

Committee Substitute for  
Committee Substitute for Senate Bill No. 296

An act relating to retirement communities; amending s. 400.235, F.S., relating to the Gold Seal Program; amending standards for evidence of financial soundness and stability of certain nursing home facilities; amending s. 400.141, F.S.; amending 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 ss. 651.081, 651.085, F.S.; providing for the establishment of a residents' organization; providing for the purposes of such an organization; requiring notice of a meeting or ballot election to select a designated representative to represent a residents' organization before the governing body of a continuing care provider; providing an effective date.

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

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

400.235 Nursing home quality and licensure status; Gold Seal Program.—

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

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

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

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

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

(7) If the facility has a standard ~~license licensure status~~ or is a Gold Seal facility, exceeds the minimum required hours of licensed nursing and certified nursing assistant direct care per resident per day staffing standards,

and is part of a continuing care facility licensed under chapter 651 or a retirement community that offers other services pursuant to part III, part IV, or part V on a single campus, be allowed to share programming and staff. At the time of inspection and in the semiannual report required pursuant to s. 400.141(15) relicensure, a continuing care facility or retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were met exceeded. Licensed nurses and certified nursing assistants who work in the nursing home facility may be used to provide services elsewhere on campus if the facility exceeds the minimum number of direct care hours required per resident per day and the total number of residents receiving direct care services from a licensed nurse or a certified nursing assistant does not cause the facility to violate the staffing ratios required under s. 400.23(3)(a). Compliance with the minimum staffing ratios shall be based on total number of residents receiving direct care services, regardless of where they reside on campus. If the facility receives a conditional license, it may not share staff until the conditional license status ends. This subsection does not restrict the agency's authority under federal or state law to require additional staff if a facility is cited for deficiencies in care which are caused by an insufficient number of certified nursing assistants or licensed nurses. The agency may adopt rules for the documentation necessary to determine compliance with this provision.

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

651.081 Continuing care facilities residents' organizations.—

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

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

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

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

(2) A residents' organization formed pursuant to s. 651.081, members of which are elected by the residents, may designate a resident to represent them before the governing body of the provider or organize a meeting or ballot election of the majority of the residents of the facility to determine whether to elect a resident to represent them before the governing body of the provider. If ~~a no~~ residents' organization as described in s. 651.081 does not exist exists, any resident may organize a meeting or ballot election ~~of the majority of the residents of the facility to determine whether to elect a resident to represent them before the governing body and, if applicable, elect the representative.~~ The residents' organization, or the resident that organizes convenes a meeting or ballot election ~~of residents to make the determination or~~ elect a representative, shall give all residents of the facility notice at least 10 business days before the meeting or election 7 days' notice in a conspicuous place at the facility. Notice may be given through internal mailboxes, communitywide newsletters, bulletin boards, in-house television stations, and other similar means of communication. An election of the representative is valid if at least 40 percent of the total resident population participates in the election and a majority of the participants vote affirmatively for the representative. The initial designated representative elected under this section shall be elected to serve for a period of at least 12 months.

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

Approved by the Governor June 10, 2003.

Filed in Office Secretary of State June 10, 2003.