

1 A bill to be entitled
2 An act relating to continuing care providers; amending
3 s. 651.011, F.S.; providing definitions; amending s.
4 651.012, F.S.; conforming a cross-reference; amending
5 s. 651.0246, F.S.; revising requirements for the
6 feasibility study submitted by continuing care
7 providers for expansion of certificated facilities;
8 revising circumstances under which continuing care
9 providers are entitled to secure release of moneys
10 held in escrow; revising the timeframe for the review
11 and approval of certificated facility expansion
12 applications; amending s. 651.026, F.S.; revising
13 requirements under certain circumstances for financial
14 reports filed with the Office of Insurance Regulation;
15 amending s. 651.0261, F.S.; conforming a cross-
16 reference; amending s. 651.033, F.S.; revising
17 requirements for escrow accounts of certificated
18 facilities; revising the circumstance under which a
19 provider may hold an entrance fee check for a
20 specified timeframe; amending s. 651.034, F.S.;
21 revising the timeframe during which the office may
22 exempt a provider from certain regulatory actions;
23 authorizing the office to temporarily suspend certain
24 requirements for providers under certain
25 circumstances; amending s. 651.035, F.S.; providing

26 requirements for certain agreements relating to debt
27 service reserve funds maintained in escrow by
28 providers; revising minimum liquid reserve
29 requirements; revising proof that such requirements
30 are met; revising circumstances under which provider
31 may withdraw funds held in escrow without the office's
32 approval; amending s. 651.055, F.S.; providing
33 circumstances under which forfeiture penalties are
34 authorized upon cancellations of continuing care
35 contracts; providing exceptions; conforming a
36 provision to changes made by the act; amending s.
37 651.081, F.S.; revising residents' council authority;
38 providing residents' rights; amending s. 651.083,
39 F.S.; revising residents' rights; amending s. 651.085,
40 F.S.; providing requirements and duties for designated
41 resident representatives rather than designated
42 representatives; providing qualifications; providing
43 duties for residents serving on a facility's board or
44 governing body; amending s. 651.091, F.S.; providing
45 additional duties for continuing care facilities and
46 providers relating to distribution and disclosure of
47 certain documents and information; amending s.
48 651.105, F.S.; providing requirements for examinations
49 of certain continuing care businesses and providers;
50 deleting a provision requiring delivery of certain

51 reports; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Subsections (13) through (26) and subsection
56 (27) of section 651.011, Florida Statutes, are renumbered as
57 subsections (14) through (27) and subsection (29), respectively,
58 and a new subsection (13) and subsection (28) are added to that
59 section, to read:

60 651.011 Definitions.—As used in this chapter, the term:

61 (13) "Designated resident representative" means a resident
62 who has been elected by the residents' council to represent
63 residents on matters related to changes in fees or services as
64 specified in s. 651.085(2) and (3).

65 (28) "Residents' council" means an organized body that
66 represents the resident population of a certificated facility. A
67 residents' council shall serve as a liaison between residents
68 and the appropriate representative of the provider.

69 Section 2. Section 651.012, Florida Statutes, is amended
70 to read:

71 651.012 Exempted facility; written disclosure of
72 exemption.—Any facility exempted under s. 632.637(1)(e) or
73 excluded from the definition of the term "provider" in s.
74 651.011 ss. 632.637(1)(e) and 651.011(23) must provide written
75 disclosure of such exemption to each person admitted to the

76 facility. This disclosure must be written using language likely
 77 to be understood by the person and must briefly explain the
 78 exemption.

79 Section 3. Paragraph (a) of subsection (2), paragraph (b)
 80 of subsection (4), and subsection (6) of section 651.0246,
 81 Florida Statutes, are amended to read:

82 651.0246 Expansions.—

83 (2) A provider applying for expansion of a certificated
 84 facility must submit all of the following:

85 (a) A feasibility study prepared by an independent
 86 certified public accountant. The feasibility study must include
 87 at least the following information:

88 1. A description of the facility and proposed expansion,
 89 including the location, the size, the anticipated completion
 90 date, and the proposed construction program.

91 2. An identification and evaluation of the primary and, if
 92 applicable, secondary market areas of the facility and the
 93 projected unit sales per month.

94 3. Projected revenues, including anticipated entrance
 95 fees; monthly service fees; nursing care revenues, if
 96 applicable; and all other sources of revenue.

97 4. Projected expenses, including for staffing requirements
 98 and salaries; the cost of property, plant, and equipment,
 99 including depreciation expense; interest expense; marketing
 100 expense; and other operating expenses.

- 101 5. A projected balance sheet of the applicant.
- 102 6. The expectations for the financial condition of the
 103 project, including the projected cash flow and an estimate of
 104 the funds anticipated to be necessary to cover startup losses.
- 105 7. The inflation factor, if any, assumed in the study for
 106 the proposed expansion and how and where it is applied.
- 107 8. Project costs; the total amount of debt financing
 108 required; marketing projections; resident rates, fees, and
 109 charges; the competition; resident contract provisions; and
 110 other factors that affect the feasibility of the facility.
- 111 9. Appropriate population projections, including morbidity
 112 and mortality assumptions.
- 113 10. The name of the person who prepared the feasibility
 114 study and his or her experience in preparing similar studies or
 115 otherwise consulting in the field of continuing care.
- 116 11. Financial forecasts or projections prepared in
 117 accordance with standards adopted by the American Institute of
 118 Certified Public Accountants or in accordance with standards for
 119 feasibility studies for continuing care retirement communities
 120 adopted by the Actuarial Standards Board.
- 121 12. An independent evaluation and examination opinion or
 122 compilation report acceptable to the office for the first 5
 123 years of operations, or a comparable opinion acceptable to the
 124 office, by the certified public accountant ~~consultant~~ who
 125 prepared the study, of the underlying assumptions used as a

126 basis for the forecasts or projections in the study and that the
127 assumptions are reasonable and proper and the project as
128 proposed is feasible.

129 13. Any other information that the provider deems relevant
130 and appropriate to provide to enable the office to make a more
131 informed determination.

132
133 If any material change occurs in the facts set forth in an
134 application filed with the office pursuant to this section, an
135 amendment setting forth such change must be filed with the
136 office within 10 business days after the applicant becomes aware
137 of such change, and a copy of the amendment must be sent by
138 registered mail to the principal office of the facility and to
139 the principal office of the controlling company.

140 (4) The provider is entitled to secure release of the
141 moneys held in escrow within 7 days after receipt by the office
142 of an affidavit from the provider, along with appropriate copies
143 to verify, and notification to the escrow agent by certified
144 mail that the following conditions have been satisfied:

145 (b) Payment in full has been received for at least 50
146 percent of the total units of a phase or of the total of the
147 combined phases constructed; or for at least 75 percent of the
148 proposed units for which an entrance fee is charged for a phase,
149 or for which a total of the combined phases are reserved, and
150 the provider submits an attestation to the office to use the

151 entrance fees collected and held in escrow for the sole purpose
152 of paying secured indebtedness as specified in the feasibility
153 study submitted to the office pursuant to paragraph (2) (a). If
154 the expansion is to be completed in multiple phases, the 75
155 percent reservation requirement applies separately to each phase
156 of the expansion. If a provider offering continuing care at-home
157 is applying for a release of escrowed entrance fees, the same
158 minimum requirement must be met for the continuing care and
159 continuing care at-home contracts independently of each other.

160

161 Notwithstanding chapter 120, only the provider, the escrow
162 agent, and the office have a substantial interest in any office
163 decision regarding release of escrow funds in any proceedings
164 under chapter 120 or this chapter.

165 (6) Within 30 ~~45~~ days after the date on which an
166 application is deemed complete as provided in paragraph (5) (b),
167 the office shall complete its review and, based upon its review,
168 approve an expansion by the applicant and issue a determination
169 that the application meets all requirements of law, that the
170 feasibility study was based on sufficient data and reasonable
171 assumptions, and that the applicant will be able to provide
172 continuing care or continuing care at-home as proposed and meet
173 all financial and contractual obligations related to its
174 operations, including the financial requirements of this
175 chapter. If the application is denied, the office must notify

176 the applicant in writing, citing the specific failures to meet
 177 the requirements of this chapter. The denial entitles the
 178 applicant to a hearing pursuant to chapter 120.

179 Section 4. Paragraph (b) of subsection (2) of section
 180 651.026, Florida Statutes, is amended to read:

181 651.026 Annual reports.—

182 (2) The annual report shall be in such form as the
 183 commission prescribes and shall contain at least the following:

184 (b) A financial report audited by an independent certified
 185 public accountant which must contain, for two or more periods if
 186 the facility has been in existence that long, all of the
 187 following:

188 1. An accountant's opinion and, in accordance with
 189 generally accepted accounting principles:

- 190 a. A balance sheet;
- 191 b. A statement of income and expenses;
- 192 c. A statement of equity or fund balances; and
- 193 d. A statement of changes in cash flows.

194 2. Notes to the financial report considered customary or
 195 necessary for full disclosure or adequate understanding of the
 196 financial report, financial condition, and operation.

197 3. If the provider's financial statements are consolidated
 198 or combined in accordance with generally accepted accounting
 199 principles with the financial statements of additional entities
 200 owned or controlled by the provider, the financial report must,

201 in addition to the provider's consolidated or combined financial
 202 statements, provide as supplemental information the provider's
 203 financial statements with the items in subparagraph 1. for the
 204 individual facility shown separately.

205 4. If the facility is a member of an obligated group, the
 206 facility may use the obligated group's audited financial
 207 statements if they contain the items in subparagraph 1. for the
 208 individual facility shown separately from other members of the
 209 obligated group.

210 Section 5. Subsection (1) of section 651.0261, Florida
 211 Statutes, is amended to read:

212 651.0261 Quarterly and monthly statements.—

213 (1) Within 45 days after the end of each fiscal quarter,
 214 each provider shall file a quarterly unaudited financial
 215 statement of the provider or of the facility in the form
 216 prescribed by commission rule and days cash on hand, occupancy,
 217 debt service coverage ratio, and a detailed listing of the
 218 assets maintained in the liquid reserve as required under s.
 219 651.035. The last quarterly statement for a fiscal year is not
 220 required if a provider does not have pending a regulatory action
 221 level event, impairment, or a corrective action plan. If a
 222 provider falls below two or more of the thresholds set forth in
 223 s. 651.011(26) ~~s. 651.011(25)~~ at the end of any fiscal quarter,
 224 the provider shall submit to the office, at the same time as the
 225 quarterly statement, an explanation of the circumstances and a

226 description of the actions it will take to meet the
 227 requirements.

228 Section 6. Paragraph (a) of subsection (1) and paragraph
 229 (c) of subsection (3) of section 651.033, Florida Statutes, are
 230 amended, and paragraph (a) of subsection (3) of that section is
 231 republished, to read:

232 651.033 Escrow accounts.—

233 (1) When funds are required to be deposited in an escrow
 234 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.
 235 651.0246, s. 651.035, or s. 651.055:

236 (a) The escrow account must be established in a Florida
 237 bank, Florida savings and loan association, Florida trust
 238 company, or a national bank that is chartered and supervised by
 239 the Office of the Comptroller of the Currency within the United
 240 States Department of the Treasury ~~and that has a branch in this~~
 241 ~~state~~, which is acceptable to the office, or such funds must be
 242 deposited with the department and be kept and maintained in an
 243 account separate and apart from the provider's business
 244 accounts.

245 (3) When entrance fees are required to be deposited in an
 246 escrow account pursuant to s. 651.0215, s. 651.022, s. 651.023,
 247 s. 651.0246, or s. 651.055:

248 (a) The provider shall deliver to the resident a written
 249 receipt. The receipt must show the payor's name and address, the
 250 date, the price of the care contract, and the amount of money

251 | paid. A copy of each receipt, together with the funds, must be
 252 | deposited with the escrow agent or as provided in paragraph (c).
 253 | The escrow agent must release such funds to the provider 7 days
 254 | after the date of receipt of the funds by the escrow agent if
 255 | the provider, operating under a certificate of authority issued
 256 | by the office, has met the requirements of s. 651.0215(8), s.
 257 | 651.023(6), or s. 651.0246. However, if the resident rescinds
 258 | the contract within the 7-day period, the escrow agent must
 259 | release the escrowed fees to the resident.

260 | (c) As an alternative to paragraph (a) ~~At the request of~~
 261 | ~~an individual resident of a facility~~, the provider may hold the
 262 | check for the 7-day period and may not deposit it during this
 263 | time period. If the resident rescinds the contract within the 7-
 264 | day period, the check must be immediately returned to the
 265 | resident. Upon the expiration of the 7 days, the provider shall
 266 | deposit the check.

267 | Section 7. Subsection (7) of section 651.034, Florida
 268 | Statutes, is renumbered as subsection (8), subsection (6) is
 269 | amended, and a new subsection (7) is added to that section, to
 270 | read:

271 | 651.034 Financial and operating requirements for
 272 | providers.—

273 | (6) The office may exempt a provider from subsection (1)
 274 | or subsection (2) until stabilized occupancy is reached or until
 275 | the time projected to achieve stabilized occupancy as reported

276 in the last feasibility study required by the office as part of
277 an application filing under s. 651.0215, s. 651.023, s. 651.024,
278 or s. 651.0246 has elapsed, but for no longer than 5 years
279 following the end of the provider's fiscal year in which ~~after~~
280 ~~the date of issuance of~~ the certificate of occupancy was issued.

281 (7) Upon written request of a provider, the office may
282 temporarily suspend all or a portion of the financial and
283 operating requirements under this chapter due to an
284 extraordinary event rendering the provider incapable of
285 continuing normal operations such as, but not limited to, a
286 pandemic, a fire, or a federal order or a Governor's executive
287 order or proclamation declaring a natural disaster that forces
288 the provider to evacuate, curtail operations, restrict
289 admissions, or suspend marketing for life safety reasons or
290 repairs related to the event. Such temporary suspension may be
291 granted by the office if the provider maintains compliance with
292 ss. 651.026, 651.0261, and 651.035 and the provider is not
293 insolvent or impaired. The provider shall comply with required
294 reporting requested by the office, including the estimated time
295 for completing repairs or remediating problems related to
296 restrictions on admissions or marketing. When determining
297 whether to grant a suspension of specific regulatory
298 requirements, the office must consider any formal action or
299 amendments approved by a lender or trustee to the provider's
300 lending agreements or bond covenants as a result of the event.

301 Section 8. Paragraph (b) of subsection (1), paragraph (a)
 302 of subsection (2), subsection (5), and paragraph (a) of
 303 subsection (7) of section 651.035, Florida Statutes, are amended
 304 to read:

305 651.035 Minimum liquid reserve requirements.—

306 (1) A provider shall maintain in escrow a minimum liquid
 307 reserve consisting of the following reserves, as applicable:

308 (b) A provider that has outstanding indebtedness that
 309 requires a debt service reserve to be held in escrow pursuant to
 310 a trust indenture or mortgage lien on the facility and for which
 311 the debt service reserve may only be used to pay principal and
 312 interest payments on the debt that the debtor is obligated to
 313 pay, and which may include property taxes and insurance, may
 314 include such debt service reserve in computing the minimum
 315 liquid reserve needed to satisfy this subsection if the provider
 316 furnishes to the office a copy of the agreement under which such
 317 debt service reserve is held, together with a statement of the
 318 amount being held in escrow for the debt service reserve,
 319 certified by the lender or trustee and the provider to be
 320 correct. The trustee shall provide the office with any
 321 information concerning the debt service reserve account upon
 322 request of the provider or the office. In addition, the trust
 323 indenture, loan agreement, or escrow agreement must provide that
 324 the provider, trustee, lender, escrow agent, or a person
 325 designated to act in its place shall notify the office in

326 writing at least 10 days before the withdrawal of any portion of
327 the debt service reserve funds required to be held in escrow as
328 described in this paragraph. The notice must include an
329 affidavit sworn to by the provider, the trustee, or a person
330 designated to act in its place which includes the amount of the
331 scheduled debt service payment, the payment due date, the amount
332 of the withdrawal, the accounts from which the withdrawal will
333 be made, and a plan with a schedule for replenishing the
334 withdrawn funds. If the plan is revised by a consultant that is
335 retained as prescribed in the provider's financing documents,
336 the revised plan must be submitted to the office within 10 days
337 after the approval by the lender or trustee. Any such separate
338 debt service reserves are not subject to the transfer provisions
339 set forth in subsection (8).

340 (2)(a) In facilities where not all residents are under
341 continuing care or continuing care at-home contracts, the
342 reserve requirements of subsection (1) shall be computed only
343 with respect to the proportional share of operating expenses
344 that are applicable to residents. For purposes of this
345 calculation, the proportional share shall be based upon the
346 ratio of residents under continuing care or continuing care at-
347 home contracts to the total of all residents, including those
348 residents who do not hold such contracts.

349 (5) A provider may satisfy the minimum liquid reserve
350 requirements of this section by acquiring from a financial

351 institution, as specified in paragraph (b), a clean,
 352 unconditional irrevocable letter of credit equal to the
 353 requirements of this section, less the amount of escrowed
 354 operating cash required in paragraph (d).

355 (a) The letter of credit must be issued by a financial
 356 institution participating in the State of Florida Treasury
 357 Certificate of Deposit Program or a Florida bank, Florida
 358 savings and loan association, Florida trust company, or a
 359 national bank that is chartered and supervised by the Office of
 360 the Comptroller of the Currency within the United States
 361 Department of the Treasury, and must be approved by the office
 362 before issuance and before any renewal or modification thereof.
 363 At a minimum, the letter of credit must provide for:

364 1. Ninety days' prior written notice to both the provider
 365 and the office of the financial institution's determination not
 366 to renew or extend the term of the letter of credit.

367 2. Unless otherwise arranged by the provider to the
 368 satisfaction of the office, deposit by the financial institution
 369 of letter of credit funds in an account designated by the office
 370 no later than 30 days before the expiration of the letter of
 371 credit.

372 3. Deposit by the financial institution of letter of
 373 credit funds in an account designated by the office within 4
 374 business days following written instructions from the office
 375 that, in the sole judgment of the office, funding of the minimum

376 liquid reserve is required.

377 (b) The terms of the letter of credit must be approved by
378 the office and the long-term debt of the financial institution
379 providing such letter of credit must be rated in one of their
380 top three long-term debt rating categories by either Moody's
381 Investors Service, Standard & Poor's Corporation, or a
382 recognized securities rating agency acceptable to the office.

383 (c) The letter of credit must name the office as
384 beneficiary.

385 (d) Notwithstanding any other provision of this section, a
386 provider using a letter of credit pursuant to this subsection
387 shall, at all times, have and maintain in escrow an operating
388 cash reserve equal to 2 months' operating expenses as determined
389 pursuant to s. 651.026.

390 (e) If the issuing financial institution no longer
391 participates in the State of Florida Treasury Certificate of
392 Deposit Program, such financial institution shall deposit as
393 collateral with the department eligible securities, as
394 prescribed by s. 625.52, having a market value equal to or
395 greater than 100 percent of the stated amount of the letter of
396 credit.

397 (7)(a) A provider may withdraw funds held in escrow
398 without the approval of the office if:

399 1. The amount held in escrow exceeds the requirements of
400 this section and if the withdrawal will not affect compliance

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401 with this section; or

402 2. The withdrawal is from a debt service reserve required
403 to be held in escrow pursuant to a trust indenture or mortgage
404 lien on the facility as described in paragraph (1) (b) and the
405 funds withdrawn will be used to pay delinquent principal and
406 interest payments that the debtor is obligated to pay on the
407 facility.

408 Section 9. Subsection (2) of section 651.055, Florida
409 Statutes, is amended to read:

410 651.055 Continuing care contracts; right to rescind.—

411 (2) A resident has the right to rescind a continuing care
412 contract and receive a full refund of any funds paid, without
413 penalty or forfeiture, within 7 days after executing the
414 contract. However, if an individual signs a reservation contract
415 pursuant to s. 651.023(4) and fails to cancel such contract
416 within 30 days after executing the contract and subsequently
417 signs a contract and rescinds the contract within 7 days, the
418 forfeiture penalty authorized under s. 651.023(4) may be
419 deducted from the refund unless there is evidence of extenuating
420 circumstances such as, but not limited to, the death, illness,
421 or diagnosis of a chronic or terminal illness of the individual
422 or the individual's spouse or partner or a change in financial
423 or asset position which warrants cancellation of the contract. A
424 resident may not be required to move into the facility
425 designated in the contract before the expiration of the 7-day

426 period. During the 7-day period, the resident's funds must be
427 held in an escrow account, or the provider may hold the check
428 until the 7-day period expires ~~unless otherwise requested by the~~
429 ~~resident~~ pursuant to s. 651.033(3)(c).

430 Section 10. Paragraph (a) of subsection (2) of section
431 651.081, Florida Statutes, is amended to read:

432 651.081 Residents' council.—

433 (2)(a) Each facility shall establish a residents' council
434 created for the purpose of representing residents on matters set
435 forth in s. 651.085. A residents' council has the authority to
436 establish and maintain its own governance documents such as
437 bylaws, operating agreements, policies, and operating
438 procedures, which may include establishment of committees.

439 Residents, as defined in s. 651.011, have the right to
440 participate in resident council matters, including elections.

441 The residents' council shall be established through an election
442 in which the residents, as defined in s. 651.011, vote by
443 ballot, physically or by proxy. If the election is to be held
444 during a meeting, a notice of the organizational meeting must be
445 provided to all residents of the community at least 10 business
446 days before the meeting. Notice may be given through internal
447 mailboxes, communitywide newsletters, bulletin boards, in-house
448 television stations, and other similar means of communication.
449 An election creating a residents' council is valid if at least
450 40 percent of the total resident population participates in the

451 election and a majority of the participants vote affirmatively
452 for the council. The initial residents' council created under
453 this section is valid for at least 12 months. A residents'
454 organization formalized by bylaws and elected officials must be
455 recognized as the residents' council under this section and s.
456 651.085. Within 30 days after the election of a newly elected
457 president or chair of the residents' council, the provider shall
458 give the president or chair a copy of this chapter and rules
459 adopted thereunder, or direct him or her to the appropriate
460 public website to obtain this information. Only one residents'
461 council may represent residents before the governing body of the
462 provider as described in s. 651.085(2).

463 Section 11. Paragraph (f) of subsection (1) of section
464 651.083, Florida Statutes, is amended to read:

465 651.083 Residents' rights.—

466 (1) No resident of any facility shall be deprived of any
467 civil or legal rights, benefits, or privileges guaranteed by
468 law, by the State Constitution, or by the United States
469 Constitution solely by reason of status as a resident of a
470 facility. Each resident of a facility has the right to:

471 (f) Present grievances and recommend changes in policies,
472 procedures, and services to the staff of the facility, governing
473 officials, or any other person without restraint, interference,
474 coercion, discrimination, or reprisal. This right includes
475 access to ombudsman volunteers and staff and advocates and the

476 right to be a member of, and active in, and to associate with,
477 advocacy or special interest groups or associations.

478 Section 12. Subsections (2), (3), and (5) of section
479 651.085, Florida Statutes, are amended to read:

480 651.085 Quarterly meetings between residents and the
481 governing body of the provider; resident representation before
482 the governing body of the provider.—

483 (2) A residents' council formed pursuant to s. 651.081,
484 members of which are elected by the residents, shall nominate
485 and elect ~~designate~~ a designated resident representative to
486 represent them before the governing body of the provider on
487 matters specified in subsection (3). The initial designated
488 resident representative elected under this section shall be
489 elected to serve at least 12 months. The designated resident
490 representative does not have to be a current member of the
491 residents' council; however, such individual must be a resident,
492 as defined in s. 651.011.

493 (3) The designated resident representative shall be
494 notified by a designated representative of the provider at least
495 14 days in advance of any meeting of the full governing body at
496 which the annual budget and proposed changes or increases in
497 resident fees or services are on the agenda or will be
498 discussed. The designated resident representative shall be
499 invited to attend and participate in that portion of the meeting
500 designated for the discussion of such changes. Designated

501 resident representatives shall perform their duties in good
 502 faith. For providers that own or operate more than one facility
 503 in the state, each facility must have its own designated
 504 resident representative.

505 (5) The board of directors or governing board of a
 506 licensed provider may at its sole discretion allow a resident of
 507 the facility to be a voting member of the board or governing
 508 body of the facility. The board of directors or governing board
 509 of a licensed provider may establish specific criteria for the
 510 nomination, selection, and term of a resident as a member of the
 511 board or governing body. If the board or governing body of a
 512 licensed provider operates more than one licensed facility,
 513 regardless of whether the facility is in-state or out-of-state,
 514 the board or governing body may select at its sole discretion
 515 one resident from among its facilities to serve on the board of
 516 directors or governing body on a rotating basis. A resident who
 517 serves as a member of the board or governing body of the
 518 facility shall perform his or her duties in a fiduciary manner,
 519 including the duty of confidentiality, duty of care, duty of
 520 loyalty, and duty of obedience, as required of any individual
 521 serving on the board or governing body of the facility.

522 Section 13. Paragraphs (e) through (k) and paragraph (l)
 523 of subsection (2) of section 651.091, Florida Statutes, are
 524 redesignated as paragraphs (f) through (l) and paragraph (n),
 525 respectively, and new paragraphs (e) and (m) are added to that

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526 subsection and paragraph (m) is added to subsection (3) of that
527 section, to read:

528 651.091 Availability, distribution, and posting of reports
529 and records; requirement of full disclosure.—

530 (2) Every continuing care facility shall:

531 (e) Provide a copy of the final examination report and
532 corrective action plan, if one is required by the office, to the
533 executive officer of the provider's governing board and to the
534 president or chair of the residents' council within 60 days
535 after issuance of the report.

536 (m) Provide to the president or chair of the residents'
537 council a written notice of any change in management within 10
538 business days.

539 (3) Before entering into a contract to furnish continuing
540 care or continuing care at-home, the provider undertaking to
541 furnish the care, or the agent of the provider, shall make full
542 disclosure, obtain written acknowledgment of receipt, and
543 provide copies of the disclosure documents to the prospective
544 resident or his or her legal representative, of the following
545 information:

546 (m) Disclosure of whether the provider has one or more
547 residents serving on its governing board and whether that
548 resident has a vote or is serving in a nonvoting, ex officio
549 capacity.

550 Section 14. Subsection (7) of section 651.105, Florida

551 Statutes, is renumbered as subsection (6), and subsection (1)
552 and present subsection (6) of that section are amended to read:

553 651.105 Examination.—

554 (1) The office may at any time, and shall at least once
555 every 3 years, examine the business of any applicant for a
556 certificate of authority and any provider engaged in the
557 execution of care contracts or engaged in the performance of
558 obligations under such contracts, in the same manner as is
559 provided for the examination of insurance companies pursuant to
560 ss. 624.316 and 624.318. For a provider as deemed accredited
561 under s. 651.028, such examinations must take place at least
562 once every 5 years. The examinations must cover the preceding 3
563 or 5 fiscal years of the provider, whichever is applicable, and
564 shall be commenced within 12 months after the end of the most
565 recent fiscal year covered by the examinations. The examinations
566 may include examination of events subsequent to the end of the
567 most recent fiscal year and the events of any prior period that
568 affect the present financial condition of the provider. As part
569 of the examinations, the office shall conduct an interview in
570 person, by telephone, or through the Internet with the current
571 president or chair of the residents' council or another
572 designated officer of the council if the president or chair is
573 not available. The ~~Such~~ examinations must be made by a
574 representative or examiner designated by the office whose
575 compensation will be fixed by the office pursuant to s. 624.320.

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576 Routine examinations may be made by having the necessary
577 documents submitted to the office; and, for this purpose,
578 financial documents and records conforming to commonly accepted
579 accounting principles and practices, as required under s.
580 651.026, are deemed adequate. The final written report of each
581 examination must be filed with the office and, when so filed,
582 constitutes a public record. Any provider being examined shall,
583 upon request, give reasonable and timely access to all of its
584 records. The representative or examiner designated by the office
585 may at any time examine the records and affairs and inspect the
586 physical property of any provider, whether in connection with a
587 formal examination or not.

588 ~~(6) A representative of the provider must give a copy of~~
589 ~~the final examination report and corrective action plan, if one~~
590 ~~is required by the office, to the executive officer of the~~
591 ~~governing body of the provider within 60 days after issuance of~~
592 ~~the report.~~

593 Section 15. This act shall take effect July 1, 2023.