
31 the latest annual statement, indicating in the summary where the
32 full annual statement may be inspected in the facility. A
33 listing of any proposed changes in policies, programs, and
34 services must also be posted.

35 (d) Distribute a copy of the full annual statement and a
36 copy of the most recent third party financial audit filed with
37 the annual report to the president or chair of the residents'
38 council within 30 days after filing the annual report with the
39 office, and designate a staff person to provide explanation
40 thereof.



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41 (e) Notify the residents' council of any plans filed with
42 the office to obtain new financing, additional financing, or
43 refinancing for the facility and of any applications to the
44 office for any expansion of the facility.

45 (f) Deliver to the president or chair of the residents'
46 council a summary of entrance fees collected and refunds made
47 during the time period covered in the annual report and the
48 refund balances due at the end of the report period.

49 (g) Deliver to the president or chair of the residents'
50 council a copy of each quarterly statement within 30 days after
51 the quarterly statement is filed with the office if the facility
52 is required to file quarterly.

53 (h) Upon request, deliver to the president or chair of the
54 residents' council a copy of any newly approved continuing care
55 or continuing care at-home contract within 30 days after
56 approval by the office.

57 (i) A copy of the resident's rights as described in s.
58 651.083.

59 (j) Notice of the issuance of an examination report by the
60 office or the initiation of any legal or administrative
61 proceeding by the office or the department, including where the
62 public report or filing may be inspected in the facility, and
63 that upon request, an electronic copy or specific website
64 address of the office or department will be provided where the
65 public document can be downloaded at no cost.

66 (k) Notice of a resident's right to rescind a continuing
67 care contract pursuant to s. 651.055(2).

68 (l) If the provider operates multiple facilities, a
69 disclosure of any existing plans of distribution of assets or



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70 income between facilities that may occur and the manner in which
71 such distributions would be made, or a statement that such
72 distributions are not expected to occur.

73 (m) Notice of any holding company system or obligated group
74 of which the provider is a member.

75 (3) Before entering into a contract to furnish continuing
76 care or continuing care at-home, the provider undertaking to
77 furnish the care, or the agent of the provider, shall make full
78 disclosure, and provide copies of the disclosure documents to
79 the prospective resident or his or her legal representative, of
80 the following information:

81 (a) The contract to furnish continuing care or continuing
82 care at-home.

83 (b) The summary listed in paragraph (2) (b).

84 (c) All ownership interests and lease agreements, including
85 information specified in s. 651.022(2) (b)8.

86 (d) In keeping with the intent of this subsection relating
87 to disclosure, the provider shall make available for review
88 master plans approved by the provider's governing board and any
89 plans for expansion or phased development, to the extent that
90 the availability of such plans does not put at risk real estate,
91 financing, acquisition, negotiations, or other implementation of
92 operational plans and thus jeopardize the success of
93 negotiations, operations, and development.

94 (e) Copies of the rules and regulations of the facility and
95 an explanation of the responsibilities of the resident.

96 (f) The policy of the facility with respect to admission to
97 and discharge from the various levels of health care offered by
98 the facility.



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99 (g) The amount and location of any reserve funds required
100 by this chapter, and the name of the person or entity having a
101 claim to such funds in the event of a bankruptcy, foreclosure,
102 or rehabilitation proceeding.

103 (h) A copy of s. 651.071.

104 (i) A copy of the resident's rights as described in s.
105 651.083.

106 (4) A true and complete copy of the full disclosure
107 document to be used must be filed with the office before use. A
108 resident or prospective resident or his or her legal
109 representative may inspect the full reports referred to in
110 paragraph (2) (b); the charter or other agreement or instrument
111 required to be filed with the office pursuant to s. 651.022(2),
112 together with all amendments thereto; and the bylaws of the
113 corporation or association, if any. Upon request, copies of the
114 reports and information shall be provided to the individual
115 requesting them if the individual agrees to pay a reasonable
116 charge to cover copying costs.

117 Section 126. Section 651.105, Florida Statutes, is amended
118 to read:

119 651.105 Examination ~~and inspections~~.—

120 (1) The office may at any time, and shall at least once
121 every 3 years, examine the business of any applicant for a
122 certificate of authority and any provider engaged in the
123 execution of care contracts or engaged in the performance of
124 obligations under such contracts, in the same manner as is
125 provided for the examination of insurance companies pursuant to
126 s. 624.316. For a provider as defined in s. 651.028, such
127 examinations shall take place at least once every 5 years. Such



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128 examinations shall be made by a representative or examiner
129 designated by the office whose compensation will be fixed by the
130 office pursuant to s. 624.320. Routine examinations may be made
131 by having the necessary documents submitted to the office; and,
132 for this purpose, financial documents and records conforming to
133 commonly accepted accounting principles and practices, as
134 required under s. 651.026, are deemed adequate. The final
135 written report of each examination must be filed with the office
136 and, when so filed, constitutes a public record. Any provider
137 being examined shall, upon request, give reasonable and timely
138 access to all of its records. The representative or examiner
139 designated by the office may at any time examine the records and
140 affairs and inspect the physical property of any provider,
141 whether in connection with a formal examination or not.

142 (2) Any duly authorized officer, employee, or agent of the
143 office may, upon presentation of proper identification, have
144 access to, and inspect, any records, with or without advance
145 notice, to secure compliance with, or to prevent a violation of,
146 any provision of this chapter.

147 (3) Reports of the results of such financial examinations
148 must be kept on file by the office. Any investigatory records,
149 reports, or documents held by the office are confidential and
150 exempt from the provisions of s. 119.07(1), until the
151 investigation is completed or ceases to be active. For the
152 purpose of this section, an investigation is active while it is
153 being conducted by the office with a reasonable, good faith
154 belief that it could lead to the filing of administrative,
155 civil, or criminal proceedings. An investigation does not cease
156 to be active if the office is proceeding with reasonable



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157 dispatch and has a good faith belief that action could be
158 initiated by the office or other administrative or law
159 enforcement agency.

160 (4) The office shall notify the provider and the executive
161 officer of the governing body of the provider in writing of all
162 deficiencies in its compliance with the provisions of this
163 chapter and the rules adopted pursuant to this chapter and shall
164 set a reasonable length of time for compliance by the provider.
165 In addition, the office shall require corrective action or
166 request a corrective action plan from the provider which plan
167 demonstrates a good faith attempt to remedy the deficiencies by
168 a specified date. If the provider fails to comply within the
169 established length of time, the office may initiate action
170 against the provider in accordance with the provisions of this
171 chapter.

172 (5) A provider must respond to written correspondence from
173 the office and provide data, documents, financial statements,
174 records, and other information as requested by the office. The
175 office has standing to petition a circuit court to compel access
176 to and require the provider to produce such data, documents,
177 financial statements, records, and other information requested
178 by the office. The office may petition the circuit court in the
179 county in which the facility is situated or the Circuit Court of
180 Leon County to enforce this section.

181 (6)~~(5)~~ At the time of the routine examination, the office
182 shall determine if all disclosures required under this chapter
183 have been made to the president or chair of the residents'
184 council and the executive officer of the governing body of the
185 provider.



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186 (7)~~(6)~~ A representative of the provider must give a copy of
187 the final examination report and corrective action plan, if one
188 is required by the office, to the executive officer of the
189 governing body of the provider within 60 days after issuance of
190 the report.

191 Section 127. Section 651.024, Florida Statutes, is amended
192 to read:

193 651.024 Acquisition.—

194 (1) A person who seeks to assume the role of general
195 partner of a provider or otherwise assume ownership or
196 possession of, or control over, 10 percent or more of a
197 provider's assets, based on the balance sheet from the most
198 recent financial audit filed with the office, or who seeks to
199 acquire 10 percent or more of the ownership interest of a is
200 subject to the provisions of s. 628.4615 and is not required to
201 make filings pursuant to s. 651.022 or s. 651.023.

202 (2) A person may rebut a presumption of control by filing a
203 disclaimer of control with the office on a form prescribed by
204 the commission. The disclaimer must fully disclose all material
205 relationships and bases for affiliation between the person and
206 the provider or facility, as well as the basis for disclaiming
207 the affiliation. In lieu of such form, a person or acquiring
208 party may file with the office a copy of a Schedule 13G filed
209 with the Securities and Exchange Commission pursuant to Rule
210 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities
211 Exchange Act of 1934, as amended. After a disclaimer has been
212 filed, the provider or facility is relieved of any duty to
213 register or report under this section which may arise out of the
214 provider's or facility's relationship with the person, unless



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215 the office disallows the disclaimer.

216 (3) In addition to the facility or the controlling company,
217 the office has standing to petition a circuit court as described
218 in s. 628.4615(9) issued a certificate of authority to operate a
219 continuing care facility or a provisional certificate of
220 authority shall be subject to the provisions of s. 628.4615.

221

222 ===== T I T L E A M E N D M E N T =====

223 And the title is amended as follows:

224 Delete line 291

225 and insert:

226 testimony; amending s. 651.091, F.S.; revising
227 requirements for continuing care facilities; revising
228 disclosure requirements for a provider and his or her
229 agent; amending s. 651.105, F.S.; requiring a provider
230 to respond and provide certain information to the
231 Office of Insurance Regulation; amending s. 651.024,
232 F.S.; revising provisions related to the acquisition
233 of a continuing care facility; amending s. 945.36,
234 F.S.; authorizing law